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## **Market Court Act (99/2013)**

### **Chapter 1 — General provisions**

#### **Section 1 – *Function and jurisdiction of the Market Court***

(1) The Market Court is the special court for competition and supervision cases, procurement cases, industrial property rights cases and copyright cases, and market law cases.

(2) The Market Court Proceedings Act (100/2013) contains provisions on the consideration of cases which by law belong to the jurisdiction of the Market Court, and on appeal of the decision of the Market Court.

#### **Section 2 – *Seat of the Market Court***

The seat of the Market Court is Helsinki.

### **Chapter 2 — Personnel**

#### **Section 3 – *Members***

(1) The Market Court has a chief Market Court judge and, as its other members, Market Court judges and Market Court engineers.

(2) The chief judge directs the Market Court and is responsible for its productivity.

#### **Section 4 – *Qualifications and appointment of members***

(1) The Act on the Appointment of Judges (205/2000) contains provisions on the qualifications and appointment of the chief judge and the Market Court judges. An additional qualification for appointment as chief judge and Market Court judge is that he or she is acquainted with competition or supervision matters or procurement cases, industrial property rights cases or market law cases.

(2) The qualifications for appointment as Market Court engineer are Finnish citizenship, a suitable higher academic degree in the technology sector, integrity, familiarity with patent cases and the necessary personal characteristics. A

person to be appointed as a Market Court engineer shall in addition have an excellent ability to speak and write Finnish and a satisfactory ability to speak and write Swedish. The Act on the Appointment of Judges contains provisions on the appointment of a Market Court engineer. Notwithstanding the provisions of section 10, subsection 1, paragraph 6 of the Act on the Appointment of Judges, the opinion of the Market Court on the issue of the appointment of a Market Court judge is given by the chief Market Court judge after having heard the permanent Market Court judges and Market Court engineers.

### **Section 5 – *Expert members***

In addition to the members, the Market Court has part-time expert members.

### **Section 6 – *Appointment of expert members***

(1) On the proposal of the Ministry of Justice, the Council of State appoints a sufficient number of expert members for a four-year term at a time.

(2) The Market Court declares the position of expert members open for application. The Market Court may seek opinions or other information on the applicants. The Market Court submits to the Ministry of Justice a reasoned recommendation regarding which of the applicants are to be appointed to the positions.

(3) If the position of expert member becomes open in the middle of a term, a successor is appointed for the remainder of the term. The provisions on the right of the incumbents of judicial positions to remain in office apply otherwise to the right of expert members to remain in their position.

(4) A person to be nominated to the position of expert member shall, before the appointment, submit the account of his or her commitments referred to in section 14 of the Act on the Appointment of Judges. A person appointed as expert member shall report without delay any changes to and errors noted in the information on his or her commitments, and also otherwise submit a corresponding account to the Council of State, the Ministry of Justice or the Market Court when this is requested.

### **Section 7 – *Qualifications of an expert member***

(1) The qualifications of an expert member participating in the consideration of competition and supervision cases and procurement cases are a suitable higher academic degree and familiarity with competition law, procurement, energy markets, economics, marketing, securities markets, business or financial questions.

(2) The qualifications of an expert member participating in the consideration of industrial property right and copyright cases are a suitable higher academic degree and familiarity with the technological field in question or patent questions or marketing, economics, business or financial questions or art.

(3) The qualifications of an expert member participating in the consideration of market law cases are a suitable higher academic degree and familiarity with consumer protection, marketing, business or financial questions.

### ***Section 8 – Qualifications in respect of the linguistic ability of an expert member***

A person who fulfils the qualifications referred to in section 7 and who has a good ability to speak and write Finnish and a satisfactory ability to speak and write Swedish may be appointed as an expert member of the Market Court.

### ***Section 9 – Competence of an expert member in respect of issues to be dealt with in the same proceedings***

When the Market Court considers different categories of issues in the same proceedings, an expert member who is competent to participate in the consideration of some of the issues present in said proceedings is competent to participate also in the consideration of other issues present in the same proceedings.

### ***Section 10 – Judicial oath and judicial affirmation***

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

### ***Section 11 – Market Court referendaries***

(1) The Market Court has a sufficient number of Market Court referendaries. The qualifications of a Market Court referendary are a Master of Laws degree other than a master of international and comparative law degree.

(2) The chief judge appoints the Market Court referendaries.

### ***Section 12 – Other Market Court personnel***

In addition to the positions mentioned in sections 3 and 11, the Market Court may have other positions as well as persons under a private law contract, as provided in greater detail in the regulations of the Market Court. The chief judge appoints or employs the personnel referred to herein.

### **Chapter 3 — Consideration of cases**

#### **Section 13 – *Quorum in the Market Court***

The Market Court has a quorum with three legally trained members present, unless otherwise provided below.

#### **Section 14 – *Quorum in the Market Court in patent cases***

(1) In a civil case or application case assigned to the jurisdiction of the Market Court in Acts mentioned in Chapter 1, section 4, subsection 1, paragraphs 1-6 of the Market Court Proceedings Act, the Market Court has a quorum with three legally trained members and a Market Court engineer. If a decision on the case does not require technical expertise, the Market Court has a quorum also with three legally trained members.

(2) In considering a civil case or application case referred to in subsection 1 together with another civil case or application case or together with a market law case, the Market Court has a quorum as provided in subsection 1.

(3) In a case that concerns an appeal against a decision of the Patent and Registration Office on a patent, utility model or the layout design of an integrated circuit, the Market Court has a quorum with a legally trained member and a Market Court engineer together with another Market Court engineer or an expert member referred to in section 7, subsection 2.

#### **Section 15 – *Quorum with two members***

(1) The Market Court in addition has a quorum with two members in other than civil cases and application cases, if the nature or extent of the case does not require the composition referred to in section 13 or section 14, subsection 3.

(2) In a case referred to above in section 14, subsection 3, the Market Court has a quorum with a legally trained member and a Market Court engineer and, in a case other than that referred to in subsection 1, with two legally trained members.

(3) If in a composition with two members, these two members so decide or if they are not agreed on the decision, a case considered in the composition with two members is transferred to the composition referred to in section 13 or section 14, subsection 3.

#### **Section 16 – *Quorum with one member in a civil case or application case in an industrial property right or copyright case***

(1) The Market Court has a quorum with one member in a civil case or an application case:

- (1) in an application case, the consideration of which is not continued in the manner provided for the consideration of a civil case;
  - (2) in preparation;
  - (3) in accepting the submission of evidence outside of the main hearing; and
  - (4) in considering separately a precautionary measure in accordance with Chapter 7 of the Code of Judicial Procedure.
- (2) The consideration of a civil case or application case referred to above in subsection 1 may be continued in the composition referred to in section 13 or section 14, subsection 1 or 2 even if during the consideration the case becomes one that should be considered in the composition referred to in subsection 1. The same procedure may be used if a case that should be considered in the composition referred to in subsection 1 is initiated subsequently and is combined for consideration in the same proceedings.
- (3) In a case referred to above in subsection 1, paragraph 1 or 4 the Market Court has a quorum also with two or three legally trained members. If said case is connected with a civil case referred to on section 14, subsection 1 or 2, however, the Market Court has a quorum also with two or three members.

### **Section 17 – Quorum with one member in other cases**

- (1) In cases other than those referred to in section 16 a legally trained Market Court member may on his or her own:
- (1) decide on the holding of a preparatory session, an oral hearing or a hearing and on other measures necessary for preparation, and hold the preparatory session;
  - (2) decide on a case concerning an injunction on, or a stay of, enforcement or on another case concerning enforcement or a corresponding temporary measure;
  - (3) decide on a case referred to in section 26, subsection 2, section 36, or section 45, subsection 2 of the Competition Act (948/2011);
  - (4) take a decision if an appeal, application or request is withdrawn or if a case is dismissed without considering the merits or is withdrawn, and confirm a settlement;
  - (5) decide on the granting, changing or discontinuing of legal aid or on the appointment of counsel, the withdrawal of his or her appointment or the appointment of other counsel in a case before the Market Court;
  - (6) decide on compensation to be paid to a person granted legal aid and on the determination of a fee and compensation for counsel, the costs for which a party receiving legal aid is himself or herself liable, and

the obligation of the opposite party to pay the costs of a recipient of legal aid;

- (7) decide on the obligation to pay legal costs and the costs of the presentation of evidence in a case referred to above in this subsection.

(2) In a case that concerns an appeal against a decision of the Patent and Registration Office on a patent, utility model or the layout design of an integrated circuit, a Market Court engineer may himself or herself decide on the holding of a preparatory session or oral hearing and on other necessary measures in the preparation of the case, and hold the preparatory session. In addition a Market Court engineer may make the decision in said case on his or her own, if the appeal is withdrawn or the case is dismissed without considering the merits or is withdrawn, and in so doing also decide on the obligation to pay for the legal costs and the costs of the presentation of evidence.

### **Section 18 – *Quorum in declaring a case urgent***

The application referred to in Chapter 6, section 6 of the Market Court Proceedings Act for declaring a case urgent is decided by the chief judge or, should there be cause, a Market Court judge in the manner provided in more detail in the Regulations of the Market Court.

### **Section 19 – *Chairperson of the composition***

In a composition consisting of more than one member, the legally trained member who has seniority in office as legally trained member or who has prepared the case serves as chairperson of the Market Court.

### **Section 20 – *Composition when a legally trained member is disqualified***

If a legally trained member in the composition referred to in section 13 or section 14, subsection 1 or 2 has become disqualified after the main hearing, the oral hearing or the session has begun, the Market Court has a quorum with at least two legally trained members.

### **Section 21 – *Participation of a supplementary member in the composition***

(1) The composition referred to above in section 13 and 14 may be supplemented with one legally trained member if this is deemed justified on the grounds of the scope of the case or for another reason. On the same conditions the composition referred to in section 14, subsection 1 or 2 may be supplemented with a second Market Court engineer.

(2) The chief judge decides on the addition of a supplementary member referred to above in subsection 1.

**Section 22 – Participation of an expert member in the composition**

(1) The composition referred to above in sections 13, 14, 16 and 17 may include in addition at most two expert members, if this is required by the nature of the case. The expert members may not, however, constitute a majority in the composition.

(2) The chairperson of the session orders the participation of an expert member in the consideration of a case in accordance with grounds provided in greater detail in the regulations of the Market Court, taking into consideration the nature of the expertise required in the consideration of the case.

**Section 23 – Transfer of a case for consideration in a supplemented session or in plenary**

The chief judge may transfer a case involving the administration of justice to be dealt with to the extent required in a supplementary session or in plenary, if in considering the decision on the case or a part thereof it is shown that the decision of the composition would differ from the position previously adopted in legal praxis. The chief judge may also otherwise transfer a case involving the administration of justice that is of significance in principle or otherwise extensive, or a part thereof, to be considered in a supplemented session or in plenary.

**Section 24 – Quorum in a supplemented session**

(1) A supplemented session has a quorum with seven legally trained members. In a case referred to above in section 14, however, a supplementary session has a quorum with six legally trained members and a Market Court engineer.

(2) In addition to what is provided in subsection 1, at the most two expert members may participate in a supplementary session, if this is required by the nature of the case.

(3) In deciding on the transfer to a supplemented session of a case involving the administration of justice, the chief justice shall at the same time order which members and expert members are to participate in the consideration of the case. Members and expert members who have participated in the previous consideration of the case shall participate in the consideration of the case also in the supplemented session.

**Section 25 – Quorum in a plenary session**

(1) The plenary has a quorum with the participation of at least two thirds of the members of the Market Court.

(2) In addition to what is provided in subsection 1, at the most two expert members may participate in plenary, if required by the nature of the case.

(3) In deciding on the transfer of a case involving the administration of justice to the consideration of plenary, the chief judge shall at the same time order which expert members are to participate in the consideration of the case. Expert members who have participated in the previous consideration of the case shall participate in the consideration of the case also in plenary.

### ***Section 26 – Preparation of and decision on a case***

(1) A Market Court member is responsible for the preparation of a case in the Market Court.

(2) A Market Court referendary may participate in the preparation of a case in accordance with more detailed provisions in the Market Court regulations.

(3) A case is decided in the Market Court without a submission.

### ***Section 27 – Participation in the consideration of a case by a judge appointed for a limited period***

A judge appointed for a limited period may, after the end of the period of appointment, continue to participate as a member in the consideration of a case in the preparation or consideration of which he or she had participated during the period of his or her appointment.

### ***Section 28 – Divisions***

The Market Court may function in divisions as provided in greater detail in the regulations of the Market Court.

### ***Section 29 – Appointment of the chairperson of a division***

(1) The chief judge may appoint a Market Court judge as chairperson of a division for at most three years. The position is declared open for application by those permanent Market Court judges who had been appointed to their office by the end of the term of application. A qualification for the person to be appointed to the position is that he or she has the necessary personal characteristics and leadership skills.

(2) Appointment as chairperson of a division may be withdrawn for a weighty reason.

### ***Section 30 – Duties of the chairperson of a division***



(1) The chairperson of a division leads the work of the division. He or she attends in particular to the general planning and organization of the work in the division and the productiveness of the work. He or she is to supervise the uniformity of the application of legal principles and of the interpretation of law in decisions of the division.

(2) In the event that the chairperson of the division is unable to attend to his or her duties, these are assumed by the Market Court judge in the division who has seniority in office.

### **Section 31 – *Administrative matters***

(1) The chief judge decides on administrative matters belonging to the Market Court.

(2) The chief judge may order that a case that concerns the issuing of an opinion in a legislative matter or the submission of a legislative initiative is considered and decided in plenary.

(3) The regulations of the Market Court contain provisions on the right of the chief judge to transfer an administrative matter to the decision of another public official.

## **Chapter 4 — *Miscellaneous provisions***

### **Section 32 – *Leave of absence for the chief judge***

(1) The chief judge may take at most 30 days leave of absence annually. The Supreme Administrative Court grants leave of absence in excess of this period.

(2) In the event that the chief judge is unable to attend to his or her duties due to an annual holiday or for at most thirty days for another reason, his or her substitute is the Market Court judge who has seniority in office or the Market Court judge designated in the regulations as substitute unless decreed otherwise below.

(3) When the Market Court acts in divisions, the substitute chief judge is the division chairperson who has seniority in office. When also the division chairpersons are unable to attend to their duties, the Market Court judge who has seniority in office or the Market Court judge designated as substitute in the regulations serves as chief judge.

### **Section 33 – *Leave of absence and the administration of the position of a Market Court judge and Market Court engineer***

(1) The chief judge grants at the most one year leave of absence to a Market Court judge and Market Court engineer. The Supreme Administrative Court grants leave of absence for a period longer than one year. The chief justice shall submit an opinion to the Supreme Administrative Court on the application of

the Market Court judge and Market Court engineer for leave of absence, when the power to decide on the granting of the leave of absence is incumbent on the Supreme Administrative Court.

(2) The Act on the Appointment of Judges contains provisions on administration of the office of Market Court judge and Market Court engineer while the office is being filled and during leave of absence as well as on appointment for a limited period.

### ***Section 34 – Leave of absence for a Market Court referendary and the administration of the position***

The chief judge decides on the granting of leave of absence to a Market Court referendary and on the administration of the position during the leave of absence, as well as during the time required for the filling of the position, as well as on appointment for a limited period into office.

### ***Section 35 – Charges for an offence in office***

Charges against a member and expert member of the Market Court and against a Market Court secretary for an offence in office are brought before the Helsinki Court of Appeal.

### ***Section 36 – Regulations***

(1) More detailed provisions on the consideration of cases that concern the administration of justice and administration and on other organization of work in the Market Court are provided in the regulations of the Market Court. The chief judge confirms the regulations after having heard the personnel.

(2) The Market Court submits the regulations for information to the Ministry of Justice, the Supreme Court and the Supreme Administrative Court.

### ***Section 37 – Fee for an expert member***

(1) A reasonable fee, reasonable compensation for lost earnings, compensation for travel expenses and a daily allowance are paid from state funds to an expert member.

(2) The Ministry of Justice confirms the more detailed grounds for and amount of the fee and compensation for an expert member.

## **Chapter 5 — Entry into force**

### ***Section 38 – Entry into force***

(1) This Act enters into force on 1 September 2013.

(2) This Act repeals the Market Court Act (1527/2001).

(3) After this Act enters into force, references elsewhere in Acts or Decrees to the Market Court and the Competition Council pertain to the Market Court.

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