

Translation from Finnish

Legally binding only in Finnish and Swedish

Ministry of Economic Affairs and Employment, Finland

Competition Act

(948/2011; amendments up to 1297/2022 included)

By decision of Parliament, the following is enacted:

Chapter 1

General provisions

Section 1

Objectives of the Act

The objective of this Act is to protect sound and effective economic competition from harmful restrictive practices.

In applying this Act, special attention shall be paid to the protection of market conditions and the freedom to conduct a business so as to also allow customers and consumers to benefit from competition.

Section 2

Restrictions of the scope of application

This Act does not apply to agreements or arrangements which concern the labour market.

The provisions of section 5 do not apply to arrangements by agricultural producers, associations of agricultural producers, sector-specific associations and any associations formed by such associations if the arrangement fulfils the substantive requirements established in accordance with Article 42 of the Treaty on the Functioning of the European Union, under which the rules on

competition set out in Articles 101 and 102 of the said Treaty do not become applicable.
(721/2019)

Section 3

Application of the rules on competition of the Treaty on the Functioning of the European Union

Where a restriction of competition may affect trade between European Union Member States, the provisions of Articles 101 and 102 of the Treaty on the Functioning of the European Union also apply.

Section 4

Definitions

For the purposes of this Act:

- 1) *undertaking* means any natural person and one or more private or public legal persons engaged in an economic activity;
- 2) *dominant position* means an exclusive right or any other dominant position held by one or more undertakings or associations of undertakings in a specific products and services market, either within the entire country or in a given region, so as to significantly control the price level or terms of delivery of that product or service or, by any other equivalent means, influence the competitive conditions at a given level of production or distribution.

Section 4a (586/2013)

Dominant position in daily consumer goods trade

Any undertaking or association of undertakings holding a retail market share of at least 30% of daily consumer goods trade in Finland shall be deemed to hold a dominant position in the Finnish daily consumer goods market. The daily consumer goods market includes both the retail market and the procurement market.

Chapter 2

Prohibited restrictions of competition

Section 5

Prohibited restrictions of competition between undertakings

Any agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition are prohibited.

In particular, those agreements, decisions or practices are prohibited which:

- 1) directly or indirectly fix purchase or selling prices or any other trading conditions;
- 2) limit or control production, markets, technical development, or investment;
- 3) share markets or sources of supply;
- 4) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage; or
- 5) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

Section 6

Derogation from the prohibition

The prohibition laid down in section 5 does not, however, apply to any agreement between undertakings, any decision by associations of undertakings or any concerted practice between undertakings, or any category of agreements, decisions or concerted practices, which:

- 1) contributes to improving the production or distribution of goods or to promoting technical or economic progress;
- 2) allows consumers a fair share of the resulting benefit;
- 3) does not impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives; and

- 4) does not afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products or services in question.

Section 7

Abuse of a dominant position

Any abuse by one or more undertakings or associations of undertakings of a dominant position shall be prohibited. Abuse may, in particular, consist in:

- 1) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;
- 2) limiting production, markets or technical development to the prejudice of consumers;
- 3) applying dissimilar conditions to equivalent transactions with trading partners, thereby placing them at a competitive disadvantage; or
- 4) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

Chapter 3

Measures concerning prohibited restrictions of competition, penalties and damages

Measures concerning prohibited restrictions of competition

Section 8 (546/2021)

Prohibition to implement a restriction of competition

If a condition included in an agreement, provision, decision, or any other legal act or arrangement infringes section 5 or 7, or Article 101 or 102 of the Treaty on the Functioning of the European Union, or an order, prohibition or obligation issued by the Market Court or by the Finnish Competition and Consumer Authority, or interim measures imposed by the Finnish Competition and Consumer Authority, such a condition shall not be applied nor implemented, unless otherwise ordered by the Market Court.

Section 9 (546/2021)

Finding and terminating an infringement

If an undertaking or association of undertakings infringes or has infringed the provisions of section 5 or 7, or Article 101 or 102 of the Treaty on the Functioning of the European Union, the Finnish Competition and Consumer Authority may find such an infringement and require that it be brought to an end.

The Finnish Competition and Consumer Authority may impose on the infringer any behavioural remedies which are proportionate to the infringement committed and necessary to bring the infringement effectively to an end.

Section 9a (546/2021)

Structural remedies

An undertaking or association of undertakings that infringes or has infringed the provisions of section 5 or 7, or Article 101 or 102 of the Treaty on the Functioning of the European Union, may be ordered to dispose of a shareholding in a competitor, divest a business unit, or implement other structural remedies which are proportionate to the infringement committed and necessary to bring the infringement effectively to an end.

Structural remedies may only be imposed either where a behavioural remedy referred to in subsection 2 of section 9 is insufficient to address the infringement, or where any behavioural remedy would be more burdensome for the undertaking concerned than the structural remedy. If a behavioural remedy and a structural remedy are equally effective to address the infringement, the remedy that is less burdensome for the undertaking shall be chosen in line with the principle of proportionality. No structural remedy shall lead to the loss of operating conditions for the undertaking's remaining economic activity.

The Market Court imposes the structural remedy upon proposal by the Finnish Competition and Consumer Authority. The undertaking shall be given an opportunity to be heard before the Finnish Competition and Consumer Authority submits a proposal for imposition of a structural remedy to the Market Court.

Section 10 (546/2021)

Commitments

The Finnish Competition and Consumer Authority may, after seeking the views of market participants, by decision make commitments offered by undertakings and associations of undertakings involved in a suspected restriction of competition binding on them, where the commitments can eliminate the anti-competitive nature of the activity. The decision shall simultaneously conclude that there are no longer grounds for further action by the Finnish Competition and Consumer Authority. The decision is issued until further notice or for a specified period.

The Finnish Competition and Consumer Authority may reopen proceedings where there have been material changes to any of the facts on which the decision was based, where the commitments are infringed, or where the decision was based on incomplete, incorrect or misleading information provided by the parties. (1297/2022)

Section 11 (662/2012)

Withdrawal of the benefit of a block exemption

In accordance with Article 29(2) of Council Regulation (EC) No 1/2003 on the implementation of the rules of competition laid down in Articles 81 and 82 of the Treaty, the Finnish Competition and Consumer Authority may withdraw the benefit of a Commission Block Exemption Regulation within Finland from an agreement, a decision by an association of undertakings or a concerted practice, where the agreement, decision by an association of undertakings or concerted practice has effects which are incompatible with Article 101(3) of the Treaty on the Functioning of the European Union within Finland or a part thereof which has all the characteristics of a distinct geographic market.

Penalties

Section 12

Penalty payments imposed for restrictions of competition

A penalty payment shall be imposed on an undertaking or association of undertakings which infringes the provisions of Articles 5 or 7, or Article 101 or 102 of the Treaty on the Functioning of

the European Union, unless the conduct is to be deemed negligible or the imposition of the penalty payment is to be deemed otherwise unfounded on the grounds of safeguarding competition.

A penalty payment may also be imposed on an undertaking or an association of undertakings to which the business activities involved in the infringement have been transferred as a result of a concentration or some other corporate transaction.

Penalty payments are imposed by the Market Court upon proposal by the Finnish Competition and Consumer Authority. Penalty payments shall be ordered to be payable to the state. (662/2012)

Section 13 (546/2021)

Overall assessment of the amount of a penalty payment

The amount of a penalty payment is based on an overall assessment, which shall take into account the nature and extent, degree of gravity and duration of the infringement.

The overall assessment shall take account of the aggravating and mitigating factors in accordance with subsections 2 and 3 of section 13e and the grounds for reducing a penalty payment relating to the inability to pay of an undertaking in accordance with section 13f. In calculating the basic amount of the penalty payment, the Finnish Competition and Consumer Authority shall also apply the procedure laid down in sections 13b–13d and in subsections 1 and 4 of section 13e.

The undertaking or the association of undertakings has the right to be heard regarding the amount of and grounds for a penalty payment before the Finnish Competition and Consumer Authority makes a proposal for a penalty payment.

Section 13a (546/2021)

Maximum amount of the penalty payment

No penalty payment shall exceed ten per cent of the worldwide total turnover of an undertaking or association of undertakings participating in a restriction of competition. When the Finnish Competition and Consumer Authority proposes a penalty payment, the turnover in the financial year preceding the submission of the proposal for a penalty payment shall be taken into account. When the Market Court or the Supreme Administrative Court imposes a penalty payment, the turnover of the financial year preceding the adoption of the decision on a penalty payment shall be taken into account.

Where the infringement of an association of undertakings relates to the activities of its members, the penalty payment imposed on the association shall not exceed ten per cent of the sum of the total turnover of the association and each member active on the market affected by the infringement of the association. The financial years for which the turnovers are to be added up are determined as provided in subsection 1. The maximum amount of the penalty payment proposed for the association shall not take account of the turnover of any member of the association to which a penalty payment is being separately proposed or has been imposed on the basis of the same infringement. The turnover of a member of an association on which a penalty payment is being or has been separately imposed on the basis of the same infringement shall not be taken into account in the maximum amount of the penalty payment imposed on the association.

Section 13b (546/2021)

Basis for the basic amount of the penalty payment

The basic amount of the penalty payment includes a part which shall not exceed 30% of the turnover accrued by an undertaking or association of undertakings from sales of the products or services to which the infringement relates for the last calendar year during which the undertaking or association of undertakings was involved in the infringement.

Where the infringement of an association of undertakings relates to the activities of its members, the turnover of the association for the purpose of determining the part under subsection 1 shall be considered to include the association's turnover as well as the combined turnover of the members of the association active on the market affected by the infringement of the association from sales of the products or services to which the infringement relates. The basic amount of the penalty payment proposed for the association of undertakings shall not take account of the turnover of any member of the association to which a penalty payment is being separately proposed or has been imposed on the basis of the same infringement.

The share of turnover to be taken into account when determining the part under subsection 1 is based on an overall assessment. The overall assessment may consider the nature of the infringement, the combined market share of all parties to the infringement, the geographic scope of the infringement, whether the infringement has been implemented, and any other relevant elements.

With regard to agreements between competitors concerning prices, the sharing of markets and restriction of production, a share of the turnover exceeding 15% shall be taken into account, unless there are specific reasons to the contrary.

Section 13c (546/2021)

Duration of the infringement when determining the basic amount of the penalty payment

The part of the basic amount assessed in accordance with section 13b above shall be multiplied with the number of years during which the undertaking or association of undertakings was involved in the infringement.

Periods of less than six months shall be counted as half a year. Periods longer than six months but shorter than one year shall be counted as full years.

Section 13d (546/2021)

Increase in the basic amount of the penalty payment due to a serious infringement

Irrespective of the duration of participation in the infringement by an undertaking or an association of undertakings, the amount assessed under sections 13b and 13c above shall, in the case of a serious infringement, be increased by 15%–25% of the turnover referred to in subsection 1 of section 13b above, in order to achieve adequate deterrence. The provisions of subsection 3 of section 13b apply to the assessment of an increase of the basic amount of the penalty payment.

Section 13e (546/2021)

Adjustments to the basic amount of the penalty payment

The basic amount of the penalty payment assessed in accordance with sections 13b–13d above may be reduced or increased by taking into account any mitigating or aggravating factors with regard to each undertaking or association of undertakings which participated in the infringement.

Aggravating factors referred to above in subsection 1 may be taken to mean:

- 1) repeating or continuing the infringement following intervention by the authorities;
- 2) acting as a leader or instigator of the infringement;

3) coercing other undertakings or associations of undertakings to participate in the infringement.

Mitigating factors referred to above in subsection 1 may be taken to mean:

- 1) a settlement referred to in subsection 1 of section 12 of the Act on Compensation of Damages Related to the Infringement of Competition Law (1077/2016);
- 2) termination of the infringement immediately following intervention by the authorities in the infringement, except in the case of a cartel or any other secret practice;
- 3) a notably minor role in the infringement when an undertaking or association simultaneously proves that it had refrained from applying the prohibited practice and acted competitively on the market;
- 4) such cooperation of the undertaking or association of undertakings with the Finnish Competition and Consumer Authority not referred to in section 14 or 15 that goes beyond the statutory cooperation obligations of the undertaking or association of undertakings;
- 5) an approval issued by the authorities or provided by law concerning the activities deemed as an infringement;
- 6) any other relevant element.

The basic amount of the penalty payment may be increased by no more than 100% for each infringement found as regards a repeated or continued infringement following intervention by the authorities as referred to in subsection 2, paragraph 1.

Section 13f (546/2021)

Taking account of the ability to pay of an undertaking

For specific reasons, an undertaking's inability to pay in special social and economic circumstances may be taken into account at its request in the assessment of the amount of a penalty payment. Any reduction may only be granted if the undertaking presents objective evidence to prove that the imposition of the penalty payment would inevitably jeopardise its viability and cause its assets to lose all their value.

Section 14 (546/2021)

Immunity from penalty payments in cartel cases

No penalty payment shall be imposed on an undertaking in the case of a secret cartel between competitors referred to in section 5 or Article 101 of the Treaty on the Functioning of the European Union if an undertaking involved in such a restriction of competition:

- 1) submits a leniency statement and information and evidence on the grounds of which the Finnish Competition and Consumer Authority may conduct an inspection referred to in section 35 or 36; or
- 2) following an inspection referred to in section 35 or 36, submits a leniency statement and information and evidence on the grounds of which the Finnish Competition and Consumer Authority is able to find that section 5 or Article 101 of the Treaty on the Functioning of the European Union has been infringed.

In the situations referred to in subsection 1 above, a further condition for immunity from a penalty payment is that the undertaking has submitted the leniency statement, information and evidence referred to in paragraphs 1 and 2 before the Finnish Competition and Consumer Authority has obtained the information from other sources.

An undertaking that has coerced another undertaking to participate in a cartel may not be granted immunity from a penalty payment.

At the request of the applicant, the Finnish Competition and Consumer Authority may consider an application for immunity from a penalty payment it has rejected as an application for reduction of the penalty payment.

Section 15 (1078/2016)

Reduction of penalty payments in cartel cases

The penalty payment imposed on an undertaking that participated in a restriction of competition referred to in subsection 1 of section 14, other than the undertaking that obtained immunity under section 14, shall be reduced if the undertaking submits to the Finnish Competition and Consumer Authority a leniency statement, information and evidence which are relevant to establishing a restriction of competition or its full extent or nature. A further condition is that they are submitted before the Finnish Competition and Consumer Authority has obtained the information from other sources. The penalty payment shall be reduced by:

- 1) 30%–50% if the undertaking is the first to submit the information;
- 2) 20%–30% if the undertaking is the second to submit the information;
- 3) no more than 20% in situations other than those referred to in paragraphs 1 and 2.

An undertaking that has been granted conditional immunity from a penalty payment referred to in subsection 2 of section 17 may not be granted a reduction referred to in subsection 1 in a case involving the same restriction of competition.

The amount of the penalty payment to be imposed on an undertaking which has applied for a reduction of the penalty payment shall not take account of the additional facts leading to an increase of a penalty payment which have been proven by virtue of the compelling evidence submitted by the said undertaking applying for a reduction of a penalty payment. (546/2021)

Section 16 (546/2021)

Conditions for immunity from penalty payments and reduction of penalty payments in cartel cases

Further conditions for immunity from a penalty payment referred to above in section 14 or reduction of a penalty payment referred to in section 15 are that the undertaking:

- 1) ends its involvement in the alleged secret cartel at the latest immediately following its application referred to in subsection 1 of section 17 to the Finnish Competition and Consumer Authority, except for any participation considered necessary by the Finnish Competition and Consumer Authority to preserve the integrity of its investigation;
- 2) cooperates genuinely, fully, on a continuous basis and expeditiously with the Finnish Competition and Consumer Authority from the time of its application until the Finnish Competition and Consumer Authority has closed the investigation against all parties under investigation by adopting a decision or submitting a proposal to the Market Court; and
- 3) must not have destroyed, falsified or concealed evidence of the alleged secret cartel or disclosed the fact of, or any of the content of, its contemplated application, except to any other competition authorities, prior to making the application.

The cooperation with the Finnish Competition and Consumer Authority referred to in paragraph 2 of subsection 1 above requires the undertaking to:

- 1) promptly provide the Finnish Competition and Consumer Authority with all leniency statements that come into its possession or are accessible to it, and the following information and evidence:
 - a) the name and address of the applicant;
 - b) the names of all other undertakings that participate or participated in the alleged secret cartel;
 - c) a detailed description of the alleged secret cartel, including the affected products, the affected territories, and the duration, and the nature of the alleged secret cartel conduct;
 - d) information on any past or possible future applications made to any other competition authorities in relation to the alleged secret cartel;
 - e) any other relevant information and evidence;
- 2) remain at the Finnish Competition and Consumer Authority's disposal to answer any request that may contribute to the establishment of facts;
- 3) make its managers, directors and other members of staff available for interviews with the Finnish Competition and Consumer Authority and make reasonable efforts to make its former managers, directors and other members of staff available for interviews with the Finnish Competition and Consumer Authority;
- 4) not destroy, falsify or conceal relevant information or evidence;
- 5) not disclose the fact of, or any of the content of, its application before the Finnish Competition and Consumer Authority has issued its draft for a decision or penalty payment proposal, unless otherwise agreed;
- 6) otherwise act to investigate the alleged secret cartel.

Section 17 (546/2021)

Leniency procedure in cartel cases

Applications for immunity from penalty payments referred to in section 14 above and reduction of penalty payments referred to in section 15 are made to the Finnish Competition and Consumer Authority.

The Finnish Competition and Consumer Authority grants an undertaking conditional immunity from a penalty payment after the undertaking has provided the Finnish Competition and Consumer Authority with the leniency statement, information and evidence referred to in section 14. The Finnish Competition and Consumer Authority does not adopt a position on any other applications referred to in section 14 concerning the same case until it has decided whether to grant conditional immunity from the penalty payment to the undertaking that was the first to submit an application.

Leniency statements may be submitted either in writing or orally. Undertakings have the right to submit leniency statements in the Finnish or Swedish language, or in the official language of a Member State of the European Union agreed between the Finnish Competition and Consumer Authority and the applicant. At the request of the undertaking, the Finnish Competition and Consumer Authority submits a written confirmation of receipt of the application.

At the end of the procedure, the Finnish Competition and Consumer Authority issues a written decision on whether the undertaking fulfils all the conditions provided in section 14 or 15 and in section 16.

No leniency statement, information or evidence submitted to the Finnish Competition and Consumer Authority to obtain immunity referred to in section 14 or reduction referred to in section 15 shall be used for any other purpose than consideration of a case by the Finnish Competition and Consumer Authority, the Market Court or the Supreme Administrative Court concerning a decision to find or require an infringement to be brought to an end or a behavioural remedy referred to in section 9, a structural remedy referred to in section 9a, a commitment decision referred to in section 10, withdrawal of the benefit of a block exemption referred to in section 11, or a penalty payment proposal referred to in section 12.

The information and evidence referred to in subsection 5 above may, however, also be used to consider actions for damages brought under the Act on Compensation of Damages Related to the Infringement of Competition Law.

Section 17a (546/2021)

Markers for applications for immunity from penalty payments

The Finnish Competition and Consumer Authority may grant an undertaking a fixed-term marker in order to give the undertaking a specific time to gather the leniency statements, information and evidence necessary for the immunity referred to in section 14.

To obtain a marker, the undertaking shall provide the Finnish Competition and Consumer Authority with the following available information:

- 1) the name and address of the applicant;
- 2) the basis for the application for immunity from a penalty payment;
- 3) the names of all other undertakings that participate or participated in the alleged secret cartel;
- 4) the affected products and territories;
- 5) the duration and the nature of the alleged secret cartel conduct;
- 6) information on any past or possible future applications made to any other competition authorities in relation to the alleged secret cartel.

Any leniency statements, information and evidence provided by the undertaking within the period of validity of the marker are deemed to have been submitted at the time of the initial request.

Section 17b (546/2021)

Summary applications

If an undertaking has applied to the European Commission or a competent authority of another Member State of the European Union for immunity from or reduction of a penalty payment, either by applying for a marker or by submitting a full application in relation to the same alleged secret cartel, the undertaking may apply in the same case to the Finnish Competition and Consumer Authority for immunity from a penalty payment in accordance with section 14 or reduction of a penalty payment in accordance with section 15 with a summary application.

A summary application shall consist of a short description of each of the following:

- 1) the name and address of the applicant;
- 2) the names of other parties to the alleged secret cartel;
- 3) the affected products and territories;
- 4) the duration and the nature of the alleged secret cartel;
- 5) the Member States where the evidence of the alleged secret cartel is likely to be located; and

- 6) information on any past or possible future applications made to any other competition authorities in relation to the alleged secret cartel.

The Finnish Competition and Consumer Authority may require the undertaking to provide clarifications regarding the items referred to above.

The Finnish Competition and Consumer Authority shall give the undertaking that has provided a summary application the opportunity to submit a full application if the Commission has informed that it does not intend to pursue the case in whole or in part.

If necessary for case delineation or case allocation, the Finnish Competition and Consumer Authority may request the undertaking to submit the full application before the Commission has informed that it does not intend to pursue the case in whole or in part, or if the application for immunity from or reduction of a penalty payment has only been made to a competent authority of another Member State of the European Union. The Finnish Competition and Consumer Authority sets a reasonable period within which the undertaking is to submit the full application.

Notwithstanding, the undertaking has the right to voluntarily submit a full application at an earlier stage.

If the Finnish Competition and Consumer Authority has not received an application from another undertaking in relation to the same alleged cartel and the summary application provides the information referred to in subsection 2, the Finnish Competition and Consumer Authority informs the undertaking of its priority status. The priority order of the undertaking's application with the Finnish Competition and Consumer Authority is determined on the basis of the date and time of submission of the summary application.

If an undertaking submits a full application in accordance with subsection 3 or 4 within the period set by the Finnish Competition and Consumer Authority, or voluntarily at an earlier stage, the application is deemed to have been submitted at the time at which the summary application was submitted, provided that the summary application covers the same affected product(s) and territory(ies), as well as the same duration of the alleged secret cartel, as the application filed with the European Commission or the competent authority of another Member State of the European Union, as referred to in subsection 1, which may have been updated.

Section 18

Reduction of penalty payments in other than cartel cases

In the case of a restriction of competition other than those referred to in subsection 1 of section 14, the Finnish Competition and Consumer Authority may propose that a lower penalty payment be imposed on an undertaking or association of undertakings than would otherwise be the case, or refrain from making a penalty payment proposal, if the undertaking or association of undertakings has significantly assisted the Finnish Competition and Consumer Authority in the investigation of the restriction of competition. (662/2012)

In cases referred to in subsection 1 above, the Market Court may impose a lower penalty payment than would otherwise be the case, or not impose a penalty payment.

Section 19 (546/2021)

Limitation period for penalty payments

No penalty payment shall be imposed for infringement of the provisions of sections 5, 7, 25 or 27, or of Article 101 or 102 of the Treaty on the Functioning of the European Union, unless a proposal to the Market Court has been presented within five years of the date on which the infringement occurred or, in the case of a continued infringement, within five years of the date on which the infringement ended. Measures taken by the Finnish Competition and Consumer Authority to investigate a restriction of competition reset the limitation period.

Measures taken by the European Commission or the national competition authority of another Member State to investigate the same restriction of competition suspend the limitation period from the notification of the first investigative measure to at least one undertaking or association of undertakings under investigation. The limitation period is suspended for all undertakings and associations of undertakings which have participated in the infringement. The suspension ends when the European Commission or the national competition authority of another Member State makes a decision on the principal claim or concludes that there are no grounds for further action.

No penalty payment shall, however, be imposed if the Market Court has not been presented with a proposal within ten years of the date on which the infringement occurred or, in the case of a continued infringement, within ten years of the date on which the infringement ended.

No penalty payment shall be imposed under section 37a if the Market Court has not been presented with a proposal within two years of the date on which the Finnish Competition and

Consumer Authority was informed of the infringement. No penalty payment shall, however, be imposed if the Market Court has not been presented with a proposal within five years of the infringement.

Damages

Section 20 (1078/2016)

Damages

Provisions on liability for damages resulting from an infringement of a prohibition under section 5 or 7, or Article 101 or 102 of the Treaty on the Functioning of the European Union, are laid down in the Act on Compensation of Damages Related to the Infringement of Competition Law.

Chapter 4

Control of concentrations

Section 21

Definition of a concentration

For the purposes of this Act, *concentration* means:

- 1) the acquisition of control referred to in section 5 of chapter 1 of the Accounting Act (1336/1997) or the acquisition of corresponding actual control (*control*);
- 2) the acquisition of the whole or part of the business of an undertaking;
- 3) a merger;
- 4) the creation of a joint venture performing on a lasting basis all the functions of an autonomous economic entity.

The provisions on the control of concentrations do not apply to arrangements referred to in subsection 1 which take place internally within a group of companies.

'Party to a concentration' means the acquirer of control; the acquirer of the whole or part of the business referred to in paragraph 2 of subsection 1; the object of control; the whole or part of the business referred to in paragraph 2 of subsection 1; an entity or foundation party to a merger

referred to in paragraph 3 of subsection 1; and the founder of a joint venture referred to in paragraph 4 of subsection 1.

Section 22

Scope of application

The provisions on the control of concentrations apply to concentrations where the combined turnover accrued by the parties to the concentration from Finland exceeds EUR 100 million and the turnover accrued by each of at least two of the parties to the concentration from Finland exceeds EUR 10 million. (1297/2022)

The provisions of this Act on turnover apply:

- 1) in respect of credit institutions, investment firms and financial institutions subject to the provisions of chapter 12 of the Act on Credit Institutions (610/2014), to the sum total of income items, excepting extraordinary income, in the profit and loss account drawn up in accordance with the said Act; (635/2014)
- 2) in respect of insurance and pension institutions, to the gross premium written or, in respect of pension foundations, to the premium written.

The provisions on the control of concentrations do not apply if the concentration falls within the scope of Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (the EC Merger Regulation), unless the Commission refers the concentration to the Finnish Competition and Consumer Authority under Article 4(4) or Article 9 of the said Regulation. (662/2012)

Section 23

Notification of a concentration

A concentration referred to in section 22 above shall be notified to the Finnish Competition and Consumer Authority following the conclusion of the agreement, the acquisition of control, or the announcement of a public bid referred to in section 3 of chapter 6 of the Securities Market Act (495/1989) but prior to the implementation of the concentration. A concentration may also be notified to the Finnish Competition and Consumer Authority as soon as the parties can demonstrate with sufficient certainty their intent to conclude the concentration. (662/2012)

Any concentration subject to the provisions of chapter 3 or 10 of the Employee Pension Insurance Companies Act (354/1997); the provisions on mergers under chapter 10 or on portfolio transfers under chapter 12 of the Act on Pension Foundations and Pension Funds (946/2021); the provisions on mergers under chapter 9 or on portfolio transfers under chapter 11 of the Act on Supplementary Pension Foundations and Supplementary Pension Funds (947/2021); or the provisions on mergers under chapter 7 or on portfolio transfers under chapter 8 of the Act on Public Insurance Funds (948/2021) shall be notified to the Finnish Competition and Consumer Authority, once the parties to the concentration have been informed of the approval of the Financial Supervisory Authority, or of the Financial Supervisory Authority not opposing the concentration. Notwithstanding, no notification is necessary if the Financial Supervisory Authority has requested, in accordance with one of the Acts cited above in this subsection, a statement from the Finnish Competition and Consumer Authority on the concentration, and the Finnish Competition and Consumer Authority has found in its statement that no impediment for the approval of the concentration exists. (971/2021)

The obligation to notify applies to the acquirer of control; the acquirer of the whole or part of the business; the entities and foundations party to a merger; and the founders of a joint venture.

Further provisions on the obligation to notify referred to in subsection 1 are issued by government decree.

The provisions on the powers of investigation of the Finnish Competition and Consumer Authority as it deals with matters relating to the control of concentrations are laid down in sections 33, 35, 37, 38 and 46. (662/2012)

Section 24

Calculation of turnover

The turnover of the acquirer of control, the acquirer of the whole or part of the business referred to in paragraph 2 of subsection 1 of section 21, the acquiring entity or foundation in an absorption merger, the merging entity or foundation in a combination merger and the founder of a joint venture shall comprise:

- 1) the turnover of an entity or a foundation exercising control therein;
- 2) the turnover of an entity or a foundation wherein it exercises control;

- 3) the turnover of an entity or a foundation wherein an entity or foundation referred to in paragraph 1 exercises control; and
- 4) the turnover of an entity or a foundation wherein control is exercised by the same natural person as in the entity or foundation referred to in the introductory paragraph.

The turnover of the acquiree shall be taken to mean:

- 1) the turnover of the entity or foundation wherein control is acquired;
- 2) the turnover related to the whole or part of the business referred to in section 21, subsection 1, paragraph 2; or
- 3) the turnover of a merging entity or foundation in an absorption merger.

The turnover of the acquiree shall also comprise the turnover of the entity or foundation wherein the entity or foundation referred to in paragraph 1 or 3 of subsection 2 exercises control.

Where business operations are acquired through two or more successive transactions, the turnover of the acquiree shall be taken to mean the combined turnover related to the business operations acquired from the same entity or foundation or the parties connected with them, as referred to in subsection 1, over a period of two years preceding the acquisition of the entity or foundation or a party connected with them, as referred to in subsection 1, irrespective of whether or not the parts acquired are legal persons.

Further provisions on the calculation of turnover are issued by government decree.

Section 25 (227/2017)

Prohibiting a concentration and imposing conditions

The Market Court may, upon the proposal of the Finnish Competition and Consumer Authority, prohibit or order a concentration to be dissolved, or impose conditions on the implementation of a concentration, if the concentration may significantly impede effective competition in the Finnish markets or a substantial part thereof, in particular as a result of the creation or strengthening of a dominant position.

Where an impediment to competition referred to in subsection 1 can be avoided by imposing conditions on the implementation of the concentration, the Finnish Competition and Consumer Authority shall, instead of making a proposal, negotiate and order such conditions to be followed.

The Finnish Competition and Consumer Authority may not impose conditions on a concentration which are not accepted by the notifying party to the concentration.

Section 26 (662/2012)

Time limits for proceedings

The Finnish Competition and Consumer Authority shall examine a notification of a concentration immediately. In the initial phase, the Finnish Competition and Consumer Authority shall decide whether further investigations are required. If the Finnish Competition and Consumer Authority does not issue a decision on initiating further proceedings within 23 working days from receipt of the notification, the concentration shall be deemed to have been approved. The time period shall not begin to run if the notification is materially incomplete. (721/2019)

If the Finnish Competition and Consumer Authority does not impose conditions nor submit a proposal to prohibit the concentration within 69 working days from taking the decision to initiate further proceedings, the concentration shall be deemed to have been approved. The Market Court may extend the time limit by up to 46 working days. (721/2019)

If the parties to the concentration, or the parties connected with them as set out in subsections 1–3 of section 24, fail to submit the information requested by the Finnish Competition and Consumer Authority under section 33 within the specified time limit, or submit materially incomplete or incorrect information, the time limits for proceedings referred to in subsections 1 and 2 herein shall be extended. A time limit shall be extended by the number of days equivalent to the period by which submission of such information is delayed from the date originally set for its submission. The Finnish Competition and Consumer Authority shall issue a decision on suspending the time limit for proceedings.

Section 27

Implementation of a concentration

The parties to a concentration shall not take measures to implement the concentration, unless otherwise provided in this Act, or so ordered during the consideration of the case, prior to the approval of the concentration, either without conditions or with conditions, or before the concentration is otherwise deemed to have been approved.

Subsection 1 does not prevent the implementation of a public bid referred to in section 1 of chapter 6 of the Securities Market Act or the use of a mandatory bid referred to in subsection 1 of section 10 of chapter 6 of the said Act, nor an obligation to redeem or a right of redemption referred to in subsection 1 of section 1 of chapter 18 of the Limited Liability Companies Act (624/2006).

Subsection 1 shall not prevent granting an authorisation to implement a merger. The implementation of a merger shall not, however, be registered prior to the approval of the concentration without conditions, or with conditions, or before the concentration is otherwise deemed to have been approved.

The provisions of subsection 3 also apply to the transfer of business operations referred to in the Act on Commercial Banks and Other Credit Institutions in the Form of a Limited Company (1501/2001), the Act on Cooperative Banks and Other Credit Institutions in the Form of a Cooperative (1504/2001) and the Savings Bank Act (1502/2001).

Section 28

Imposition of penalty payments in the control of concentrations

A penalty payment referred to in section 12 shall be imposed on an undertaking which implements a concentration in contravention of section 25 or 27, unless the conduct is to be deemed negligible or the imposition of a penalty payment is to be deemed otherwise unfounded on the grounds of safeguarding competition.

Section 29 (546/2021)

Concentrations at the Market Court

The Market Court shall issue its decision on cases where the Finnish Competition and Consumer Authority has proposed prohibiting a concentration within 69 working days of submission of the proposal. Otherwise the concentration shall be deemed to have been approved.

The prohibition to implement a concentration expires unless otherwise ordered by the Market Court within 23 working days of submission of the proposal. The Market Court may impose conditions on the implementation.

Section 30 (662/2012)

Amending a decision on concentration

Upon application, the Finnish Competition and Consumer Authority may lift or mitigate a condition imposed on the implementation of a concentration due to a material change in market conditions or for any other serious reason.

Notwithstanding a prior decision, the Market Court may, upon proposal by the Finnish Competition and Consumer Authority, prohibit or order a concentration to be dissolved, or impose conditions on its implementation, if the parties concerned have provided incorrect or misleading information which has had a substantial effect on the decision, or if the concentration has been implemented in contravention of section 25 or 27. A further requirement is that the parties to the concentration shall be informed of the proposal by the Finnish Competition and Consumer Authority to reopen the case no later than one year from the decision becoming final, or from the implementation of the concentration.

Chapter 4a (595/2013)

Ensuring competitive neutrality between the public and private sector

Section 30a (595/2013)

Powers of the Finnish Competition and Consumer Authority

The Finnish Competition and Consumer Authority shall, primarily through consultations, seek to eliminate any procedure or operating structure in the economic activities of a municipality, a joint municipal authority, a wellbeing services county, a wellbeing services consortium, the central government, or of an entity within its control, which in the course of providing goods or services:

- 1) distorts or is likely to distort the conditions for sound and effective market competition;
- 2) prevents or is likely to prevent the emergence or development of sound and effective economic competition; or
- 3) conflicts with the requirement of market-based pricing as provided in section 128 of the Local Government Act (410/2015) or section 133 of the Act on Wellbeing Services Counties (611/2021).

(659/2021)

The provisions of subsection 1 on the powers of the Finnish Competition and Consumer Authority and the conditions for the exercise thereof also apply to the procedures referred to in sections 15 and 16 of the Act on Public Procurement and Concession Contracts (1397/2016) and sections 25 and 26 of the Act on Procurement and Concession Contracts of Entities Operating in the Water, Energy, Transport and Postal Services Sectors (1398/2016). (1402/2016)

Section 30b (595/2013)

Exceptions to the scope of application

The provisions of section 30a do not apply if the procedure or operating structure directly follows from law, or if application would prevent the performance of a significant task related to the wellbeing or safety of citizens or any other such public interest.

Section 30c (659/2021)

Imposing a prohibition, order or obligation

Should the consultations referred to in section 30a be inconclusive, the Finnish Competition and Consumer Authority shall prohibit the municipality, joint municipal authority, wellbeing services county, wellbeing services consortium or central government from using the procedure or operating structure or make continuation of such procedure or operations conditional to obligations which ensure a level playing field on the market. Notwithstanding, such operations shall not be required to be completely terminated where performance of the function is based on law.

Section 30d (659/2021)

Accounting separation

Where a municipality, joint municipal authority, wellbeing services county, wellbeing services consortium, the central government, or an entity within its control referred to in section 30a engages in economic activities in a competitive market, separate accounts shall be kept of such activities and shall include:

- 1) all revenue and expenditure accounted for and allocated separately by function in accordance with consistently applied and objectively justifiable cost-accounting principles; and
- 2) a clear description of the cost-accounting principles referred to in paragraph 1 as additional information.

The operating income and expenses shall be presented as a profit and loss account by financial year, which shall be derivable from the accounts of the party referred to in subsection 1 and which shall be prepared in accordance with the Accounting Act or any other accounting provisions applicable to the party concerned.

The profit and loss account with additional information shall be public and presented as a note to the financial statements.

The Finnish Competition and Consumer Authority supervises compliance with the obligations laid down in subsections 1 and 2. Where a municipality, joint municipal authority, wellbeing services county, wellbeing services consortium, the central government, or an entity within its control referred to in subsection 1 fails to comply with the obligations laid down in subsection 1 or 2, the Finnish Competition and Consumer Authority may oblige, subject to a periodic penalty payment, the municipality, joint municipal authority, wellbeing services county, wellbeing services consortium, or the central government to provide its separate accounts, profit and loss account, financial statements and a description of cost-accounting principles within a specified period of time. Section 46 applies to imposition of a periodic penalty payment and ordering the payment thereof.

The provisions of subsections 1–4 do not apply if the annual turnover of the economic activities of the municipality, joint municipal authority, wellbeing services county, wellbeing services consortium, central government, or of the entity within its control in a competitive market is less than EUR 40,000.

The provisions of section 1–4 do not apply to activities referred to in section 30b.

Chapter 5

Procedural provisions

Section 31 (662/2012)

Proceedings at the Finnish Competition and Consumer Authority

The Finnish Competition and Consumer Authority investigates restrictions of competition and the effects thereof. The Finnish Competition and Consumer Authority initiates the necessary proceedings to eliminate the restriction of competition or the harmful effects thereof if it finds that an undertaking or association of undertakings restricts competition as referred to in section 5 or 7, or Article 101 or 102 of the Treaty on the Functioning of the European Union, and if the initiation of proceedings is necessary to safeguard sound and effective competition in the market.

Section 32

Priority and dismissal of cases

The Finnish Competition and Consumer Authority prioritises its duties. (662/2012)

The Finnish Competition and Consumer Authority may decide not to investigate a case if:

- 1) it cannot be deemed likely that the case concerns a restriction of competition prohibited by section 5 or 7, or Article 101 or 102 of the Treaty on the Functioning of the European Union;
- 2) competition in the relevant market may be considered effective as a whole, irrespective of the suspected restriction of competition;
- 3) the request for measures in the case is manifestly unfounded;
- 4) it is unlikely that the procedure or operating structure referred to in section 30a has significant effects on the conditions for sound and effective competition; or
- 5) it is unlikely that the suspected restriction of competition would significantly affect the conditions for sound and effective competition.

(721/2019)

The decision not to investigate shall be made without undue delay.

Section 33 (546/2021)

Obligation to provide information

Notwithstanding secrecy provisions, any undertaking, association of undertakings, contracting entity, municipality, joint municipal authority, wellbeing services county, wellbeing services consortium and the central government, and any entities within their control, are obliged to provide the Finnish Competition and Consumer Authority, at its request, with all the information and documents needed to investigate the contents, purpose and impact of a restriction of competition, as well as to clarify the competitive conditions and to assess a concentration referred to in chapter 4 and the procedure, structure and their impacts referred to in chapter 4a. (659/2021)

Natural persons are obliged to provide, notwithstanding secrecy provisions, the Finnish Competition and Consumer Authority, at its request, with any information and documents needed to investigate the contents, purpose and impact of a restriction of competition, with the exception of any information concerning special categories of personal data and personal data related to criminal convictions and offences laid down in Articles 9 and 10 of Regulation (EU) 679/2016 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), and any documents containing confidential correspondence between an outside legal consultant and a client.

Notwithstanding secrecy provisions, undertakings and associations of undertakings are obliged to provide the Finnish Competition and Consumer Authority, at its request, with all the information and documents needed to investigate the infringements referred to in subsection 1 of section 37a.

The Finnish Competition and Consumer Authority may, at the request of the competition authority of another Member State, oblige an undertaking or an association of undertakings to provide, notwithstanding secrecy provisions, the Finnish Competition and Consumer Authority with information and documents to establish whether the undertaking or association of undertakings has:

- 1) failed to comply with a prohibition, remedy or commitment decision or decision imposing interim measures issued by the competition authority of another Member State of the European Union;
- 2) failed to comply with the procedural rules of another Member State on inspections of business premises, interviews or requests for information.

The information shall, whenever requested, be submitted in writing. The information may be submitted using a technical interface or other electronic means.

Section 34 (18.6.2021/546)

Summons to an interview

The Finnish Competition and Consumer Authority has the right to summon for an interview any representative of an undertaking or association of undertakings, or any other person who may possess information necessary to establish a restriction of competition. The Finnish Competition and Consumer Authority may record the answers provided. Provisions on interviews are laid down in the Administrative Procedure Act (434/2003).

The Finnish Competition and Consumer Authority may, at the request of the competition authority of another Member State, summon for an interview any representative of an undertaking or association of undertakings, or any other person who may possess information necessary to establish whether the undertaking or association of undertaking has:

- 1) infringed Article 101 or 102 of the Treaty on the Functioning of the European Union;
- 2) failed to comply with a prohibition, remedy or commitment decision or a decision imposing interim measures issued by the competition authority of another Member State of the European Union;
- 3) failed to comply with the procedural rules of another Member State on inspections of business premises, interviews or requests for information.

An official of the competition authority of another Member State or a person authorised by the official may attend an interview referred to in subsection 2 under the supervision of an official of the Finnish Competition and Consumer Authority. The Finnish Competition and Consumer Authority may record the answers provided.

Section 35 (546/2021)

Inspections in the business premises of an undertaking

In order to supervise compliance with this Act and the provisions issued under it and to assess the concentrations referred to in chapter 4, an authorised official of the Finnish Competition and Consumer Authority and the Regional State Administrative Agency has the right to carry out all necessary inspections in the business and storage premises, land and means of transport in the possession of an undertaking. The Finnish Competition and Consumer Authority is obliged, at the request of the European Commission, to conduct an inspection as provided in the legal acts of the European Union.

The Finnish Competition and Consumer Authority shall assist the Commission in the inspections as provided for in the legal acts of the European Union.

An official of the Finnish Competition and Consumer Authority has the right, at the request of the competition authority of another Member State, to carry out an inspection in the premises referred to in subsection 1 to establish whether an undertaking or association of undertakings has:

- 1) infringed Article 101 or 102 of the Treaty on the Functioning of the European Union;
- 2) failed to comply with a prohibition, remedy or commitment decision or a decision imposing interim measures issued by the competition authority of another Member State of the European Union; or
- 3) failed to comply with the procedural rules of another Member State on inspections of business premises, interviews or requests for information.

An official of the Finnish Competition and Consumer Authority has the right to carry out an inspection in the business and storage premises, land and means of transport of an undertaking in accordance with the provisions of the Nordic Agreement on Cooperation in Competition Cases (Treaty Series of the Statute Book of Finland 68 and 69/2018).

The Finnish Competition and Consumer Authority may, in an inspection referred to in subsections 1–4, carry out the inspection of temporary copies of data in its own premises. At the end of the inspection, the Finnish Competition and Consumer Authority shall destroy the temporary copies of data.

Furthermore, the provisions of section 39 of the Administrative Procedure Act also apply to inspections referred to in this section.

Section 36 (546/2021)

Inspections in other premises

In order to supervise compliance with this Act and the provisions issued under it, an official of the Finnish Competition and Consumer Authority and the Regional State Administrative Agency also has the right to carry out an inspection in premises other than those referred to in section 35 if there is a reasonable suspicion that business books and records relating to the subject matter of the inspection are being kept there and may be relevant to prove an infringement of section 5 or 7, or Article 101 or 102 of the Treaty on the Functioning of the European Union.

An official of the Finnish Competition and Consumer Authority has the right to carry out an inspection in premises other than those referred to in section 35 in accordance with the Nordic Agreement on Cooperation in Competition Cases.

The European Commission may, in accordance with Article 21 of Council Regulation (EC) No 1/2003 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, order that an inspection be conducted in premises other than those referred to in section 35.

An official of the Finnish Competition and Consumer Authority has the right to carry out an inspection in premises other than those referred to in section 35 at the request of the competition authority of another Member State if there is a reasonable suspicion that business books and records relating to the subject matter of the inspection are being kept there and may be relevant to establishing whether an undertaking or association of undertakings has:

- 1) infringed Article 101 or 102 of the Treaty on the Functioning of the European Union;
- 2) failed to comply with a prohibition, remedy or commitment decision or a decision imposing interim measures issued by the competition authority of another Member State of the European Union;
- 3) failed to comply with the procedural rules of another Member State on inspections of business premises, interviews or requests for information.

The Finnish Competition and Consumer Authority shall apply for prior authorisation from the Market Court for an inspection referred to in subsections 1–4. The Market Court may prohibit an inspection if it would be arbitrary or excessive. In examining whether such an inspection is arbitrary or excessive, the Market Court shall pay particular attention to the gravity of the suspected infringement, the importance of the evidence sought, the involvement of the

undertaking concerned, and the reasonable likelihood that business books and records relating to the subject matter of the inspection are kept in the premises for which the authorisation is requested.

The Finnish Competition and Consumer Authority may, in an inspection carried out by virtue of subsections 1–4, conduct the inspection of temporary copies of data in its own premises. At the end of the inspection, the Finnish Competition and Consumer Authority shall destroy the temporary copies of data.

Furthermore, the provisions of section 39 of the Administrative Procedure Act also apply to inspections referred to in this section.

Section 37 (546/2021)

Inspection procedure

Undertakings and associations of undertakings shall, for the purpose of an inspection, allow an official of the Finnish Competition and Consumer Authority, the Regional State Administrative Agency, the European Commission and the competition authority of another Member State, or any persons authorised by them, to enter the business and storage premises, land and means of transport in their possession. The official carrying out the inspection is entitled, irrespective of the data storage medium, to examine the business correspondence, accounts, data processing records, any other records and data of the undertaking or association of undertakings which may be relevant to the supervision of compliance with this Act or the provisions issued under it, and to take copies thereof.

An official carrying out an inspection also has the right to receive all information necessary to carry out the inspection from a company that handles the communications or information referred to in subsection 1 at the request of an undertaking subject to the inspection or otherwise as part of a service provided to it. Where submission of information to the official carrying out the inspection results in costs being incurred by the company that handles information at the request of the undertaking subject to the inspection or otherwise as part of a service provided to it, the undertaking or association of undertakings bears the costs incurred unless otherwise agreed by the parties.

An official carrying out an inspection may request from all representatives of an undertaking or association of undertakings, or members of staff, explanations on facts and documents relating to the subject matter and purpose of the inspection and record the answers provided. The official

carrying out the inspection also has the right to seal premises or books, records and data for the period and to the extent necessary for carrying out the inspection.

When carrying out an inspection in premises other than those referred to in section 35, an official of the European Commission, the Finnish Competition and Consumer Authority and the Regional State Administrative Agency has the powers provided in subsection 1, but not those provided in subsection 3.

Provisions on the obligation of the police to give executive assistance are laid down in section 1 of chapter 9 of the Police Act (872/2011).

The European Commission, the Finnish Competition and Consumer Authority, the competition authority of another Member State and the Regional State Administrative Agencies may use other authorised persons to assist in an inspection.

An official of the competition authority of another Member State or a person authorised by the official may attend and actively assist the officials of the Finnish Competition and Consumer Authority under their direction and supervision in inspections.

Section 37a (546/2021)

Penalty payments imposed for infringements of procedural provisions

Unless the infringement is to be deemed negligible or the imposition of a penalty payment is to be deemed otherwise unfounded, the Finnish Competition and Consumer Authority may submit a proposal to the Market Court for imposition of a penalty payment on an undertaking or association of undertakings which intentionally or negligently:

- 1) opposes an inspection carried out under section 35 to investigate a restriction of competition;
- 2) breaks a seal referred to in subsection 3 of section 37, affixed in connection with an investigation of a restriction of competition;
- 3) fails to correct or complete an incorrect, misleading or incomplete explanation in response to a request made under subsection 3 of section 37 in connection with an investigation carried out under section 35 to investigate a restriction of competition, or fails to submit a requested explanation;
- 4) gives incorrect, incomplete or misleading information in response to a request made under subsection 1 of section 33 to establish a restriction of competition, or fails to supply the

requested information within the period specified by the Finnish Competition and Consumer Authority;

- 5) fails to confirm that its representative appears at an interview performed as part of an investigation of a restriction of competition by virtue of section 34;
- 6) fails to comply with a decision issued on the basis of a restriction of competition by virtue of section 9, 9a or 10 or with an order issued under section 45 during an investigation of a restriction on competition.

Determination of the amount of a penalty payment is based on an overall assessment, which shall take account of the nature and extent of the infringement and of its degree of gravity. The penalty payment shall not exceed one per cent of the total worldwide turnover of the infringer in the financial year preceding submission of the proposal for a penalty payment by the Finnish Competition and Consumer Authority.

Decisions on imposition of penalty payments are made by the Market Court upon proposal by the Finnish Competition and Consumer Authority. Penalty payments shall be ordered to be payable to the state.

A penalty payment may also be imposed on an undertaking or an association of undertakings to which the business activities involved in the infringement have been transferred as a result of a concentration or some other corporate transaction.

Section 38

Undertakings' rights of defence

The Finnish Competition and Consumer Authority shall inform the undertaking under investigation of its status in the investigation and of what it is suspected. The undertaking has the right to receive the information as soon as it is possible without jeopardising the investigation of the restriction of competition. (662/2012)

Upon request, the undertaking under investigation has the right to receive information on the documents concerning the investigation and the phase of the proceedings, either orally or by some other appropriate means, to the extent that this cannot harm investigations in the case, unless otherwise provided in the Act on the Openness of Government Activities (621/1999) or European Union legal acts.

The Finnish Competition and Consumer Authority may only use the information obtained on the basis of sections 33–36 for the purpose for which it was gathered, unless the Finnish Competition and Consumer Authority has initiated a new investigation. An undertaking has no obligation to provide the Finnish Competition and Consumer Authority with documentation containing confidential correspondence between an outside legal consultant and a client. In responding to any questions raised by the Finnish Competition and Consumer Authority, the undertaking shall not be required to admit that it has acted in contravention of section 5 or 7, or Article 101 or 102 of the Treaty on the Functioning of the European Union. (662/2012)

The undertaking has the right to be heard before the Finnish Competition and Consumer Authority makes a proposal for a penalty payment or a decision finding an infringement of section 5 or 7, or Article 101 or 102 of the Treaty on the Functioning of the European Union. The Finnish Competition and Consumer Authority shall inform the undertaking in writing of any claims made against it relating to the issues that have arisen during the investigation and of the justifications for these claims. The Finnish Competition and Consumer Authority shall set a reasonable time period within which the undertaking may make its views known, either orally or in writing, to the Finnish Competition and Consumer Authority. (662/2012)

Section 38a (546/2021)

Rights of parties under investigation to receive information on certain documents and limitations on the use of information

Provisions on secrecy of the leniency statements referred to in section 14 of this Act are laid down in section 24 of the Act on the Openness of Government Activities. In derogation of section 11 of the Act on the Openness of Government Activities, the right to receive information on the content of a leniency statement presented with a view to obtaining immunity from a penalty payment referred to in section 14 of this Act and reduction of a penalty payment referred to in section 15 and of a settlement submission only applies to a party under investigation and solely for the purpose of exercising its rights of defence.

The party under investigation is only entitled to use the information contained in leniency statements and settlement submissions to exercise its rights of defence in courts if the matter before a court is directly related to the case for which the information was provided, and if such a matter concerns:

- 1) the allocation of a penalty payment imposed jointly and severally on the basis of an infringement of section 5 or Article 101 of the Treaty on the Functioning of the European Union between participants in the infringement;
- 2) an appeal against a decision finding an infringement of section 5 or 7 or Article 101 or 102 of the Treaty on the Functioning of the European Union or a ruling made on the basis of an infringement;
- 3) a proposal by the Finnish Competition and Consumer Authority concerning an infringement of section 5 or 7 or Article 101 or 102 of the Treaty on the Functioning of the European Union.

Until the Finnish Competition and Consumer Authority has closed its proceedings with respect to all parties under investigation by adopting a decision referred to in section 9, 10, 11 or 32 or a proposal referred to in section 9a or 12 or otherwise, no party under investigation shall use in evidence any information obtained by the Finnish Competition and Consumer Authority in the course of its investigations on:

- 1) the responses by any other natural persons or legal persons to requests by Finnish Competition and Consumer Authority for information, or any documents otherwise specifically prepared for the competition authority's proceedings;
- 2) a draft decision or any other information that the Finnish Competition and Consumer Authority has drawn up and sent to the parties in the course of its proceedings;
- 3) any settlement submission that has been withdrawn.

The Finnish Competition and Consumer Authority may only hand down leniency statements to and receive these from the competition authorities of other Member States by virtue of Article 12 of Council Regulation (EC) No 1/2003 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty:

- 1) with the consent of the undertaking which provided the leniency statement; or
- 2) if the receiving competition authority has received an application for immunity from or reduction of a penalty payment relating to the same infringement from the same applicant as the Finnish Competition and Consumer Authority, and if the applicant cannot withdraw the information presented to the receiving competition authority.

Section 39 (721/2019)

Exchange of information between public authorities

The Finnish Competition and Consumer Authority may, on its own initiative and notwithstanding secrecy provisions, disclose information or documents received or produced in connection with the performance of the duties laid down in this Act, if this is necessary, to:

- 1) the Financial Supervisory Authority for the purpose of performing supervisory duties related to electricity and natural gas supply and derivative contracts;
- 2) the Energy Authority for the supervision of electricity and natural gas markets referred to in subsection 1 of section 1 of the Act on the Energy Authority (870/2013);
- 3) the Finnish Patent and Registration Office for the supervisory duties referred to in paragraph 1 of subsection 1 of section 54 of the Act on the Collective Management of Copyright (1494/2016) and in chapter 14 of the Foundations Act (487/2015);
- 4) the pre-trial investigation authorities for the purpose of preventing, uncovering, investigating and prosecuting criminal offences, and for other duties of the pre-trial investigation authorities in accordance with the purpose of collecting and storing information;
- 5) the prosecutor for the duties laid down in section 9 of the Act on the National Prosecution Authority (32/2019); (1236/2019)
- 6) the Financial Intelligence Unit for the duties laid down in section 2 of the Act on the Financial Intelligence Unit (445/2017);
- 7) the National Audit Office of Finland for the inspection duties laid down in the Act on the National Audit Office of Finland (676/2000);
- 8) the Finnish Tax Administration for the purposes of tax delivery, tax control, or collection and recovery of taxes and charges;
- 9) the Finnish Transport and Communications Agency for the duties laid down in the Act on Electronic Communication Services (917/2014), the Postal Act (415/2011), the Act on Broadband Construction Aid in Sparsely Populated Areas (1186/2009), the Act on Strong Electronic Identification and Electronic Trust Services (617/2009), and the Act on Shared Construction and Use of Network Infrastructure (276/2016).

Notwithstanding secrecy provisions, the Finnish Competition and Consumer Authority has the right to receive any information or document necessary to establish whether an infringement referred to

in chapters 2 and 4a of this Act has occurred and to control concentrations referred to in chapter 4 from public authorities referred to in paragraphs 1 and 3–8 of subsection 1 and any other bodies responsible for discharging public duties referred to in subsection 2 of section 4 of the Act on the Openness of Government Activities.

The right of the Finnish Competition and Consumer Authority under subsection 1 does not apply to any information and documents provided by an undertaking to the Finnish Competition and Consumer Authority by which the undertaking has applied for immunity from a penalty payment under section 14 or reduction of a penalty payment under section 15 in cartel cases.

The exchange of information referred to in subsections 1 and 2 above may be carried out using a technical interface or by other electronic means. The Finnish Competition and Consumer Authority is entitled to receive the information free of charge.

Section 40 (546/2021)

Granting access to documents to the competition authority of another state

Provisions on granting access to confidential documents in the possession of the Finnish Competition and Consumer Authority to a foreign competition authority are laid down in section 30 of the Act on the Openness of Government Activities.

In addition to the provisions of subsection 1, the Finnish Competition and Consumer Authority may grant access to a confidential document in its possession to another Nordic competition authority in accordance with the provisions of the Nordic Agreement on Cooperation in Competition Cases.

The Finnish Competition and Consumer Authority has the right to exchange information with the competition authority of another Member State and such information may be used in evidence, applying the safeguards set out in Article 12 of Regulation (EC) No 1/2003 on the implementation of the rules of competition laid down in Articles 81 and 82 of the Treaty.

Section 41 (662/2012)

Duties of the Regional State Administrative Agencies

The Regional State Administrative Agencies shall investigate competitive conditions and restrictions of competition and, by mandate of the Finnish Competition and Consumer Authority, take other measures to promote competition within their respective regions.

Section 42

Infringement proceedings at the Market Court

A competition infringement case is brought before the Market Court by a proposal referred to in subsection 3 of section 12, subsection 1 of section 25, or subsection 2 of section 30; an appeal referred to in subsection 1 of section 44; or an application referred to in subsection 2 of section 26, subsection 3 of section 36, or subsection 2 of section 45. Any proposal, appeal and application shall be made in writing. (595/2013)

After the Market Court has received a proposal or appeal, the Chief Judge or a Market Court Judge shall conduct preparations prior to the final proceedings to enable a decision to be made expeditiously. Preparations are not necessary if the proposal is dismissed or rejected out of hand as unfounded.

During the preparations, the undertaking or association of undertakings concerned shall be given an opportunity to respond to the proposal either orally or in writing. An undertaking subject to the restriction of competition may also be heard on the proposal. Preparations may be closed even if a party concerned has failed to submit a reply requested on the proposal.

The Market Court may decide to grant an authorisation referred to in subsection 3 of section 36 without hearing the undertaking or association of undertakings concerned.

Section 43

Obligation to attend a Market Court hearing and to present documents

The Market Court may oblige a party concerned to arrive before it and to produce its business correspondence, accounts, minutes, and any other documents shedding light on the competition restriction.

Other provisions on the consideration and clarification of a case in the Market Court are laid down in the Market Court Proceedings Act (100/2013). (123/2013)

Chapter 5a (546/2021)

Notification and enforcement across the borders of Member States

Section 44 (546/2021)

Notification across the borders of European Union Member States

Where a request presented by the competition authority of another Member State meets the requirements set out in section 44b, the Finnish Competition and Consumer Authority is obliged, on behalf of the applicant competition authority, to notify:

- 1) any preliminary objections to the alleged infringement of Article 101 or 102 of the Treaty on the Functioning of the European Union and any decisions applying those Articles;
- 2) any other procedural act adopted in the context of enforcement proceedings which should be notified in accordance with national law;
- 3) any documents which relate to the enforcement of decisions imposing fines or periodic penalty payments and any other relevant documents related to the application of Article 101 or 102 of the Treaty on the Functioning of the European Union.

Provisions on the procedure for notification are laid down in the Administrative Procedure Act.

The Finnish Competition and Consumer Authority may make a notification request to the competition authority of another Member State where notification is necessary under national law.

Section 44a (546/2021)

Enforcement across the borders of European Union Member States

Where the Finnish Competition and Consumer Authority has ascertained that a request presented by the competition authority of another Member State meets the requirements set out in section 44b, the Finnish Competition and Consumer Authority shall approve the request for enforcement. Further conditions for the enforcement obligation are that:

- 1) reasonable enforcement efforts have been made in the Member State requesting enforcement;
- 2) the undertaking or association of undertakings did not have sufficient assets in the requesting Member State; and

3) the undertaking or association of undertakings has assets in Finland.

Where the corresponding requirements provided in subsection 1 are met, the Finnish Competition and Consumer Authority may request the competition authority of another Member State to enforce decisions on penalty payments and periodic penalty payments issued in Finland on the basis of an infringement of Article 101 or 102 of the Treaty on the Functioning of the European Union.

If a request presented by the competition authority of another Member State meets the requirements set out in section 44b, the Finnish Competition and Consumer Authority is entitled to approve the request for enforcement. Approval of a request does not, however, require that the competition authority of another Member State has made reasonable efforts to enforce the decision in its own territory. Further conditions for enforcement are that:

- 1) the undertaking or association of undertakings is not established in the requesting Member State; and
- 2) the undertaking or association of undertakings has assets in Finland.

Where the Finnish Competition and Consumer Authority has approved a request for enforcement, the Legal Register Centre will promptly ensure the enforcement of the final decision issued in another Member State on a penalty payment, fine or periodic penalty payment mentioned in the request without a judgement or a decision in compliance with the provisions of the Act on the Enforcement of Taxes and Public Payments (706/2007).

When the corresponding requirements provided in subsection 3 are met, the Finnish Competition and Consumer Authority may request the competition authority of another Member State to enforce decisions on penalty payments and periodic penalty payments issued in Finland on the basis of an infringement of Article 101 or 102 of the Treaty on the Functioning of the European Union.

Section 44b (546/2021)

Conditions for cross-border notification and enforcement

The competition authority of another Member State requesting notification referred to above in section 44 or enforcement referred to in section 44a shall submit the following information using a standard form:

- 1) the name, known address and any other information relevant for the identification of the addressee of the notification or the subject of enforcement;
- 2) a summary of the relevant facts and circumstances;
- 3) a summary of the document to be notified or enforced attached to the copy of the said document;
- 4) the name, address and other contact details of the requested authority;
- 5) the period within which the notification or enforcement should be effected, such as statutory deadlines or limitation periods.

The competition authority of another Member State requesting enforcement referred to in section 44a above shall, in addition to the information referred to in subsection 1, also submit information on the date on which the decision to be enforced became final and any other information on the decision to be enforced, and information on the amount of the penalty payment, fine or periodic penalty payment. Furthermore, the competition authority of the other Member State shall provide information showing that reasonable efforts were made by the competition authority of the other Member State to enforce the decision in its own territory.

The Finnish Competition and Consumer Authority is not obliged to execute a notification referred to in section 44, nor to approve the enforcement of a request, if the request of the competition authority of another Member State does not meet the requirements provided in this chapter or if the execution of the request would be manifestly contrary to the basic principles of Finland's legal system. The competition authority of the other Member State shall be informed of any refusal or need for additional information.

Section 44c (546/2021)

Procedures for cross-border requests for notification and enforcement

The competition authority of another Member State may submit the information for notification and enforcement in Finnish, Swedish or another official language of the European Union agreed between the competition authority of the other Member State and the Finnish Competition and Consumer Authority regarding notification and between the competition authority of the other Member State and the Legal Register Centre regarding enforcement.

The requesting competition authority of another Member State bears all reasonable additional costs, including translation, labour and administrative costs relating to notification and

enforcement. The Legal Register Centre may recover the costs relating to enforcement from the penalty payments, fines or periodic penalty payments it has collected on behalf of the competition authority of the other Member State. To recover enforcement costs, the Legal Register Centre may deduct the enforcement costs before making the funds available to the authority of the requesting Member State.

Section 44d (546/2021)

Disputes concerning cross-border requests for notification and enforcement

An administrative complaint may be filed on any error made in the notification procedure of the Finnish Competition and Consumer Authority. Decisions made by the Finnish Competition and Consumer Authority under subsections 1 and 3 of section 44a may be appealed to the Administrative Court. Provisions on appeals made to an administrative court are laid down in the Administrative Judicial Procedure Act (808/2019). A decision may be put into effect despite appeal.

Claims concerning the legality of a decision subject to notification or of any other document related to the application of Article 101 or 102 of the Treaty on the Functioning of the European Union, a decision subject to enforcement and a standard form referred to in section 44b are resolved in the requesting Member State, applying the law of the said Member State.

Chapter 6

Miscellaneous provisions

Section 45 (546/2021)

Interim measures

Where it is immediately found that the application or implementation of a restriction of competition may cause serious and irreparable harm to competition, the Finnish Competition and Consumer Authority may impose an interim measure to bring the restriction of competition to an end.

Interim measures imposed by the Finnish Competition and Consumer Authority shall be valid for a specific period which does not exceed one year. The Finnish Competition and Consumer Authority may extend the validity of imposed interim measures for a maximum period of one year at a time,

where such extension is necessary. The Finnish Competition and Consumer Authority shall revoke the interim measure immediately when it is no longer required.

Before imposing interim measures, the Finnish Competition and Consumer Authority shall give the undertaking or association of undertakings an opportunity to be heard subject to the urgency of the matter or another specific reason.

Section 46 (546/2021)

Periodic penalty payments

The Finnish Competition and Consumer Authority may impose a periodic penalty payment to enforce compliance with a condition imposed, or an order, prohibition, or obligation issued by virtue of this Act. Periodic penalty payments are ordered payable by the Market Court.

The Market Court may impose a periodic penalty payment to enforce compliance with an order, condition, prohibition or obligation referred to in this Act. Periodic penalty payments are ordered payable by the Market Court.

The amount of periodic penalty payment related to an infringement of section 5 or 7 above or Article 101 or 102 of the Treaty on the Functioning of the European Union or an investigation of such infringement, or to non-compliance with a prohibition, decision or order referred to in section 9, 9a, 10, 33–35 or 45, shall be determined in proportion to the average daily total worldwide turnover of the undertaking or association of undertakings in the financial period preceding the date of the decision to impose a periodic penalty payment. In all other respects, the provisions of the Act on Conditional Fines (1113/1990) apply to periodic penalty payments.

Notwithstanding, no periodic penalty payment shall be imposed on natural persons to enforce their obligation to provide information referred to in subsection 2 of section 33 or to ensure compliance with the summons for an interview under section 34. Periodic penalty payments may, however, be imposed on undertakings and associations of undertakings to ensure that their representatives comply with the summons for an interview under section 34.

Section 47 (546/2021)

Enforcement of penalty payments

The Legal Register Centre ensures the enforcement of final decisions on imposition of penalty payments issued by virtue of sections 12 and 37a and of final decisions issued by virtue of section 47a, subsections 2 and 3.

The Market Court shall notify the Legal Register Centre of its decision to impose a penalty fee.

If the Supreme Administrative Court cancels a penalty payment imposed by the Market Court or amends the amount thereof, the Supreme Administrative Court shall inform the Legal Register Centre of its decision.

The Supreme Administrative Court shall also inform the Legal Register Centre of any decision by which the Supreme Administrative Court has imposed a penalty payment as a first instance.

The Legal Register Centre shall return the penalty payment or the part corresponding to a reduction thereof without a separate application if the decision on the payment has been revoked, or if the amount of the payment imposed has been reduced.

A penalty payment is implemented without a judgement or decision in compliance with the provisions of the Act on the Enforcement of Taxes and Public Payments, unless otherwise provided in this Act.

Section 47a (546/2021)

Recovery of penalty payments imposed on associations of undertakings

Where a penalty payment imposed on an association by final decision has been determined taking account of the turnover of its members and the association is unable to pay the penalty payment, the association shall demand contributions from its members to cover the penalty payment.

If the association has failed to pay the penalty payment in full within a year of the date when the decision on penalty payment became final, the Finnish Competition and Consumer Authority may propose to the Market Court for a decision that the outstanding amount be recovered from any of the members of the association which were represented in the association's decision-making body at the time of adoption of the decision on infringement. 'Decision-making body' refers to the general manager, directors and any other decision-making bodies defined in the rules of the association. The Finnish Competition and Consumer Authority may, however, make a proposal and

the Market Court may issue a decision before one year from the decision becoming final, if the recovery of the penalty payment ended through a certificate of impediment in accordance with the Enforcement Code (705/2007) due to initiation of an enforcement matter. If the Finnish Competition and Consumer Authority does not propose or the Market Court decide to recover the outstanding amount from said members of the association, the Legal Register Centre shall continue the recovery of the penalty payment from the association.

If the penalty payment cannot be recovered in full from the members of the association referred to in subsection 2 within one year of the date on which the decision on the penalty payment referred to in subsection 2 became final, the Finnish Competition and Consumer Authority may propose that the outstanding amount of the penalty payment be recovered from any of the members of the association which were active on the market on which the infringement occurred. Where a decision on recovery has been made under subsection 2 and the Finnish Competition and Consumer Authority does not propose recovery under this subsection, the Legal Register Centre shall continue the recovery of the penalty payment from the members mentioned in a final decision issued by virtue of subsection 2. The Finnish Competition and Consumer Authority may decide not to propose the recovery of an outstanding penalty payment imposed on an association under subsections 2 and 3, in particular if the amount of outstanding penalty payment is negligible, if a member has been granted immunity from or reduction of the penalty payment, or if recovery would result in the loss of the member's operating conditions.

The outstanding amount of the penalty payment shall neither be proposed nor ordered to be recovered from the members of the association which show that they did not implement the association's infringing decision and either were unaware of its existence or had actively distanced themselves from it before the Finnish Competition and Consumer Authority initiated its investigation.

Where a proposal or decision is made by virtue of subsections 2 and 3, account shall be taken of the relative sizes of the members of the association and the situation of small and medium-sized enterprises, and any amount of the penalty payment imposed on the association that a member may have already paid under subsection 1. Furthermore, the Finnish Competition and Consumer Authority shall take the legal principles of section 6 of the Administrative Procedure Act into account when making a proposal. Where a penalty payment for an association is only based on an infringement of section 5 or 7 of this Act, a proposal or a decision shall be made with additional consideration of a member's contributory fault in the association's infringement and, with regard to subsection 2, the period of time that the member was on a decision-making body during the competition infringement and, with regard to subsection 3, the period of time that the member

was active during the competition infringement on the market on which the infringement occurred. The liability of each undertaking for the penalty payment imposed on the association shall not, together with the penalty payment imposed on the undertaking for the same infringement, exceed the maximum amount set out in section 13a, subsection 1.

Where a penalty payment imposed on an association by final decision has been determined taking account of the turnover of its members, the penalty payment shall be recovered in full:

- 1) within five years of the date on which the decision on the association's penalty payment issued by the Market Court or the Supreme Administrative Court became final; or
- 2) within two years of the date on which the decision issued under subsection 2 or 3 became final, if this period is longer than the time referred to in paragraph 1.

(1297/2022)

Section 48

Punishment for false evidence

Provisions on the punishment for providing false documents to a public authority are laid down in section 8 of chapter 16 of the Criminal Code of Finland (39/1889).

Section 49 (662/2012)

Hearing of the Finnish Competition and Consumer Authority

When reviewing a competition infringement case, the court shall give the Finnish Competition and Consumer Authority the opportunity of being heard.

When reviewing a damages claim referred to in subsection 1 of section 20, the court may request a statement from the Finnish Competition and Consumer Authority.

Section 49a (546/2021)

Appeals to the Market Court

Decisions made by the Finnish Competition and Consumer Authority by virtue of this Act may be appealed to the Market Court. The provisions of the Administrative Judicial Procedure Act apply to

appeals, unless otherwise provided below. A decision issued by the Finnish Competition and Consumer Authority under sections 9, 10, 11, 30c, 33 and 45 shall be complied with despite appeal unless otherwise ordered by the Market Court. Appeal against a decision by the Finnish Competition and Consumer Authority on imposing interim measures under section 45 shall be treated as urgent.

A decision of the Finnish Competition and Consumer Authority shall not be subject to appeal when it concerns a decision issued under subsection 1 of section 26 on initiating further proceedings or a decision issued under subsection 5 of section 37 on the provision of executive assistance. A notifying party to a concentration shall not appeal against a decision issued by the Finnish Competition Authority under section 25, by which the commitments proposed by the notifying party have been ordered to be followed. (1297/2022)

No decision issued by the Finnish Competition and Consumer Authority shall be subject to separate appeal when it concerns conducting an inspection referred to in section 35, a decision issued under subsection 4 of section 17 on the fulfilment of the conditions set out in sections 14–16, or a decision issued under subsection 3 of section 26 on extending the time limit for proceedings.

Section 49b (546/2021)

Appeals to the Supreme Administrative Court

Decisions issued by the Market Court by virtue of this Act may be appealed to the Supreme Administrative Court without a leave to appeal. The provisions of the Administrative Judicial Procedure Act apply to appeals, unless otherwise provided below.

No decision of the Market Court shall be subject to appeal in the case of a decision issued under subsection 2 of section 26 on the extension of the time limit, the granting of inspection powers referred to in subsection 5 of section 36, or a decision imposing an interim measure under section 45.

Despite appeal, any decision issued by the Market Court shall be complied with unless otherwise ordered by the Supreme Administrative Court. Notwithstanding, no decisions on structural remedies referred to above in section 9a, decisions on penalty payments referred to in sections 12 and 37a, or decisions referred to in subsections 2 and 3 of section 47a shall be enforced until they have become final.

Section 50

Entry into force

This Act enters into force on 1 November 2011.

This Act repeals the Act on Competition Restrictions (480/1992). If references are made elsewhere in legislation to the Act on Competition Restrictions after the entry into force of this Act, the provisions of this Act apply instead of the Act on Competition Restrictions.

The provisions that are effective when this Act enters into force shall be applied to competition law violations and concentrations carried out prior to the entry into force of this Act. As stipulated in Sections 14-18 on the immunity from penalty payment and the reduction of penalty payment, and in Sections 32-38 on prioritisation and inadmissibility, the obligation to deliver information by the undertaking, the summons to be heard, inspections, and the right of defence by an undertaking shall apply to the proceedings in the case, however.

Notwithstanding what is provided in Section 50(3), when this Act enters into force, the pending cases at the Market Court and the Supreme Administrative Court shall be closed observing the rules that were effective when this Act entered into force.

Measures necessary for the implementation of this Act may be undertaken prior to the entry into force of this Act.