

MALTA

**ATT Nru XVI tal-2019**

ATT maħruġ b'liġi mill-Parlament ta' Malta.

**ATT biex jemenda l-Att dwar il-Kompetizzjoni, Kap. 379 u l-Att dwar l-Affarijiet tal-Konsumatur, Kap. 378 u Liġijiet oħra, sabiex jestendi l-kompetenza tal-Qorti Ċivili (Sezzjoni tal-Kummerç) u sabiex jagħmel dispozizzjonijiet anċillari u konsegwenzjali għalihom.**

**ACT No. XVI of 2019**

AN ACT enacted by the Parliament of Malta.

**AN ACT to amend the Competition Act, Cap. 379 and the Consumer Affairs Act, Cap. 378 and other Laws, to extend the competence of the Civil Court (Commercial Section) and to make ancillary and consequential provisions thereto.**



Nagħti l-kunsens tiegħi.

(L.S.)

**GEORGE VELLA**  
**President**

31 ta' Mejju, 2019

**ATT Nru XVI tal-2019**

*ATT biex jemenda l-Att dwar il-Kompetizzjoni, Kap. 379 u l-Att dwar l-Affarijiet tal-Konsumatur, Kap. 378 u Ligijiet oħra, sabiex jestendi l-kompetenza tal-Qorti Ċivili (Sezzjoni tal-Kummerċ) u sabiex jagħmel dispożizzjonijiet ancillari u konsegwenzjali għalihom.*

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, hareġ b'ligi dan li ġej:-

**1.** (1) It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2019 li jemenda l-Att dwar il-Kompetizzjoni u l-Att dwar l-Affarijiet tal-Konsumatur u Ligijiet oħra. Titolu fil-qosor u bidu fis-sehh.

(2) Dan l-Att għandu jidhol fis-sehh f'dik id-data li l-Ministru għall-Ġustizzja, Kultura u Gvern Lokali jista' jistabbilixxi b'avviż fil-Gazzetta, u huwa jista' hekk jistabbilixxi dati differenti għal dispożizzjonijiet differenti ta' dan l-Att.

Taqsim I  
Emendi għall-Kodiċi ta' Organizzazzjoni  
u Proċeduri Ċivili

Emendi għall-  
Kodiċi ta'  
Organizzazzjoni  
u Proċedura  
Ċivili.  
Kap. 12

**2.** Din it-Taqsim temenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili u għandha tinqara u tinftiehem haġa waħda mal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, minn hawn iżjed 'il quddiem imsejjaħ "il-Kodiċi".

Emenda tal-  
artikolu 36 tal-  
Kodiċi.

**3.** Is-subartikolu (7) tal-artikolu 36 tal-Kodiċi għandu jiġi sostitwit b'dan li ġej:

"(7) Il-Qorti Ċivili (Sezzjoni tal-Kummerċ) għandha tiegħu konjizzjoni tal-kawżi kollha kontra persuni kemm naturali kif ukoll ġuridiċi li huma residenti jew li għandhom id-dar ordinarja jew l-uffiċċju registrat tagħhom fil-Gzejjer ta' Malta u fil-Gzejjer ta' Għawdex u Kemmuna, u tal-kawżi l-oħra kollha, li huma espressament assenjati bil-liġi lil dik is-sezzjoni tal-Qorti Ċivili:

Iżda meta l-Qorti Ċivili (Sezzjoni tal-Kummerċ) għandha tisma' kawżi li jikkonċernaw pretensjonijiet kontra persuni kemm naturali kif ukoll ġuridiċi li huma residenti jew li għandhom id-dar ordinarja jew l-uffiċċju registrat tagħhom fil-Gzejjer ta' Għawdex u Kemmuna, is-seduti għandhom jinżammu fil-bini tal-qrati ta' Għawdex:

Iżda wkoll id-dispożizzjonijiet tas-Sub-titolu IV tat-Titolu I tat-Tielet Ktieb intitolat "Fuq il-Periti" ta' dan il-Kodiċi għandhom, *mutatis mutandis*, japplikaw għal materji li għandhom x'jaqsmu mal-Att dwar il-Kompetizzjoni u xi regolamenti magħmula tahtu u mal-Att dwar l-Affarijiet tal-Konsumatur u xi regolamenti magħmula tahtu."

Kap. 379.

Kap. 378.

Emenda tal-  
artikolu 37 tal-  
Kodiċi.

**4.** Fil-paragrafu (a) tal-artikolu 37 tal-Kodiċi, il-kliem "quddiem il-Qorti tal-Maġistrati (Għawdex) u quddiem il-Prim'Awla tal-Qorti Ċivili" għandhom jiġu sostitwiti bil-kliem "quddiem il-Qorti tal-Maġistrati (Għawdex), il-Prim'Awla tal-Qorti Ċivili u quddiem it-Tribunal tal-Appell għall-Kompetizzjoni u għall-Konsumatur".

Emenda tal-  
artikolu 38 tal-  
Kodiċi.

**5.** L-artikolu 38 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, il-kliem "quddiem il-Qorti tal-Maġistrati (Għawdex) fil-kompetenza superjuri tagħha u quddiem il-Prim'Awla tal-Qorti Ċivili" għandhom jiġu sostitwiti bil-kliem "quddiem il-Qorti tal-Maġistrati (Għawdex) fil-kompetenza superjuri tagħha, quddiem il-Prim'Awla tal-Qorti Ċivili u quddiem it-Tribunal tal-Appell għall-Kompetizzjoni u

għall-Konsumatur";

(b) fis-subartikolu (2) tiegħu minnufih wara l-kliem "mill-imsemmija Qorti" għandhom jiżdiedu l-kliem "jew it-Tribunal tal-Appell għall-Kompetizzjoni u għall-Konsumatur";

(ċ) fis-subartikolu (3) tiegħu, il-kliem "il-Qorti tal-Maġistrati (Għawdex) (Ġurisdizzjoni Superjuri) u l-Prim'Awla tal-Qorti Ċivili" għandhom jiġu sostitwiti bil-kliem "il-Qorti tal-Maġistrati (Għawdex) (Ġurisdizzjoni Superjuri), il-Prim'Awla tal-Qorti Ċivili u t-Tribunal tal-Appell għall-Kompetizzjoni u għall-Konsumatur"; u

(d) fis-subartikolu (6) tiegħu, il-kliem "il-Qorti Ċivili (Sezzjoni tal-Kummerċ)." għandhom jiġu sostitwiti bil-kliem "il-Qorti Ċivili (Sezzjoni tal-Kummerċ):" u minnufih wara dak il-kliem għandu jiżdied il-proviso li ġej:

"Iżda l-kawzi kollha mibdija skont l-Att dwar il-Kompetizzjoni u xi regolamenti magħmulin tahtu, l-Att dwar l-Affarijiet tal-Konsumatur u xi regolamenti magħmulin tahtu u l-Att dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur, li jkunu pendenti quddiem it-Tribunal tal-Appell għall-Kompetizzjoni u għall-Konsumatur mad-dhul fis-sehh tal-Att tal-2019 li jemenda l-Att dwar il-Kompetizzjoni u l-Att dwar l-Affarijiet tal-Konsumatur u Liġijiet oħra, għandhom ukoll jitkomplew quddiem il-Qorti Ċivili (Sezzjoni tal-Kummerċ)."

Kap. 379.

Kap. 378.

Kap. 510

## Taqsimi II

### Emendi għall-Att dwar l-Affarijiet tal-Konsumatur

6. Din it-Taqsimi temenda l-Att dwar l-Affarijiet tal-Konsumatur u għandha tinqara u tinftiehem haġa waħda mal-Att dwar l-Affarijiet tal-Konsumatur, hawn aktar 'il quddiem imsejjaħ "l-Att prinċipali".

Emendi għall-Att dwar l-Affarijiet tal-Konsumatur. Kap. 378.

7. L-artikolu 2 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 2 tal-Att prinċipali.

(a) minnufih wara t-tifsira "oġġetti" għandha tiżdied din it-tifsira ġdida li ġejja:

" "Qorti Ċivili" tfisser il-Qorti Ċivili (Sezzjoni tal-Kummerċ) kif imwaqqfa bl-artikolu 3 tal-Ordni dwar it-Twaqqif ta' Sezzjonijiet tal-Qorti Ċivili;" u

L.S. 12.19.

(b) it-tifsira "Tribunal tal-Appell" għandha tiġi mħassra.

Sostituzzjoni tal-artikolu 3 tal-Att prinċipali.

**8.** L-artikolu 3 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Responsabbiltà tad-Direttur Ġenerali u kompetenzi tal-Qorti Ċivili.

Kap. 510.

3. Id-Direttur Ġenerali għandu jkun responsabbli għall-amministrazzjoni tal-Att u għall-investigazzjonijiet skont dan l-Att, u għal dawk l-għanijiet huwa għandu jeżerċita dawk ir-responsabbiltajiet mogħtija lill-Uffiċċju għall-Affarijiet tal-Konsumatur bl-artikolu 17 tal-Att dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur hliet meta l-kompetenzi jkunu assenjati lill-Qorti Ċivili b'dan l-Att jew bl-Att dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur:

Iżda d-Direttur Ġenerali jista' jiddelega kull waħda mill-funzjonijiet u setgħat tiegħu lil kull uffiċjal jew impjegat tal-Awtorità."

Emenda tal-artikolu 7 tal-Att prinċipali.

**9.** L-artikolu 7 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu, il-kliem "h'tiegħa f'konnessjoni ma' dan." għandu jiġi sostitwit bil-kliem "h'tiegħa f'konnessjoni ma' dan:" u minnufih wara għandu jiżdied il-proviso ġdid li ġej:

"Iżda dan huwa mingħajr preġudizzju għall-kompetenzi assenjati lill-Qorti Ċivili b'dan l-Att."; u

(b) fis-subartikolu (3)(b) tiegħu, il-kliem "multa amministrattiva" għandhom jiġu sostitwiti bil-kelma "penali".

Sostituzzjoni tal-artikolu 12 tal-Att prinċipali.

**10.** L-artikolu 12 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Investigazzjonijiet.

12. (1) Sabiex tiġi żgurata l-osservanza tad-dispożizzjonijiet ta' dan l-Att u kull regolament magħmul taħtu, id-Direttur Ġenerali għandu jkollu s-setgħa jwettaq investigazzjonijiet minn jeddu jew fuq allegazzjoni raġonevoli magħmula bil-miktub kif ukoll minn entità kwalifikata, dwar ksur tad-dispożizzjonijiet ta' dan l-Att u kull regolament magħmul taħtu.

(2) Malli jibda l-investigazzjonijiet dwar ksur allegat ta' dan l-Att jew dwar kull regolament magħmul tahtu, id-Direttur Ġenerali għandu jinnotifika bil-miktub lill-persuna konċernata b'dan u jinforma lill-persuna konċernata dwar in-natura tal-ksur allegat.

(3) Il-persuna konċernata għandha tipprezenta s-sottomissjonijiet tagħha lid-Direttur Ġenerali fi żmien għoxrin jum min-notifika tal-bidu tal-investigazzjonijiet.

(4) Matul l-investigazzjonijiet, id-Direttur Ġenerali, sabiex jaqdi l-funzjonijiet tiegħu taht din it-Taqsima, jista' wkoll juża s-setgħa ta' dħul għall-ispezzjoni u s-setgħa li jehtieg u jirċievi informazzjoni skont l-artikoli 103 u 104, u d-dispożizzjonijiet tal-artikolu 105 għandhom japplikaw għal dan ukoll.

(5) Meta, mal-konklużjoni ta' investigazzjoni, id-Direttur Ġenerali jidhirlu *prima facie* li hemm ksur ta' dispożizzjoni ta' dan l-Att jew ta' xi regolament magħmul tahtu, id-Direttur Ġenerali għandu jibda proċedimenti ġudizzjarji permezz ta' rikors ġuramentat kontra l-persuna konċernata quddiem il-Qorti Ċivili:

Iżda minflok jiproċedi ġudizzjarjament, f'dawk il-każijiet msemmija fl-artikolu 12A, id-Direttur Ġenerali jista' jitlob garanzija mingħand il-kummerċjant skont l-imsemmi artikolu 12A."

11. L-artikolu 12A tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 12A tal-Att prinċipali.

"Garanziji. 12A. (1) Mal-konklużjoni ta' investigazzjoni skont l-artikolu 12(5), fejn jidher *prima facie* lid-Direttur Ġenerali li kummerċjant ikun ġab ruħu bi ksur ta' jew nuqqas ta' osservanza tar-regolamenti magħmula taht l-artikolu 7 jew taht id-dispożizzjonijiet tal-artikolu 9, jew bi ksur jew nuqqas ta' osservanza tad-dispożizzjonijiet tal-artikoli 44 sa 47, 51A sa 51E, id-Direttur Ġenerali, fid-diskrezzjoni tiegħu minflok jistitwixxi proċeduri ġudizzjarji quddiem il-Qorti Ċivili kontra l-kummerċjant skont l-artikolu 12(5), jista' jammonixxi lill-kummerċjant u jikseb mingħand garanzija bil-miktub li l-kummerċjant għandu jieqaf milli jkompli jgħib ruħu skont ma hemm miktub fil-

garanzija għal dak iż-żmien li ma jkunx iktar minn tliet snin, jew għal kull perjodu itwal li d-Direttur Ġenerali jista' jistabbilixxi.

(2) Il-garanzija għandu jkun fiha dawk il-pattijiet u kondizzjonijiet oħra li jista' jkun hemm ftehim dwarhom, inkluż, fejn iċ-ċirkostanzi jkunu hekk jeħtieġu, l-għoti ta' kumpens lill-konsumaturi milqutin u, jew ir-restituzzjoni ta' kwalunkwe flus jew proprjetà mogħtija mill-konsumaturi.

(3) Meta d-Direttur Ġenerali jqis li jkun hekk adatt, huwa jista' jordna l-pubblikazzjoni ta' dik il-garanzija minn tal-inqas f'żewġ gazzetti ta' kuljum, u l-ispejjeż relattivi għal dan għandhom jiġihallu mill-kummerċjant.

(4) Id-Direttur Ġenerali għandu jzomm reġistru għall-garanziji magħmula taħt dan l-artikolu, liema reġistru għandu jinżamm fl-uffiċċju prinċipali tal-Uffiċċju u kull persuna tkun tista' tara r-reġistru matul dawk il-ħinijiet li jkunu stabbiliti mid-Direttur Ġenerali.

(5) Meta, fl-opinjoni tad-Direttur Ġenerali, kummerċjant ma jkunx osserva l-garanzija, id-Direttur Ġenerali għandu jipprezenta rikors ġuramentat quddiem il-Qorti Ċivili li fih jitlob li l-Qorti Ċivili ssib lill-kummerċjant responsabbli għall-ksur tal-garanzija u timponi penali skont l-artikolu 106A:

Iżda dak il-kummerċjant għandu f'kull każ jibqa' marbut bil-garanzija għaž-żmien li jifdal mill-perjodu tagħha."

Emenda tal-artikolu 12B tal-Att prinċipali.

**12.** L-artikolu 12B tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, il-kliem "Mingħajr ħsara għall-artikolu 12A," għandhom jiġu sostitwiti bil-kliem "Mingħajr preġudizzju għall-artikolu 12,"; u

(b) is-subartikolu (2) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(2) Id-Direttur Ġenerali għandu, fi żmien hamsa u erbgħin ġurnata wara l-ġurnata li fiha jirċievi l-ilment, jippubblika risposta li tgħid kif huwa jipproponi li jittratta l-ilment, u partikolarment jekk tkunx sejra tinbeda investigazzjoni."

13. Minnufih wara l-artikolu 12B tal-Att prinċipali għandha tiġi miżjuda t-Taqsima IIA ġdida u l-artikoli ġodda li ġejjin:

Zieda ta' Taqsima IIA ġdida u artikoli ġodda mal-Att prinċipali.

"TAQSIMA IIA  
Proċedimenti ġudizzjarji quddiem  
il-Qorti Ċivili u quddiem il-Qorti tal-Appell

Skritturi.

12Ċ. (1) Ir-rikors ġuramentat imsemmi fl-artikolu 12(5) għandu:

(a) isemmi l-fatti li wasslu lid-Direttur Ġenerali jikkonkludi *prima facie* li hemm ksur tad-dispożizzjonijiet tal-Att u ta' regolamenti magħmula tahtu;

(b) jinkludi talba tad-Direttur Ġenerali għal dikjarazzjoni mill-Qorti Ċivili li l-persuna konċernata, li kontra tagħha nbdew il-proċedimenti ġudizzjarji, kisret id-dispożizzjonijiet ta' dan l-Att u tar-regolamenti magħmula tahtu u hija responsabbli għal dak il-ksur; u

(ċ) ikun fih talba tad-Direttur Ġenerali lill-Qorti Ċivili għal:

(i) l-impożizzjoni ta' penali fuq il-konvenut skont l-artikolu 106A għal kull ksur, u, jew

(ii) il-ħruġ ta' ordni ta' tharis fil-konfront tal-konvenut, u, jew

(iii) kull rimedju ieħor kontemplat f'dan l-Att, u, jew

(iv) kull ordni rilevanti ieħor li jista' jkun neċessarju skont iċ-ċirkostanzi tal-każ:

Kap. 12.

Izda d-dispożizzjonijiet tal-artikolu 156 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandhom, meta applikabbli, japplikaw ukoll għar-rikors ġuramentat.

(2) Ir-rikors ġuramentat għandu jkun notifikat ukoll lil kull entità kwalifikata li tkun allegat il-ksur skont l-artikolu 12(1).

Kap. 12.

(3) Il-persuna konċernata għandha, fi żmien għoxrin jum minn meta tkun notifikata bir-rikors ġuramentat, tippreżenta r-risposta ġuramentata u d-dispożizzjonijiet tal-artikolu 158 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandhom japplikaw *mutatis mutandis* għal dan il-każ.

Setgħat  
speċifiċi tal-  
Qorti Ċivili.

12D. Fil-proċedimenti ġudizzjarji mibdija mid-Direttur Ġenerali wara investigazzjoni ta' prattiċi kummerċjali kif imfissra fl-artikolu 51A li jidhru li huma mhux ġusti skont id-dispożizzjonijiet tat-Taqsima VIII, il-Qorti Ċivili tista', minnufih wara l-għeluq tal-iskritturi:

(a) teħtieġ lill-konvenut iġib prova tal-eżattezza tal-pretensjonijiet fattwali fir-rigward ta' xi prattika kummerċjali jekk, meta jitqies l-interess leġittimu tal-konvenut u ta' kull parti oħra fil-proċeduri, dik il-ħtieġa tkun tidher ġustifikata fuq il-bażi taċ-ċirkostanzi tal-każ partikolari; u

(b) tikkunsidra l-pretensjonijiet fattwali bħala mhux eżatti jekk ma tingiebx il-prova meħtieġa skont il-paragrafu (a) ta' dan l-artikolu jew din titqies bħala waħda insuffiċjenti mill-Qorti Ċivili.

Miżuri  
intermedji.

12E. (1) F'każijiet ta' urgenza minħabba r-riskju ta' ħsara immedjata u serja lill-interessi kollettivi tal-konsumaturi, id-Direttur Ġenerali jista', f'kull stadju qabel il-konklużjoni tal-investigazzjoni mibdija skont l-artikolu 12, jippreżenta rikors quddiem il-Qorti Ċivili fejn jitlob li jinħarġu miżuri intermedji għal dak il-perjodu stabbilit mill-Qorti Ċivili sabiex il-persuna konċernata tirrimedja s-sitwazzjoni.

(2) Ir-rikors ġuramentat għandu jiġi notifikat lill-persuna konċernata li għandha, fi żmien tmint ijiem min-notifika, tippreżenta risposta biex tipproponi r-rimedji jew biex tikkontesta t-talba għall-miżuri intermedji u tipprovdi r-raġunijiet għal dan.

(3) Il-Qorti Ċivili għandha tiddeċiedi fuq ir-rikors b'urgenza *in camera* jew wara li tisma' l-avukati tal-partijiet, skont kif hija tqis xieraq, b'dana illi ma għandhiex tiġi ffissata aktar minn seduta waħda għal dan il-għan.

(4) Id-digriet tal-Qorti Ċivili li bih tordna l-ħruġ tal-miżuri intermedji għandu jkun eżegwibbli man-notifika, għandu jibqa' fis-seħħ għal dak il-perijodu deċiż mill-Qorti Ċivili, u ma jkun hemm ebda dritt ta' appell minn dan id-digriet:

Iżda xejn ma jzomm lill-Qorti milli tirrevoka xi miżuri intermedji, milli ggedded l-istess miżuri intermedji għal perjodi ulterjuri jew milli tbiddel dawk il-miżuri intermedji sa fejn dan ikun neċessarju u xieraq skont iċ-ċirkostanzi tal-każ, u dan wara li jsir rikors tad-Direttur Ġenerali jew tal-persuna konċernata.

(5) Kull persuna li tikser id-digriet li jordna l-miżuri intermedji għandha tkun soġġetta għal penali skont l-artikolu 106A.

Ordni tal-Qorti Ċivili.

12F. Meta l-Qorti Ċivili tagħti sentenza li fiha ssib ksur ta' dan l-Att jew ta' xi regolamenti magħmula tahtu, il-Qorti Ċivili tista', mingħajr preġudizzju għad-dispożizzjonijiet tal-artikolu 106A u ta' kull rimedju ieħor pprovdut taht dan l-Att, tordna r-restituzzjoni ta' kwalunkwe flus jew proprjetà mogħtija mill-konsumatur.

Ordnijiet ta' tharis.

12G. (1) Mingħajr preġudizzju għad-dispożizzjonijiet tal-artikolu 106A u tas-subartikolu (8), sew jekk ikunx jew le fuq talba tad-Direttur Ġenerali, jew ta' entità kwalifikata, il-Qorti Ċivili, fid-diskrezzjoni tagħha, meta tqisu raġonevolment xieraq jew meħtieġ fl-interess pubbliku, fis-sentenza li biha ssib lill-konvenut responsabbli għall-ksur tad-dispożizzjonijiet ta' dan l-Att jew ta' regolamenti magħmula tahtu, tista' toħroġ ordni ta' tharis:

(a) kontra l-konvenut, li bih teħtieġ:-

(i) it-tħassir jew it-tibdil ta' klawsoli f'kuntratt li jsir mal-konsumatur li l-Qorti Ċivili tqis mhux ġusti għall-konsumaturi skont id-dispożizzjonijiet tat-Taqsima VII ta' dan l-Att; u

(ii) l-inkorporazzjoni ta' pattijiet f'kuntratt li jsir mal-konsumatur li l-Qorti Ċivili tkun qieset li jkunu meħtieġa għall-aħjar tagħrif tal-konsumaturi, jew sabiex jipprevjeni żbilanċ konsiderevoli bejn l-obbligazzjonijiet u d-drittijiet tal-partijiet, u dan għall-benefiċċju tal-konsumaturi;

(b) sabiex il-konvenut li jkun qiegħed jadotta jew jipproponi li jadotta xi Prattika kummerċjali mhux ġusta, ma jkomplix għaddej jew jieqaf minn dik il-prattika u, jew li jieħu kwalunkwe miżura speċifikata fl-ordni ta' tharis, inkluża dikjarazzjoni korrettiva fiż-żmien speċifikat fiha sabiex jiġi żgurat li d-dispożizzjonijiet tat-Taqsima VIII ta' dan l-Att jiġu osservati;

(ċ) sabiex teħtieġ lill-konvenut jieħu dawk il-miżuri speċifikati fl-ordni ta' tharis, inkluża dikjarazzjoni korrettiva, fiż-żmien speċifikat fl-ordni ta' tharis sabiex jiġi żgurat li dan l-Att jew regolamenti magħmula taħtu jew kull liġi oħra li tittratta dwar id-drittijiet u l-protezzjoni tal-konsumatur li tista' tiġi hekk imsemmija b'Ordni fil-Gazzetta mill-Ministru wara li jikkonsulta lill-Kunsill, jiġu mharsa; u

(d) sabiex teħtieġ lill-konvenut jieqaf u jiddeżisti milli jwettaq xi reat jew ksur kontra dan l-Att jew regolamenti magħmula taħtu jew kull liġi oħra li tittratta dwar id-drittijiet u l-protezzjoni tal-konsumatur li tista' tiġi hekk imsemmija b'Ordni fil-Gazzetta mill-Ministru wara li jikkonsulta lill-Kunsill.

(2) L-entità kwalifikata li titlob ordni ta' tharis skont is-subartikolu (1):

(i) għandha tippreżenta rikors ġuramentat li għandu jkun notifikat lill-partijiet kollha fil-proċedimenti ġudizzjarji;

(ii) għandha tissodisfa lill-Qorti Ċivili li l-entità kwalifikata pprovat tikseb il-waqfien tal-ksur b'konsultazzjoni jew mal-konvenut waħdu jew mal-konvenut u entità kwalifikata oħra u li l-waqfien ma nkisibx fi żmien ġimagħtejn mit-talba għall-waqfien; u

(iii) ma tkunx meħtieġ għaliha li jkollha jew li ġġib prova dwar xi interess fi, jew li tintlaqat mill-kwistjoni jew azzjoni involuta.

(3) Fejn l-entità kwalifikata hija minn Stat Membru ieħor, il-Qorti Ċivili għandha tittratta l-lista ta' entitajiet kwalifikati ppubblikata mill-Kummissjoni Ewropea bħala evidenza konklussiva tal-kapaċità legali tal-entità kwalifikata li tippreżenta tali applikazzjoni bil-miktub f'Malta:

Kap. 12. Izda, sa fejn huwa applikabbli, id-dispożizzjonijiet tal-artikolu 180 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandhom, *mutatis mutandis*, japplikaw.

(4) Fejn l-entità kwalifikata hija minn Malta u tali entità mhix inkluża fil-lista ta' entitajiet kwalifikati ppubblikati mill-Kummissjoni Ewropea, il-Qorti Ċivili, fuq talba tal-entità kwalifikata kkonċernata, għandha tordna lid-Direttur Ġenerali jikkomunika lill-Kummissjoni Ewropea l-isem u l-għanijiet ta' tali entità u li tali entità kwalifikata għandha tiżdied mal-lista ta' entitajiet kwalifikati sabiex jiffaċilita r-rimedju ta' ksur intrakomunitarji.

(5) Kull persuna li tonqos li tosserva ordni ta' tharis maħrug mill-Qorti Ċivili għandha tkun sogġetta għal penali skont l-artikolu 106A(2).

(6) Meta jiġi mitlub ordni ta' tharis, il-Qorti Ċivili għandha f'kull każ taġixxi malajr kemm jista' jkun possibbli.

(7) Ladarba maħrug mill-Qorti Ċivili, l-ordni ta' tharis għandu jidhol fis-seħh b'effett immedjat.

(8) Meta jkun qieghed jitlob il-ħrug ta' ordni ta' tharis, id-Direttur Ġenerali ma għandux għalfejn jipprova:

(a) telf jew ħsara attwali, jew

(b) it-traskuraġni, negliġenza jew htija attwali min-naħa tal-konvenut.

(9) Qabel il-ħrug ta' ordni ta' tharis, il-Qorti Ċivili għandha, kull meta tqisu possibbli u raġonevoli, teħtieġ lill-konvenut jiddikjara jekk huwiex lest li jikkonforma volontarjament ma' dan l-Att jew ma' regolamenti magħmula tahtu, jew ma' kull liġi oħra li tkun tittratta dwar id-drittijiet u l-protezzjoni tal-konsumatur hekk kif jista' jiġi stabbilit mill-Ministru wara li jikkonsulta lill-Kunsill, b'Ordni fil-Gazzetta.

(10) Fis-sentenza tagħha l-Qorti Ċivili, sabiex telimina jew tnaqqas l-effetti kontinwi ta' nuqqas ta' konformità ma' xi dispożizzjonijiet ta' dan l-Att jew ma' regolamenti magħmula tahtu jew ma' kull liġi oħra li tittratta dwar id-drittijiet u l-protezzjoni tal-konsumatur hekk kif jista' jiġi msemmi mill-Ministru wara li jikkonsulta lill-Kunsill, b'Ordni fil-Gazzetta, tista' tordna lill-konvenut:

(a) jippubblika kopja tal-ordni ta' tħaris, kollha kemm hi jew f'parti minnha u f'dik l-għamla li l-Qorti Ċivili tqis li jkun adatt u adegwat; u, jew

(b) jippubblika dikjarazzjoni korrettiva kif mitlub mill-ordni ta' tħaris għar-rigward ta' kull ksur ta' dan l-Att, kontra regolamenti magħmula tahtu, jew kontra kull liġi oħra li tittratta dwar id-drittijiet u l-protezzjoni tal-konsumatur hekk kif jista' jiġi msemmi mill-Ministru wara li jikkonsulta mal-Kunsill, b'Ordni fil-Gazzetta:

Iżda fir-rigward tal-pubblikazzjoni msemmija f'dan is-subartikolu, il-Qorti Ċivili għandha tordna li l-pubblikazzjoni ssir f'mill-inqas żewġ gazzetti ta' kuljum u jekk xieraq, fi kwalunkwe mezz ta' komunikazzjoni ieħor, bi spejjeż tal-konvenut, wara li jgħaddu għoxrin jum mis-sentenza u sakemm ma jkunx gie preżentat ebda appell:

Iżda wkoll meta dik il-pubblikazzjoni ma ssirx, kif hawn aktar qabel imsemmi, mill-konvenut, il-Qorti Ċivili għandha tawtorizza lid-Direttur Ġenerali jgħaddi biex jagħmel dik il-pubblikazzjoni huwa nnifsu, u jirkupra l-ispejjeż mingħand il-konvenut.

Proċedura u sentenzi.

12H. (1) Il-proċeduri quddiem il-Qorti Ċivili għandhom isiru b'mod pubbliku b'kont meħud għall-protezzjoni ta' informazzjoni kunfidenzjali jew sigriet tan-negozju:

Iżda l-persuna konċernata, id-Direttur Ġenerali, jew il-persuna li tagħmel l-ilment jistgħu jitolbu li jinstemgħu bil-magħluq mill-Qorti Ċivili fejn is-sottomissjonijiet li se jkunu se jsiru jew l-evidenza li tkun se tingieb hija ta' natura kunfidenzjali jew tinkludi sigrieti kummerċjali:

Iżda wkoll, għall-finijiet ta' din id-dispożizzjoni, verżjoni kunfidenzjali u waħda mhux kunfidenzjali tas-sottomissjonijiet u tal-evidenza dokumentarja għandhom jiġu prodotti, u l-Qorti Ċivili għandha tivverifika l-kunfidenzjalità jew in-nuqqas tagħha tal-informazzjoni sottomessa.

(2) Qabel tagħti s-sentenza tagħha, il-Qorti Ċivili tista' tirrikorri għas-sentenzi tal-Qorti tal-Ġustizzja tal-Unjoni Ewropea, u għad-deċiżjonijiet u l-istqarrijiet rilevanti tal-Kummissjoni Ewropea inklużi l-interpretazzjonijiet tar-Regolamenti u d-Direttivi Ewropej li għandhom x'jaqsmu mal-protezzjoni tal-konsumatur u tista' wkoll tirreferi għad-deċiżjonijiet tagħha u għad-deċiżjonijiet tat-Tribunal tal-Appell għall-Kompetizzjoni u għall-Konsumatur.

(3) Meta l-Qorti Ċivili ssib li l-konvenut huwa responsabbli ta' ksur jew ta' għadd ta' ksur ta' dan l-Att jew ta' xi regolamenti magħmula tahtu, hija għandha timponi penali skont l-artikolu 106A għal kull ksur.

(4) Bla ħsara għad-dritt ta' appell mogħti bl-artikolu 12I, id-deċiżjonijiet tal-Qorti Ċivili huma finali u jorbtu.

(5) Bla ħsara għad-dispożizzjonijiet ta' dan l-Att, id-dispożizzjonijiet tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandhom, *mutatis mutandis*, japplikaw għall-proċeduri ġudizzjarji kollha mmexxija skont dan l-Att quddiem il-Qorti Ċivili u l-Qorti tal-Appell, u għall-eżekuzzjoni tas-sentenzi.

Kap. 12.

Appelli quddiem il-Qorti tal-Appell.

12I. Id-Direttur Ġenerali u, jew kull parti fi proċeduri quddiem il-Qorti Ċivili, li jhossuhom aggravati minn sentenza tal-Qorti Ċivili jistgħu jappellaw quddiem il-Qorti tal-Appell, fuq kull punt ta' dritt u, jew ta' fatt, permezz ta' rikors ippreżentat fir-reġistru tal-Qorti tal-Appell fi żmien għoxrin jum mid-data tas-sentenza tal-Qorti Ċivili:

Iżda l-Qorti tal-Appell għandha tappunta l-każ għas-smiġħ sa mhux aktar tard minn sitt xhur minn meta r-rikors tal-appell jiġi notifikat lill-partijiet kollha."

**14.** Minnufih wara l-artikolu 12I tal-Att prinċipali għandu jiżded it-titolu ġdid li ġej:

Żieda ta' titolu ġdid 'Taqsimha IIB' mal-Att prinċipali.

"TAQSIMA IIB

Proċedimenti kriminali u dispożizzjonijiet relatati".

Sostituzzjoni tal-artikolu 14A tal-Att prinċipali.

- 15.** L-artikolu 14A tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Ordnijiet tal-Qorti.

14A. Meta l-qorti jirriżultalha li persuna tkun għamlet reat taħt dan l-Att jew taħt regolamenti magħmulin taħtu, il-qorti tista', minghajr preġudizzju għal kull ordni oħra li tista' tagħmel taħt kull liġi oħra:

(a) tordna r-restituzzjoni ta' kull flus, proprjetà jew korrispettiv ieħor li jkun ingħata mill-konsumatur;

(b) tagħmel ordni ta' twettiq speċifiku kontra dik il-persuna; u

(ċ) tagħmel kull ordni oħra li l-qorti tqis li tkun adattata."

Thassir tal-artikoli 14B u 15 tal-Att prinċipali.

- 16.** L-artikoli 14B u 15 tal-Att prinċipali għandhom jiġu mhassra.

Sostituzzjoni tal-artikolu 43D tal-Att prinċipali.

- 17.** L-artikolu 43D tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Rwol tal-Kunsill bhala awtorità regolatorja kompetenti għall-ADR u tal-Qorti Ċivili.

43D. (1) Għajr fejn ġew assenjati kompetenzi lill-Qorti Ċivili b'dan l-Att, il-Kunsill għandu jkun l-awtorità kompetenti u regolatorja tal-ADR u fl-eżerċizzju ta' dan irwol il-Kunsill għandu, b'mod indipendenti u awtonomu, jaqdi l-funzjonijiet li ġejjin:

(a) jiddetermina jekk entità hijiex kwalifikata sabiex taġixxi bhala entità tal-ADR;

(b) jissorvelja u jinvestiga l-operat u l-imġiba tal-entitajiet tal-ADR u tal-kummerċjanti;

(ċ) wara li jitwettqu investigazzjonijiet tal-entitajiet tal-ADR u, jew tal-kummerċjanti, li jindikaw, *prima facie*, li kien hemm ksur tal-liġi u tal-obbligazzjonijiet tagħhom fil-liġi, jistitwixxi proċeduri ġudizzjarji skont it-Taqsima IIA quddiem il-Qorti Ċivili, sa fejn dan ikun applikabbli.

(2) Sakemm mhux xort'ohra stabbilit bil-ligi, il-Kunsill għandu jirregola l-proċedura tiegħu waqt li jwettaq il-funzjonijiet tiegħu taħt din it-Taqsima.

(3) Il-Kunsill għandu jwettaq il-funzjonijiet regolatorji tiegħu, deskritti kif deskritti, permezz taç-*Chairman* u, jew permezz ta' wiehed jew aktar mill-uffiċjali pubbliċi u, jew entità jew entitajiet li minn żmien għal żmien ikunu hekk awtorizzati mill-Kunsill:

Iżda ebda waħda minn dawn il-funzjonijiet ma għandha titwettaq minn entità li għet jew li kienet għet maħtura sabiex taħdem bħala entità tal-ADR residwa, jew hija jew kienet entità tal-ADR."

18. L-artikolu 43E tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 43E tal-Att prinċipali.

"L-applikazzjoni ta' ċerti dispożizzjonijiet tat-Taqsima XII dwar setgħat investigattivi.

43E. Sa fejn għandhom x'jaqsmu mal-eżerċizzju tas-setgħat investigattivi tad-Direttur Ġenerali fit-twettiq tal-funzjonijiet regolatorji tiegħu, id-dispożizzjonijiet tal-artikoli 102, 103, 104 u 105 għandhom b'mod simili japplikaw ukoll għaċ-*Chairman* tal-Kunsill meta dan jaġixxi biex jissorvelja u jinvestiga l-entitajiet tal-ADR u l-kummerċjanti."

19. L-artikolu 43F tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 43F tal-Att prinċipali.

"L-applikazzjoni tat-Taqsima IIA fir-rigward ta' proċeduri ġudizzjarji quddiem il-Qorti Ċivili.

43F. Fir-rigward tal-funzjonijiet tal-Kunsill stabbiliti fl-artikolu 43D(1)(ċ), l-istituzzjoni tal-proċeduri ġudizzjarji u l-proċess ġudizzjarju relatat għandhom ikunu quddiem il-Qorti Ċivili skont it-Taqsima IIA, sa fejn din tapplika u bl-esklużjoni tar-referenzi li fiha għall-entitajiet kwalifikati."

20. L-artikolu 43G tal-Att prinċipali għandu jiġi sostitwit b'dan li

Sostituzzjoni tal-artikolu 43G tal-Att prinċipali.

gej:

"Setgħa li  
jsiru  
regolamenti.

43G. Il-Ministru jista' jagħmel regolamenti fuq kull aspett li jikkonċerna proċeduri dwar soluzzjoni alternattiva għat-tilwim konsumatur ma' negozjant, fuq ir-rwol u l-funzjonijiet tal-Kunsill taħt din it-Taqsima, u fuq il-ħidma aħjar ta' proċeduri tal-ADR bħal dawn, kif ukoll is-setgħa tal-Kunsill li jitlob li l-Qorti Ċivili timponi penali ta' mhux aktar minn ħamsin elf euro (€50,000) u, jew ta' mhux aktar minn mitt euro (€100) għal kull ġurnata li fiha jkun hemm nuqqas ta' konformità mad-deċiżjoni tal-Qorti Ċivili, u l-proċedura li għandu jsegwi l-Kunsill fil-proċess investigattiv u f'kull proċedura ġudizzjarja sussegwenti quddiem il-Qorti Ċivili."

Thassir tal-  
artikoli 94 sa  
101 tal-Att  
prinċipali.

**21.** L-artikoli 94 sa 101 tal-Att prinċipali għandhom jiġu mħassra.

Sostituzzjoni  
tat-titolu  
'Taqsim XII'  
tal-Att  
prinċipali.

**22.** It-titolu 'Taqsim XII' tal-Att prinċipali għandu jiġu sostitwit bit-titolu ġdid 'Setgħat investigattivi'.

Emenda tal-  
artikolu 105 tal-  
Att prinċipali.

**23.** Fil-paragrafu (ċ) tal-artikolu 105 tal-Att prinċipali, il-kliem "jirrifjuta jew jonqos milli jagħti informazzjoni kif mitlub taħt din it-Taqsima jew inkella" għandhom jiġu mħassra.

Żieda tat-  
Taqsim XIIA  
ġdida fl-Att  
prinċipali.

**24.** Minnufih wara l-artikolu 105 tal-Att prinċipali għandha tiżdied it-Taqsima XIIA ġdida li ġejja:

"Taqsim XIIA

Reati, Penali u dispożizzjonijiet relatati

Reati.

106. Persuna li tinstab hatja ta' reat taħt dan l-Att jew ta' xi regolament magħmul taħtu għandha, kemm-il darba ma tiġix preskritta piena oħra għaliha, meta tinsab hatja teħel multa ta' mhux inqas minn erba' mija u sebghin euro (€470) u mhux aktar minn sebgha u erbghin elf euro (€47,000).

Penali.

106A. (1) Il-Qorti Ċivili għandha timponi penali għal kull ksur fuq kull persuna li tinstab li kisret xi dispożizzjonijiet ta' dan l-Att jew ta' kull regolament magħmul taħtu.

(2) Penali imposta għal ksur taħt is-subartikolu (1) għandha tkun ta' mhux inqas minn erba' mija u sebgħin euro (€470) u mhux aktar minn sebgħa u erbghin elf euro (€47,000):

Izda fil-każ fejn ordni ta' tharis ma jigix obdut, il-Qorti Ċivili għandha timponi wkoll penali ta' kuljum ta' mhux inqas minn mija u għoxrin euro (€120) u mhux aktar minn mitejn u tletin euro (€230), għal kull jum li fih ma jigix obdut:

Izda wkoll, f'każ ta' nuqqas ta' konformità ma' digriet tal-Qorti Ċivili li jordna miżuri intermedji, il-Qorti Ċivili għandha timponi wkoll penali ta' kuljum ta' mhux inqas minn mija u għoxrin euro (€120) u mhux aktar minn mitejn u tletin euro (€230) għal kull jum li fih hemm dan in-nuqqas ta' konformità.

(3) Mingħajr preġudizzju għar-regoli li l-Qorti Ċivili għandha tapplika biex tiddeciedi dwar il-penali fir-rigward ta' ksur tal-artikoli li hemm riferenza għalihom fit-Tieni Skeda, biex tiddeciedi l-ammont ta' penali fir-rigward ta' ksur ta' kull dispożizzjoni oħra ta' dan l-Att, ta' ksur ta' regolamenti magħmula taħt dan l-Att u ta' ksur tad-dispożizzjonijiet ta' ligijiet oħra amministrati mid-Direttur Ġenerali, waqt l-eżerċizzju tad-diskrezzjoni tagħha l-Qorti Ċivili għandha tiżgura li l-penali imposti huma effikaci, proporzjonati u dissważivi."

25. L-artikoli 107, 107A, 108, 109, 110B, 110Ċ, 110D, 110E, 110F, 110G u 110H tal-Att prinċipali għandhom jigu mhassra.

Thassir tal-artikoli 107, 107A, 108, 109, 110B, 110Ċ, 110D, 110E, 110F, 110G u 110H tal-Att prinċipali.

26. It-Taqsima XIII tal-Att prinċipali għandha tiġi sostitwita b'dan li ġej:

Sostituzzjoni tat-Taqsima XIII tal-Att prinċipali.

"Taqsimha XIII  
Mixxellanji

Il-Prim Ministru jista' jestendi t-thaddim tal-artikoli 10, 12, 12A u tat-Taqsimiet IIA, IIB, XII u XIIA għal liġijiet oħra.

111. Il-Prim Ministru jista', b'ordni fil-Gazzetta, jordna li d-dispożizzjonijiet tal-artikoli 10, 12, 12A u tat-Taqsimiet IIA, IIB, XII u XIIA għandhom japplikaw għal kull reat u, jew ksur ta' kull liġi oħra li tiġi amministrata mid-Direttur Ġenerali, jew taħt kull liġi li biha jiġu stabbiliti l-oġhla prezżijiet għal oġġetti jew servizzi, jew li biha jiġu stabbiliti l-inqas livelli għal oġġetti jew servizzi.

Rifużjoni ta' flejjes imhallsa.

112. Parteċipanti, għajr dawk li jistabbilixxu, iħaddmu jew igibu 'l quddiem skemi ta' bejgħ piramidali skont ir-regola 14 tal-Ewwel Skeda, għandu jkollhom d-dritt li mhux aktar tard minn sentejn mid-data li fiha għamlu l-aħħar pagament li jibdew azzjoni quddiem il-qrati ordinarji sabiex jitolbu rifużjoni sħiħa tal-ammonti kollha mħallsa minnhom lill-iskema.

Eżenzjoni minn responsabbiltà.

113. Ma tista' tittiehed ebda azzjoni kontra d-Direttur Ġenerali jew xi uffiċjal tiegħu jew xi persuna awtorizzata li tkun qed taġixxi taħt id-direzzjoni jew kontroll tiegħu, jew kontra xi membru tal-Kunsill, għal xi att jew ommissjoni li jkollhom x'jaqsmu ma' dan l-Att, jew ma' regolamenti magħmulin tahtu, sakemm dak l-att jew ommissjoni ma jkunux ġew magħmula b'*mala fede*.

Preskrizzjoni għall-proċedimenti gudizzjarji u għar-reati.

114. L-istituzzjoni ta' proċeduri gudizzjarji u l-prosekuzzjoni ta' reati taħt dan l-Att jew kull regolament magħmul tahtu għandu jkun preskritt wara l-iskadenza ta' hames snin mid-data li fiha l-ksur jew ir-reat jiġi allegat li twettaq.

Ebda mandat kawtelatorju.

115. L-ebda mandat kawtelatorju jew xi ordni ieħor taħt xi liġi oħra ma għandhom jinħarġu minn xi qorti jew tribunal li jkun iżomm jew jirrestringi lid-Direttur Ġenerali milli fl-eżerċizzju tal-funzjonijiet tiegħu taħt dan l-Att u taħt l-Att dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur."

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27. L-Ewwel Skeda tal-Att prinċipali għandha tiġi emendata kif ġej:
- Emenda tal-Ewwel Skeda tal-Att prinċipali.
- (a) fir-regola 4 tagħha, il-kliem "/a"; "/issostni"; "/ha"; "tikkonforma"; u "/ha" għandhom jiġu mhassra; u

(b) fir-regola 5 tagħha, il-kelma "a" kull fejn tidher; u l-kliem "tagħmel"; "/ha"; "/temmen"; "/oħra" u "/tforni" għandhom jiġu mhassra.

28. It-Tieni Skeda tal-Att prinċipali għandha tiġi sostitwita b'dan li ġej:
- Emenda tat-Tieni Skeda tal-Att prinċipali.

"IT-TIENI SKEDA  
(Artikolu 106A(3))

Penali

1. Meta tkun qiegħda tiddeċiedi l-ammont tal-penali skont l-artikolu 106A, fir-rigward tal-artikoli msemmija f'din l-Iskeda u mingħajr preġudizzju għad-dispożizzjonijiet tal-artikolu 106A(3), il-Qorti Ċivili għandha tkun immexxija wkoll mill-kunsiderazzjonijiet li ġejjin.

Ksur skont l-artikolu 51F

2. Għal kull ksar taħt l-artikolu 51F, l-ammont bażiku tal-penali għandu jkun ta' elfejn, tliet mija u ħamsin euro (€2,350):

Iżda l-Qorti Ċivili tista', meta tkun qiegħda tistabbilixxi l-penali, tqis ċirkostanzi li jistgħu jwasslu għal żieda jew tnaqqis ta' dak l-ammont bażiku:

Iżda wkoll il-Qorti Ċivili għandha tagħmel dan fuq il-bażi ta' valutazzjoni komprensiva li tqis iċ-ċirkostanzi rilevanti kollha.

3. Il-Qorti Ċivili tista' timponi penali oghla mill-ammont bażiku fejn hemm ċirkostanzi aggravanti, meta tqis il-gravità u d-dewmien tal-ksur u, jew l-ammont ta' qligħ magħmul b'mod mhux xieraq bħala riżultat tal-ksur.
4. Mingħajr preġudizzju għall-ġeneralità tar-regola 3, dawn li ġejjin għandhom dejjem jitqiesu bħala ċirkostanzi aggravanti:
- fejn il-ksur huwa prattika kummerċjali li mhux ġusta inkluża fl-Ewwel Skeda, l-ammont bażiku għandu jiżdied b'somma li mhix inqas minn elf, seba' mija u ħamsin euro (€1,750) u mhux aktar minn erbat elf,

sitt mija u ħamsin euro (€4,650);

- f'każ tat-tieni ksur jew ksur sussegwenti, l-ammont bażiku għandu jiżdied b'elfejn, tliet mija u ħamsin euro (€2,350) għal kull ksur sussegwenti;
  - fejn il-prattika jew l-iskema li tikkostitwixxi l-ksur hija l-mezz prinċipali li biha l-kummerċjant imexxi jew jopera l-kummerċ tiegħu, l-ammont bażiku għandu jiżdied b'somma li mhix inqas minn elf, seba' mija u ħamsin euro (€1,750) u mhux aktar minn erbat elef, sitt mija u ħamsin euro (€4,650);
  - fejn il-prattika jew l-iskema li tikkostitwixxi l-ksur qiegħda speċifikatament timmira għall-konsumaturi li huma vulnerabbli, l-ammont bażiku għandu jiżdied b'elfejn, tliet mija u ħamsin euro (€2,350);
  - fejn il-prattika kummerċjali mhux ġusta hija akkumpanjata minn xi wieħed mill-fatturi msemmija fl-artikolu 51E(2) tal-Att, l-ammont bażiku għandu jiżdied b'somma li mhix anqas minn elf, seba' mija u ħamsin euro (€1,750) u mhux aktar minn erbat elef, sitt mija u ħamsin euro (€4,650).
5. L-ammont bażiku tal-penali jista' jitnaqqas fejn il-Qorti Ċivili ssib li hemm ċirkostanzi mitiganti, b'mod partikolari:
- fejn il-konvenut jipprovdi evidenza li hu waqqaf il-prattika kummerċjali mhux ġusta li tikkostitwixxi l-ksur malli d-Direttur Ġenerali beda l-investigazzjonijiet taħt l-artikolu 12 tal-Att, l-ammont bażiku jitnaqqas b'mhux aktar minn għoxrin fil-mija;
  - fejn il-konvenut jipprovdi evidenza li hadet il-passi adegwati sabiex tnaqqas l-effetti negattivi tal-ksur, l-ammont bażiku jitnaqqas b'mhux aktar minn għaxra fil-mija.
6. L-ammont finali tal-penali għal kull ksur ma għandux, f'kull każ, jeċċedi s-sebġha u erbgħin elf euro (€47,000) jew ikun anqas minn erba' mija u sebġin euro (€470).

Ksur skont l-artikolu 12A

7. Għall-ksur imsemmi fl-artikolu 12A, l-ammont tal-penali ma għandux ikun anqas minn erbat elef, sitt mija u ħamsin euro (€4,650) u ma għandux ikun aktar minn ħdax-il elf, sitt mija u ħamsin euro (€11,650).

Ksur skont l-artikolu 12E

8. Għall-ksur imsemmi fl-artikolu 12E, l-ammont tal-penali ma għandux ikun anqas minn erbat elef, sitt mija u ħamsin euro (€4,650) u ma għandux ikun aktar minn ħdax-il elf, sitt mija u ħamsin euro (€11,650):

Iżda fil-każ ta' nuqqas ta' konformità ma' digriet tal-Qorti Ċivili li jordna miżuri intermedji, il-Qorti Ċivili għandha timponi wkoll penali kwotidjana li ma tkunx anqas minn mija u għoxrin euro (€120) u ma tkunx aktar minn mitejn u tletin euro (€230) għal kull jum li fih hemm in-nuqqas ta' konformità.

Ksur skont l-artikolu 12G

9. Għall-ksur imsemmi taht l-artikolu 12G, l-ammont tal-penali ma għandux ikun anqas minn erbat elef, sitt mija u ħamsin euro (€4,650) u ma għandux ikun aktar minn tlieta u għoxrin elf u tliet mitt euro (€23,300):

Iżda f'każ ta' nuqqas ta' konformità ma' ordni ta' tharis il-Qorti Ċivili għandha timponi wkoll penali kwotidjana li ma tkunx anqas minn mija u għoxrin euro (€120) u ma tkunx aktar minn mitejn u tletin euro (€230) għal kull jum li fih hemm in-nuqqas ta' konformità."

Taqsimha III

Emendi għall-Att dwar il-Kompetizzjoni

**29.** Din it-Taqsimha temenda l-Att dwar il-Kompetizzjoni u għandha tinqara u tinftiehem haġa waħda mal-Att dwar il-Kompetizzjoni, hawn aktar 'il quddiem f'din it-Taqsimha msejjaħ "l-Att prinċipali".

Emendi għall-Att dwar il-Kompetizzjoni. Kap. 379.

**30.** L-artikolu 2 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 2 tal-Att prinċipali.

(a) minnufih qabel it-tifsira "Awtorità Nazzjonali dwar il-Kompetizzjoni" għandha tiżdied din it-tifsira ġdida:

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" "Awtorità" tfisser l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur" kif imwaqqfa fl-artikolu 3 tal-Att dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur;"

(b) it-tifsira "President" għandha tiġi mhassra;

(ċ) minnufih wara t-tifsira "prodott" għandha tiżdied it-tifsira ġdida li ġejja:

L.S. 12.19. " "Qorti" tfisser il-Qorti Ċivili (Sezzjoni tal-Kummerċ) kif imwaqqfa bl-artikolu 3 tal-Ordni dwar it-Twaqqif ta' Sezzjonijiet tal-Qrati Ċivili;"  
u

(d) it-tifsira "Tribunal tal-Appell" għandha tiġi mhassra.

Sostituzzjoni tal-artikolu 3 tal-Att prinċipali.

**31.** L-artikolu 3 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Responsabbiltà tad-Direttur Ġenerali u l-Qorti.

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3. Id-Direttur Ġenerali u l-Qorti għandhom ikollhom il-kompetenza esklussiva sabiex japplikaw id-dispożizzjonijiet ta' dan l-Att u għal dan il-għan, id-Direttur Ġenerali għandu jeżerċita r-responsabbiltajiet vestiti fl-Uffiċċju għall-Kompetizzjoni taht l-artikolu 14 tal-Att dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur u taht dan l-Att, hliet meta l-kompetenzi jkunu assenjati lill-Qorti b'dan l-Att u bl-Att dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur:

Izda d-Direttur Ġenerali jista' jiddelega xi setgħa minn tiegħu lil kull uffiċjal jew impjegat tal-Awtorità."

Emenda tal-artikolu 8 tal-Att prinċipali.

**32.** Fis-subartikolu (1) tal-artikolu 8 tal-Att prinċipali, fit-test Inġliż biss, il-kelma "general" wara l-kliem "Board" għandha titħassar u l-kelma "form" għandha tiġi sostitwita bil-kelma "from".

Emenda tal-artikolu 11A tal-Att prinċipali.

**33.** Is-subartikoli (3) u (5) tal-artikolu 11A tal-Att prinċipali għandhom jiġu mhassra u s-subartikolu (4) tiegħu għandu jiġi enumerat mill-ġdid bhala subartikolu (3).

Emenda tal-artikolu 12 tal-Att prinċipali.

**34.** L-artikolu 12 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-proviso tas-subartikolu (2) tiegħu l-kliem "għad-dmir tas-sigriet professjonali." għandhom jiġu sostitwiti bil-kliem "għad-dmir tas-sigriet professjonali:" u minnufih wara għandu jiżdied dan il-proviso ġdid li ġej:

"Iżda wkoll waqt li investigazzjoni tkun għaddejja, meta persuna, intrapriża jew għaqda ta' intrapriži tirrispondi għal mistoqsijiet li jsiru mill-Uffiċċju, kemm jekk bil-miktub u kemm jekk bil-fomm, dik il-persuna, intrapriża jew għaqda ta' intrapriži ma għandhiex tkun obligata li tagħti xi risposta li tista' tinvolvi ammissjoni dwar l-eżistenza ta' ksur min-naħa tagħha tal-artikoli 5 u, jew 9 tal-Att, u, jew l-Artikoli 101 u 102 tat-TFUE, imma hija f'kull każ obligata li tirrispondi għal mistoqsijiet dwar fatti u tipprovdi dokumenti";

(b) is-subartikolu (3) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(3) Meta jibgħat talba għall-informazzjoni lil intrapriża jew għaqda ta' intrapriži, id-Direttur Ġenerali għandu jispeċifika l-bażi legali u l-għan ta' dik it-talba, jispeċifika liema informazzjoni hija meħtieġa u jiffissa terminu ta' żmien li fih dik l-informazzjoni għandha tkun ipprovduta.";

(ċ) fis-subartikolu (6) tiegħu, il-kliem "it-Tribunal tal-Appell jew quddiem xi qorti tal-ġustizzja:" għandhom jiġu sostitwiti bil-kliem "il-Qorti u quddiem xi qorti tal-ġustizzja oħra:";

(d) is-subartikolu (7)(a) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(7)(a) Id-Direttur Ġenerali u, jew l-uffiċjali tiegħu u, jew kull persuna oħra awtorizzata jew imqabnda mid-Direttur Ġenerali debitament awtorizzata b'mandat maħruġ minn Maġistrat, jista', għall-finijiet ta' kull investigazzjoni skont dan l-artikolu, jidhol u jagħmel tfittxija f'kull fond, art jew mezz ta' trasport meta d-Direttur Ġenerali jkollu għalfejn jaħseb li tista' tinstab informazzjoni rilevanti għall-investigazzjoni, u waqt kull tfittxija bħal dik id-Direttur Ġenerali u, jew l-uffiċjali tiegħu, għandhom is-setgħa li:

(i) jispezzjonaw u jeżaminaw kull oġġett jew dokument;

(ii) jaqbd u jikkonfiskaw kull oġġett jew dokument, jew jieħdu estratti jew kopji ta' dokumenti;

(iii) jirrikjedu li kull informazzjoni li hija maħżuna f'*computer* jew f'kull oġġett jew apparat iehor li huwa aċċessibbli mill-fond, art jew mezz ta' trasport, u li d-Direttur Ġenerali u, jew l-uffiċjali tiegħu jqisu rilevanti għall-investigazzjoni, jigi mogħti lilhom f'għamla li tista' tingarr u li tkun tidher u tinqara;

(iv) jordnaw li oġġetti jew dokumenti ma jgħux imneħħija minn dak il-fond, art jew mezz ta' trasport;

(v) jagħlqu u jissigillaw xi parti jew il-partijiet kollha ta' dak il-fond, art jew mezz ta' trasport, jew jissigillaw xi oġġett;

(vi) jistaqsu lil kull rappreżentant jew membru tal-persunal tal-intrapriża jew għaqda ta' intrapriži konċernati għal spjegazzjoni ta' kwalunkwe fatt jew dokument relatat mas-suġġett u l-għan tal-ispezzjoni, jew jiddikjaraw skont l-aħjar għarfien tagħhom fejn jinstabu dawk id-dokumenti u jnizzlu t-twegibiet;

(vii) jieħdu kull pass li jidhrilhom neċessarju sabiex jikkonservaw kull oġġett jew dokument jew sabiex jipprevjenu kwalunkwe interferenza ma' dak l-oġġett jew dokument.";

(e) il-paragrafu (b) tas-subartikolu (7) tiegħu għandu jigi sostitwit b'dan li ġej:

"(b) Il-Maġistrat, meta jiddeċiedi jekk joħroġ mandat skont is-subartikolu (7)(a) għandu jiżgura li l-miżuri koersivi maħsuba la jkun arbitrarji u lanqas eċċessivi, b'konsiderazzjoni mogħtija, b'mod partikolari għall-gravità tas-suspettat ksur ta' liġi, għall-importanza tal-provi mfittxija, għall-involviment tal-intrapriża jew tal-għaqda ta' intrapriži konċernati u għall-probabbiltà raġonevoli li xi oġġett, dokument jew *record* relatat mas-suġġett tal-ispezzjoni jkun miżmum fil-fond, art jew mezz tat-trasport li dwarhom ikun intalab il-mandat:

Iżda meta jkun qiegħed jiddeċiedi jekk johroġx mandat skont is-subartikolu (7)(a), il-Maġistrat jista' wkoll jikkunsidra l-possibbiltà li f'każ li jkun id-Direttur Ġenerali li jkun qiegħed jitlob dawk l-oġġetti, dokumenti jew *records*, dawn ma jiġux prodotti, imma minflok jiġu moħbija, imneħhija, imbagħbsa jew distrutti.";

(f) is-subartikolu (8) tiegħu għandu jiġi emendat kif ġej:

(i) il-paragrafu (a) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(a) Il-mandat imsemmi fis-subartikolu (7)(a) għandu jispeċifika s-sugġett, l-għan tal-ispezzjoni, id-data li fiha l-ispezzjoni ser tibda u l-penalitajiet rilevanti pprovvduti fl-artikolu 21.";

(ii) il-paragrafu (b) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(b) Is-setgħat mogħtija bl-artikolu 12(7)(a) għandhom jiġu eżercitati mid-Direttur Ġenerali u, jew l-uffiċjali tiegħu u, jew xi persuna awtorizzata jew maħtura mid-Direttur Ġenerali, wara t-turija ta' mandat maħruġ skont dak l-artikolu.";

(iii) il-paragrafu (ċ) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(ċ) Id-Direttur Ġenerali u, jew kull wieħed mill-uffiċjali tiegħu u, jew kull persuna awtorizzata jew maħtura mid-Direttur Ġenerali sabiex tidhol fil-fond, art jew mezz ta' trasport bis-saħħa ta' mandat maħruġ skont is-subartikolu (7)(a), tista' tiegħu magħha dak l-apparat li jidhriha li jkun neċessarju.";

(iv) il-paragrafu (d) tiegħu għandu jiġi mħassar;

(g) il-paragrafu (a) tas-subartikolu (9) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(a) Fil-kors ta' kull tfittxija kif imsemmija fis-subartikolu (7), id-Direttur Ġenerali u, jew kull wieħed mill-uffiċjali tiegħu u, jew persuna awtorizzata jew maħtura mid-Direttur Ġenerali, jistgħu jitolbu l-assistenza tal-Pulizija u f'dak il-każ il-Pulizija għandhom jeħtieġu mandat maħruġ mill-Maġistrat sabiex jassistu lid-Direttur Ġenerali f'dik it-tfittxija.";

(h) is-subartikolu (11) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(11) Fil-kors tal-ispezzjoni taht dan l-artikolu, l-intrapriżi jew l-għaqda ta' intrapriżi jew persuni soġġetti għall-ispezzjoni jistgħu jiġu assistiti minn rappreżentant legali tal-għażla tagħhom:

Iżda l-uffiċjali jistgħu jistennew għal hin raġonevoli qabel ma jibdew l-ispezzjoni, sabiex ir-rappreżentant legali jasal u f'dak il-hin, l-uffiċjali jistgħu jieħdu kull miżura meħtieġa sabiex jipprevjenu milli jsir xi tbaġħbis potenzjali fl-evidenza jew sabiex jipprevjenu l-possibbiltà ta' komunikazzjoni li biha intrapriżi oħra jiġu infurmati li tkun għaddejja investigazzjoni:

Iżda wkoll id-dritt għal din l-assistenza jista' jdedwem imma ma għandux ikollu l-effett li jissospendi l-ispezzjoni."; u

(i) is-subartikolu (13) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(13) L-ebda tfittxija ma tista' tibda f'xi fond, art jew mezz ta' trasport wara s-sebġha ta' filgħaxija u qabel is-sebġha ta' filgħodu tal-għada, kemm-il darba ma jkunx hemm għalfejn wiehed jaħseb li d-dewmien ikun jista' jwassal għat-telfien ta' informazzjoni meħtieġa u dik it-tfittxija hija espressament awtorizzata mill-Maġistrat sabiex issir bejn l-imsemmija hinijiet."

Sostituzzjoni tal-artikolu 12A tal-Att prinċipali.

**35.** L-artikolu 12A tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Il-kontenut tar-rikors ġuramentat.

12A. (1) Meta, wara investigazzjoni, id-Direttur Ġenerali jirriżultalu li seta' seħħ ksur tal-artikoli 5 u, jew 9 ta' dan l-Att u, jew ksur tal-Artikolu 101 u, jew 102 tat-TFUE, huwa għandu jippreżenta rikors ġuramentat fil-Qorti.

(2) Ir-rikors ġuramentat imsemmi fis-subartikolu (1) għandu:

(a) Inizżel il-fatti li wasslu lid-Direttur Ġenerali jsib suspettat ksur tal-artikoli 5 u, jew 9 tal-Att u, jew suspettat ksur tal-Artikoli 101 u, jew 102 tat-TFUE;

(b) Fejn ikun xieraq, jinkludi talba tad-Direttur Ġenerali lill-Qorti sabiex tagħti sentenza u ssib li kien hemm ksur tal-artikoli 5 u, jew 9 tal-Att u, jew ksur tal-Artikoli 101 u, jew 102 tat-TFUE, kontra l-intrapriża u, jew l-għaqda ta' intrapriži konċernati;

(ċ) Jinkludi talba tad-Direttur Ġenerali lill-Qorti għall-impożizzjoni ta' penali, u, jew kull rimedju ieħor fuq l-intrapriża u, jew l-għaqda ta' intrapriži konċernati, kif inhu kkontemplat f'dan l-Att:

Iżda d-Direttur Ġenerali jista' wkoll jindika l-ammont speċifiku tal-penali jew fir-rikors ġuramentat tiegħu jew permezz ta' nota ppreżentata fil-Qorti tul il-proċedimenti:

Iżda wkoll id-dispożizzjonijiet tal-artikolu 156 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandhom, fejn hu applikabbli, japplikaw ukoll għar-rikors ġuramentat.

Kap. 12.

(3) B'zieda ma' dak miġjub hawn fuq, id-Direttur Ġenerali jista' wkoll jinkludi rapport bil-lingwa Maltija jew dik Ingliża dwar ir-riżultanzi tal-investigazzjoni mwettqa minnu.

(4) Mingħajr preġudizzju għad-dispożizzjonijiet tal-artikolu 12A(1), id-Direttur Ġenerali jista' wkoll jippreżenta rikors ġuramentat li fih jitlob l-impożizzjoni ta' penali kontra l-intrapriża u, jew l-għaqda ta' intrapriži konċernati f'dawk iċ-ċirkostanzi kollha skont id-dispożizzjonijiet tal-artikolu 21.

(5) L-intrapriża u, jew l-għaqda ta' intrapriži li kontra tagħha jiġi ppreżentat ir-rikors ġuramentat, għandha, fi żmien għoxrin jum mid-data tan-notifika, tippreżenta risposta ġuramentata u f'dak il-każ id-dispożizzjonijiet tal-artikolu 158 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandhom, *mutatis mutandis*, japplikaw.

Kap. 12.

(6) Waqt il-proċedimenti tal-Qorti, l-intrapriża u, jew l-għaqda ta' intrapriži konċernati li jkunu ġew notifikati bir-rikors ġuramentat, għandhom, fuq talba magħmula għal dan il-għan fir-risposta ġuramentata tagħhom, ikunu intitolati li jkollhom aċċess għall-fajl dwar l-investigazzjoni tal-każ tagħhom, bla ħsara għan-nuqqas ta' żvelar ta' informazzjoni jew dokumenti identifikati mid-Direttur Ġenerali li jkun fihom sigrieti tan-negozju jew informazzjoni kunfidenzjali oħra, jew dokumenti interni tad-Direttur Ġenerali jew tal-Awtoritajiet dwar il-Kompetizzjoni ta' Stati Membri oħra. Id-Direttur Ġenerali għandu jipprovdi aċċess għall-fajl tal-investigazzjoni f'kull żmien qabel l-għeluq tal-provi.

(7) Fl-eżercizzju tar-responsabbiltajiet tiegħu, id-Direttur Ġenerali għandu jirrikorri għas-sentenzi tal-Qorti tal-Ġustizzja tal-Unjoni Ewropea, għad-deċiżjonijiet u stqarrijiet rilevanti tal-Kummissjoni Ewropea inkluż avviżi interpretattivi dwar id-dispożizzjonijiet rilevanti tat-TFUE u tal-leġiżlazzjoni sekondarja relattiva għall-kompetizzjoni u jista' jirrikorri għad-deċiżjonijiet tiegħu u għal dawk tat-Tribunal tal-Appell għall-Kompetizzjoni u għall-Konsumatur u tal-Kummissjoni għall-Kummerċ Ġust."

Sostituzzjoni tal-artikolu 12B tal-Att prinċipali.

**36.** L-artikolu 12B tal-Att prinċipali għandu jiġi sostitwit kif ġej:

"Proċedura ta' riżoluzzjoni.

12B. (1) Id-Direttur Ġenerali flimkien ma' kwalunkwe intrapriża u, jew għaqda ta' intrapriži għandhom id-dritt jitolbu, kemm fl-istadju tal-investigazzjoni quddiem l-Uffiċċju jew fi stadju ulterjuri meta d-Direttur Ġenerali jippreżenta rikors ġuramentat kontra l-intrapriża u, jew kontra l-għaqda ta' intrapriži konċernati, li l-investigazzjoni jew il-proċedimenti quddiem il-Qorti, skont il-każ, jiġu terminati permezz ta' proċedura ta' riżoluzzjoni li tkun tinkludi l-impożizzjoni ta' penali mill-Qorti, kif jinstab fid-dispożizzjonijiet li ġejjin ta' dan l-artikolu.

(2) It-terminazzjoni tal-investigazzjoni quddiem l-Uffiċċju jew it-terminazzjoni tal-proċedimenti quddiem il-Qorti permezz ta' riżoluzzjoni għandhom jiġu mogħtija b'sentenza tal-Qorti fuq talba kongunta tad-Direttur Ġenerali u l-intrapriża, u, jew l-għaqda ta' intrapriži konċernati u li fiha d-Direttur Ġenerali u l-intrapriża, u, jew l-għaqda ta' intrapriži konċernati jaqblu li l-investigazzjoni quddiem l-Uffiċċju jew il-proċedimenti quddiem il-Qorti, skont il-każ, jiġu terminati permezz ta' proċedura ta' riżoluzzjoni, li tinkludi l-impożizzjoni ta' penali minn din l-imsemmija Qorti:

Iżda mhux l-intrapriži kollha u, jew l-għaqda ta' intrapriži kollha li jkunu taħt investigazzjoni jew li jkunu soġġetti għal proċedimenti quddiem il-Qorti għandhom jaqblu li joqogħdu għal proċedura ta' riżoluzzjoni.

(3) It-talba kongunta msemmija fis-subartikolu (2) għandha ssir permezz ta' rikors kongunt ipprezentat il-Qorti:

Iżda l-Qorti għandha tkun sodisfatta li r-rekwiżiti kollha tas-subartikolu (7) huma riflessi fir-rikors kongunt:

Iżda wkoll, wara li l-Qorti tikkunsidra li l-ħtiġiet tas-subartikolu (7) ikunu sodisfatti kollha, il-Qorti għandha tappunta seduta għas-smiġħ sabiex tikkonferma li l-intrapriża, u, jew l-għaqda ta' intrapriži konċernati ma humiex qed jikkontestaw il-kontenut tas-sottomissjonijiet riżoluttivi u li l-partijiet kollha konċernati qegħdin jesprimu l-volontà tagħhom bla ebda kondizzjoni li jitterminaw l-investigazzjoni quddiem l-Uffiċċju jew li jitterminaw il-proċedimenti quddiem il-Qorti permezz tal-proċedura tar-riżoluzzjoni, u wara din is-seduta, il-Qorti għandha tagħti sentenza abbażi tar-rikors kongunt.

(4) Waqt il-kors tal-investigazzjoni dwar allegat ksur tal-artikoli 5 u, jew 9 ta' l-Att u, jew allegat ksur tal-Artikoli 101 u, jew 102 tat-TFUE, id-Direttur Ġenerali jista' qabel ma jipprezenta rikors ġuramentat fil-Qorti skont l-artikolu 12A tal-Att, meta huwa jqis xieraq għall-konkluzjoni effiċjenti u spedjenti tal-investigazzjoni, jistieden lil ftit minn, waħda jew kull waħda mill-intrapriži konċernati u, jew lill-għaqda ta' intrapriži konċernati, sabiex jindikaw bil-miktub, fit-terminu ffissat minnu, jekk huma għandhomx il-ħsieb illi jidhlu f'diskussjonijiet ta' riżoluzzjoni bil-għan li possibbilment jintroduċu sottomissjonijiet riżoluttivi:

Izda d-Direttur Ġenerali ma għandux ikun obligat jikkunsidra r-risposti li jirċievi wara li jgħaddi dak iż-żmien iffissat minnu:

Izda wkoll, f'kull żmien waqt li tkun għaddejja investigazzjoni, kull intrapriża u, jew għaqda ta' intrapriži konċernati tista' wkoll titlob li tidhol f'diskussjonijiet ta' riżoluzzjoni mad-Direttur Ġenerali:

Izda wkoll, id-deċiżjoni rigward meta għandhom jinbdew id-diskussjonijiet ta' riżoluzzjoni tkun fil-kompetenza esklussiva tad-Direttur Ġenerali.

(5) Jekk id-Direttur Ġenerali jiżgura li jkun sar progress suffiċjenti fid-diskussjonijiet ta' riżoluzzjoni, id-Direttur Ġenerali għandu jistieden lill-intrapriża u, jew lill-għaqda ta' intrapriži konċernati, sabiex iressqu s-sottomissjonijiet riżoluttivi tagħhom permezz ta' rikors kongunt li għandu jiġi pprezentat quddiem il-Qorti f'dak iż-żmien iffissat mid-Direttur Ġenerali, bil-għan li jikkonkludu l-proċedura ta' riżoluzzjoni:

Izda qabel ma d-Direttur Ġenerali jiffissa żmien sabiex jintroduċu s-sottomissjonijiet riżoluttivi, l-intrapriża u, jew l-għaqda ta' intrapriži konċernati jistgħu jiġu infurmati bl-elementi prinċipali tas-suspettat ksur, li jikkonsistu f'dan li ġej:

- (i) l-evidenza misjuba;

(ii) l-evalwazzjoni ġuridika tal-fatti; u

(iii) l-ammont speċifiku tal-penali li jkun ser jiġi mitlub mid-Direttur Ġenerali fir-rikors kongunt:

Iżda wkoll qabel ma d-Direttur Ġenerali jiffissa żmien sabiex l-intrapriża u, jew l-għaqda ta' intrapriži jressqu s-sottomissjonijiet riżoluttivi, l-intrapriża u, jew l-għaqda ta' intrapriži konċernati jista' jkollhom aċċess limitat għall-fajl tal-investigazzjoni dwar il-każ tagħhom, liema aċċess jingħata biss sa dak il-punt li d-Direttur Ġenerali jqis raġonevoli, tenut kont l-għanijiet tal-proċedura ta' riżoluzzjoni. Jekk jingħata aċċess għall-fajl, id-Direttur Ġenerali għandu jagħti aċċess parzjali għall-fajl tal-każ billi jipprovdri verżjonijiet mhux kunfidenzjali ta' kull dokument speċifikat u aċċessibbli kif imniżżel fil-fajl tal-każ f'dak iż-żmien:

Iżda wkoll, qabel ma d-Direttur Ġenerali jiffissa żmien għall-intrapriża u, jew l-għaqda ta' intrapriži sabiex jintroduċu s-sottomissjonijiet riżoluttivi tagħhom, l-intrapriża u, jew l-għaqda ta' intrapriži konċernati għandhom jingħataw l-opportunità li jipprezentaw il-fehmiet tagħhom fuq l-allegat ksur u jagħmlu osservazzjonijiet:

Iżda wkoll, jekk l-intrapriża u, jew l-għaqda ta' intrapriži tonqos milli tressaq is-sottomissjonijiet riżoluttivi fiż-żmien iffissat mid-Direttur Ġenerali, għandu jitqies illi l-intrapriża u, jew l-għaqda ta' intrapriži rtirat mill-proċedura ta' riżoluzzjoni.

(6) Id-dokumenti u l-iskambju ta' informazzjoni bejn id-Direttur Ġenerali u l-intrapriża u, jew l-għaqda ta' intrapriži konċernati waqt il-proċedura ta' riżoluzzjoni huma kunfidenzjali:

Iżda l-informazzjoni mogħtija skont is-subartikolu (5) għandha tkun kunfidenzjali fir-rigward ta' terzi persuni, ħlief meta d-Direttur Ġenerali ma jkunx ta awtorizzazzjoni esplicita minn qabel għall-iżvelar:

Iżda wkoll, id-dokumenti skambjati jkunu aċċessibbli biss għal intrapriżi u, jew għaqdiet ta' intrapriżi oħrajn li jkunu qegħdin jiġu investigati jew li jkunu ġew notifikati b'rikors ġuramentat skont l-artikolu 12A, jekk in-nuqqas ta' aċċess għal dawn id-dokumenti jostakola d-drittijiet tad-difiża ta' din l-intrapriża u, jew għaqda ta' intrapriżi konċernati.

(7) Is-sottomissjonijiet riżoluttivi li jridu jiġu inklużi fir-rikors kongunt għandhom ikollhom dikjarazzjoni volontarja mill-intrapriża u, jew mill-għaqda ta' intrapriżi konċernati, li jkollha l-informazzjoni li ġejja:

(a) dikjarazzjoni tal-intrapriża u, jew tal-għaqda ta' intrapriżi konċernati li b'mod ċar u inekwivokabbli tammetti l-partecipazzjoni tagħha fil-ksur kif ukoll ir-responsabbiltà tagħha fir-rigward tal-artikoli 5 u, jew 9 tal-Att u, jew l-Artikoli 101 u, jew 102 tat-TFUE;

(b) deskrizzjoni fattwali u fil-qosor tal-imġiba tal-intrapriża u, jew tal-għaqda ta' intrapriżi konċernati, tal-għan tal-imġiba u tal-mod li bih din ġiet eżegwita, id-dewmien tagħha u sa fejn l-intrapriża u, jew l-għaqda ta' intrapriżi konċernati kienu involuti;

(ċ) dikjarazzjoni tal-intrapriża u, jew tal-għaqda ta' intrapriżi konċernati li biha tiddikjara li taċċetta l-ammont massimu tal-penali li qiegħed jintalab mid-Direttur Ġenerali fir-rikors kongunt;

(d) dikjarazzjoni tal-intrapriża u, jew tal-għaqda ta' intrapriżi konċernati fis-sens illi hija kienet infurmata b'mod suffiċjenti mid-Direttur Ġenerali rigward l-elementi prinċipali tas-suspettat ksur li jinstab fis-subartikolu (5) u dikjarazzjoni tal-intrapriża u, jew tal-għaqda ta' intrapriżi li hija ġiet mogħtija l-opportunità suffiċjenti li tiġi mismugħa mid-Direttur Ġenerali u li tagħtih il-fehmiet tagħha;

(e) dikjarazzjoni tal-intrapriża u, jew tal-għaqda ta' intrapriži konċernati li hija se tiffinunzja għad-dritt tagħha għal aċċess ulterjuri jew shiħ tal-fajl tal-investigazzjoni rigward il-każ tagħha;

(f) dikjarazzjoni tal-intrapriża u, jew tal-għaqda ta' intrapriži konċernati li tinkludi rinunzja tad-dritt ta' appell jew ta' kontestazzjoni fi kwalunkwe mod tal-proċedura ta' riżoluzzjoni jew is-sentenza tal-Qorti, inkluż il-penali; u

(g) dikjarazzjoni tal-intrapriża u, jew tal-għaqda ta' intrapriži konċernati li hija taqbel mal-kontenut tas-sottomissjonijiet riżoluttivi u li hija taqbel li għandu jiġi ppreżentat rikors kongunt fil-Qorti mad-Direttur Ġenerali sabiex jitermina l-investigazzjoni jew il-proċedimenti, skont il-każ, permezz ta' riżoluzzjoni, u sabiex jitlob lill-Qorti sabiex tagħti sentenza skont is-sottomissjonijiet riżoluttivi:

Iżda flimkien mas-sottomissjonijiet riżoluttivi, ir-rikors kongunt għandu jinkludi wkoll dikjarazzjoni tad-Direttur Ġenerali li fiha:

(i) jaqbel mas-sottomissjonijiet riżoluttivi tal-intrapriża u, jew l-għaqda ta' intrapriži konċernati;

(ii) jispeċifika l-ammont tal-penali li jkun qiegħed jitlob li tiġi imposta fuq l-intrapriża u, jew l-għaqda ta' intrapriži konċernati; u

(iii) jitlob lill-Qorti tagħti sentenza li biha titermina l-proċedimenti permezz ta' riżoluzzjoni abbażi tas-sottomissjonijiet riżoluttivi tal-intrapriża u, jew tal-għaqda ta' intrapriži konċernati kif miġjuba fir-rikors kongunt, u jitlob lill-Qorti timponi l-ammont tal-penali kif mitlub mid-Direttur Ġenerali.

(8) Id-diskussjonijiet ta' riżoluzzjoni jistgħu wkoll jiġu proposti flimkien mill-partijiet fi stadju aktar tard, wara li jkun diġà ġie ppreżentat rikors ġuramentat mid-Direttur Ġenerali fil-Qorti:

Iżda l-Qorti tista' tiddifferixxi żewġ seduti sabiex f'dak iż-żmien il-partijiet ikunu jistgħu jippruvaw jirrisolvu t-tilwima billi jippreżentaw rikors kongunt kif imsemmi fis-subartikolu (3):

Iżda wkoll, jekk id-Direttur Ġenerali u, jew l-intrapriża u, jew l-għaqda ta' intrapriži konċernati tonqos milli tippreżenta rikors kongunt fiż-żmien tad-differiment taż-żewġ seduti kif mogħti mill-Qorti, il-proċedimenti kontra l-intrapriża u, jew l-għaqda ta' intrapriži konċernati għandhom jitkomplew skont dak l-istadju li jkunu waslu fih il-proċedimenti quddiem il-Qorti.

(9) Jekk l-intrapriża, u, jew l-għaqda ta' intrapriži konċernati taqbel li tittermina l-investigazzjoni quddiem l-Uffiċċju jew li tittermina l-proċedimenti quddiem il-Qorti permezz ta' riżoluzzjoni, billi tippreżenta rikors kongunt flimkien mad-Direttur Ġenerali, id-Direttur Ġenerali għandu jippremja lill-intrapriża u, jew lill-għaqda ta' intrapriži għal dik ir-riżoluzzjoni billi jnaqqas l-ammont tal-penali mitluba lill-Qorti kontra l-intrapriża u, jew l-għaqda ta' intrapriži bil-perċentwali ta' bejn għaxra fil-mija u ħamsa u tletin fil-mija.

(10) Id-Direttur Ġenerali jista' jiddeċiedi, fid-diskrezzjoni tiegħu f'kull żmien waqt id-diskussjonijiet ta' riżoluzzjoni, li jwaqqaf il-proċedura ta' riżoluzzjoni għalkollox f'każ speċifiku jew fir-rigward ta' wieħed jew aktar mill-partijiet involuti, jekk, pereżempju:

(a) l-effiċjenzi proċedurali x'aktarx mhux ser jintlaħqu; jew

(b) is-sottomissjonijiet riżoluttivi ma jkunx fihom ir-rekwiziti kollha msemmija fis-subartikolu (7); jew

(ċ) l-intrapriża u, jew l-għaqda ta' intrapriži ma jkollhomx l-intenzjoni sinċiera sabiex jirrisolvu l-każ jew ma jikkoperawx jew jiksru l-obbligu ta' kunfidenzjalità billi jiżvelaw lil xi terza persuna, il-kontenut tal-laqgħat tar-riżoluzzjoni li jinżammu mad-Direttur Ġenerali jew tal-kontenut tad-dokumenti li għalihom jingħata l-aċċess:

Iżda fil-każ meta d-Direttur Ġenerali jwaqqaf id-diskussjonijiet ta' riżoluzzjoni għal kwalunkwe raġuni kif inniżżel f'dan is-subartikolu, jew f'każ li fih l-intrapriża u, jew l-għaqda ta' intrapriži konċernati jew id-Direttur Ġenerali, skont il-każ, jirtiraw jew iwaqqfu l-proċedura ta' riżoluzzjoni kif inniżżel fis-subartikoli (5) u (8), il-każ jitkompla minn dak l-istadju li fih l-investigazzjoni jew il-proċedimenti jkunu waslu.

(11) Jekk il-proċedura ta' riżoluzzjoni ma titkompliex mid-Direttur Ġenerali jew mill-intrapriża u, jew mill-għaqda ta' intrapriži konċernati waqt li għaddejja investigazzjoni quddiem l-Uffiċċju jew waqt proċedimenti quddiem il-Qorti meta huma kienu qegħdin jipprovaw jirrisolvu t-tilwima, kull informazzjoni u dokument provdut mill-intrapriża, u, jew mill-għaqda ta' intrapriži konċernati waqt il-proċeduri ta' riżoluzzjoni ma jistgħux jintużaw bħala evidenza sabiex jiġi pprovat ksur tal-artikoli 5, u, jew 9 tal-Att, u, jew ksur tal-Artikoli 101 u, jew 102 tat-TFUE kontra l-intrapriża u, jew l-għaqda ta' intrapriži konċernati jew partijiet oħra fl-investigazzjoni quddiem kull qorti tal-ġustizzja oħra:

Iżda d-dispożizzjoni ta' dan is-subartikolu hija mingħajr ħsara għas-subregolament (4)(ċ) tar-regolament 6 tar-Regolamenti dwar Ksur tal-Liġi tal-Kompetizzjoni (Azzjonijiet għad-Danni) li jinsabu fl-Iskeda:

Iżda wkoll id-dokumenti u, jew l-informazzjoni li kienu diġà fil-pussess tal-Uffiċċju qabel ma ġew ipprezentati mill-intrapriża u, jew mill-għaqda ta' intrapriži konċernati, u kull informazzjoni li tista' tkun mitluba mill-Uffiċċju skont l-artikolu 12 tal-Att, jistgħu jintużaw bħala evidenza mill-Uffiċċju u quddiem kull qorti tal-gustizzja sabiex jinstab ksur tal-artikoli 5, u, jew 9 tal-Att, u, jew ksur tal-Artikoli 101 u, jew 102 tat-TFUE kontra l-intrapriża, u, jew għaqda ta' intrapriži konċernati jew kontra partijiet oħra fl-investigazzjoni."

Sostituzzjoni tal-artikolu 12Ċ tal-Att prinċipali.

**37.** L-artikolu 12Ċ tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Rabtiet.

12Ċ. (1) Minflok tagħti sentenza li ssib ksur skont l-artikolu 13(1), il-Qorti tista' tagħti sentenza li tiddikjara li r-rabtiet offruti mill-intrapriża u, jew mill-għaqda ta' intrapriži konċernati involuta fi ksur suspettat ikunu vinkolanti, u dan jekk ir-rabtiet huma tali li jwasslu sabiex is-suspettat ksur jiġi tterminat u meta dawk ir-rabtiet jilhqgħu t-thassib dwar il-kompetizzjoni espressi f'dak il-każ:

Iżda meta tagħti sentenza, il-Qorti ma għandha timponi ebda penali u ma għandhiex tispeċifika jekk kienx hemm ksur tal-artikoli 5, u, jew 9 tal-Att u, jew l-Artikoli 101 u, jew 102 tat-TFUE.

(2) Ir-rabtiet ma japplikawx meta s-suspettat ksur jikkonċerna kartelli sigrieti jew kull xort'oħra ta' ftehim, deċiżjonijiet jew prattiċi miftiehma li jinvolvu l-iffissar tal-prezzijiet, il-qsim tas-suq jew limitazzjoni tal-produzzjoni:

Iżda fil-każijiet kollha l-oħra, il-Qorti għandha tevalwa każ b'każ wara li tikkunsidra s-sottomissjonijiet kollha tal-partijiet fil-proċedimenti, u kull kumment ta' terza persuna kif jinstab fis-subartikolu (5) dwar jekk ir-rabtiet humiex l-aktar miżuri xierqa sabiex jiġi indirizzat is-suspettat ksur f'dak il-każ partikolari.

(3) Is-sentenza tista' tipprovdi li dawk ir-rabtiet jistgħu jiġu adottati għal perjodu speċifiku ta' żmien u għandha tikkonkludi li ma jkunx hemm bażi għalfejn id-Direttur Ġenerali għandu jaġixxi kontra l-intrapriża, u, jew l-għaqda ta' intrapriži konċernati.

(4) Meta l-Qorti jkollha l-intenzjoni li tagħti sentenza skont is-subartikolu (1) u taċċetta r-rabtiet proposti, hija għandha tfittex il-fehmiet tal-partecipanti tas-suq billi tippubblika, fuq il-Gazzetta, taqsira konċiża tal-każ u l-kontenut prinċipali tar-rabtiet jew tal-pjan ta' azzjoni propost, b'kunsiderazzjoni tal-interessi legittimi tal-intrapriži kif ukoll tal-protezzjoni ta' sigrietan-negozju u informazzjoni kunfidenzjali oħra.

(5) Kull parti interessata tista' tissottometti l-osservazzjonijiet tagħha fil-proċess tal-kawża f'dak iż-żmien iffissat mill-Qorti fil-pubblikazzjoni tagħha:

Iżda d-Direttur Ġenerali u l-intrapriża u, jew l-għaqda ta' intrapriži konċernati għandhom jiġu nnotifikati u għandhom jingħataw kopja tal-kummenti ta' terzi persuni.

(6) Il-Qorti għandha terġa' tiftaħ il-proċedimenti fuq rikors ġuramentat tad-Direttur Ġenerali, biss meta:

(a) ikun hemm bidla materjali fi kwalunkwe fatt li fuqu giet ibbażata s-sentenza; jew

(b) l-intrapriża u, jew l-għaqda ta' intrapriži konċernati mxew kontra r-rabtiet tagħhom; jew

(ċ) is-sentenza kienet ibbażata fuq tagħrif mhux komplut, mhux korrett jew qarrieqi mogħti mill-intrapriża, u, jew mill-għaqda ta' intrapriži konċernati."

38. L-artikolu 12D tal-Att prinċipali għandu jiġi mħassar.

Thassir tal-artikolu 12D tal-Att prinċipali.

39. L-artikolu 13 tal-Att prinċipali għandu jiġi sostitwit b'dan li

Sostituzzjoni tal-artikolu 13 tal-Att prinċipali.

gġej:

"Sejbien ta' ksur mill-Qorti.

13. (1) Il-Qorti tista' tagħti sentenza li biha ssib li seħħ ksur tal-artikoli 5, u, jew 9 tal-Att, u, jew ksur tal-Artikoli 101 u, jew 102 tat-TFUE.

(2) Jekk meta tisma' l-każ, il-Qorti ma ssibx ksur tal-artikoli 5 u, jew 9 tal-Att, hija għandha tagħti sentenza għal dan il-għan:

Iżda jekk il-Qorti tikkonkludi li s-suspettat ksur ma jinvolvi ksur tal-Artikoli 101 u, jew 102 tat-TFUE, il-Qorti għandha tiddikjara fis-sentenza tagħha li ma hemmx bażi għal azzjoni skont l-Artikolu 5 tar-Regolament tal-Kunsill (KE) Nru 1/2003."

Sostituzzjoni tal-artikolu 13A tal-Att prinċipali.

**40.** L-artikolu 13A tal-Att prinċipali għandu jiġi sostitwit b'dan li gġej:

"Ordni ta' Waqfien u Ebda Tkomplija u Ordni ta' Konformità.

13A. (1) Fis-sentenza tagħha, il-Qorti tista' toħroġ ordni ta' waqfien u ebda tkomplija li bih tordna lill-intrapriża u, jew lill-għaqda ta' intrapriži konċernati sabiex tieqaf u ma tkomplix tipparteċipa f'tali ftehim, deċiżjoni, prattika jew imġiba, u, jew toħroġ ordni ta' konformità li tippreskrivi ir-rimedji fl-imġiba jew rimedji ta' struttura indirizzati lill-intrapriża u, jew lill-għaqda ta' intrapriži konċernati bil-għan li jwaqqfu l-ksur b'mod immedjat u effettiv.

(2) Kull rimedju fl-imġiba jew rimedju ta' struttura indikat f'ordni ta' konformità għandu jkun proporzjonat għall-ksur li jkun sar meħtieġ sabiex iwaqqaf il-ksur b'mod effettiv.

(3) Ir-rimedji ta' struttura indikati f'ordni ta' konformità jistgħu jkunu imposti biss meta ma jkun hemm ebda rimedju fl-imġiba li jkun daqstant effettiv jew meta xi rimedju fl-imġiba li jkun daqstant effettiv ikun aktar ta' piż għall-intrapriża involuta mir-rimedju ta' struttura."

Żieda ta' artikolu 13B għid mal-Att prinċipali.

**41.** Minnufih wara l-artikolu 13A tal-Att prinċipali għandu

jizdied l-artikolu ġdid li ġejj:

"Proċedura quddiem il-Qorti u appelli mid-deċiżjonijiet tagħha.

13B. (1) Id-Direttur Ġenerali u kull parti fil-proċedimenti quddiem il-Qorti li jhossu hom aggravati bis-sentenza tal-Qorti mogħtija skont dan l-Att, jistgħu jappellaw fuq punti ta' dritt u, jew ta' fatt quddiem il-Qorti tal-Appell permezz ta' rikors ippreżentat fir-registru ta' dik il-qorti fi żmien għoxrin jum mid-data tas-sentenza ta' dik il-qorti:

Iżda l-Qorti tal-Appell għandha tappunta l-każ għas-smiġħ sa mhux aktar tard minn sitt xhur mid-data tan-notifika tar-rikors tal-appell lill-partijiet kollha.

(2) Jekk waqt investigazzjoni d-Direttur Ġenerali jiftaħ proċedimenti skont l-artikolu 12A(4) tal-Att fir-rigward ta' talbiet għal informazzjoni, il-produzzjoni ta' dokumenti jew it-twettiq ta' spezzjonijiet, il-Qorti għandha tara li tagħti sentenza fl-iqsar żmien possibbli malli tisma' l-partijiet:

Iżda appell minn dik is-sentenza kif imsemmija f'dan is-subartikolu għandu jsir biss wara li tkun ingħatat sentenza definittiva skont l-artikoli 12Ċ jew 13 tal-Att u flimkien ma' appell minn dik is-sentenza definittiva. Is-sentenza msemmija f'dan is-subartikolu ma tistax tigi kkontestata qabel ma tingħata s-sentenza definittiva:

Iżda wkoll, jekk wara investigazzjoni d-Direttur Ġenerali ma jipproċedix biex jiftaħ proċedimenti skont l-artikolu 12A(1) tal-Att, id-Direttur Ġenerali għandu jinforma lill-intrapriża u, jew lill-għaqda ta' intrapriži konċernati, li għandu jkollhom għoxrin jum min-notifika ta' dan il-fatt mid-Direttur Ġenerali sabiex jappellaw mis-sentenza mogħtija mill-Qorti skont dan is-subartikolu.

(3) L-intrapriża jew l-għaqda ta' intrapriži konċernati, id-Direttur Ġenerali jew min għamel l-ilment jistgħu jitolbu lill-Qorti sabiex tismagħhom bil-magħluq meta s-sottomissjonijiet li jkunu se jsiru jew l-evidenza li tkun se tigi prodotta huma ta' natura kunfidenzjali jew jinkludu sigrieti tan-negozju.

(4) Fil-każijiet kollha li jinvolvu l-applikazzjoni tal-Artikolu 101 u, jew 102 tat-TFUE, il-Kummissjoni Ewropea għandha d-dritt li tagħmel is-sottomissjonijiet fuq kull kwistjoni quddiem il-Qorti.

(5) (a) Għandhom jiġu pprezentati verżjonijiet kunfidenzjali u mhux kunfidenzjali ta' kull sottomissjonijiet bil-miktub u tal-evidenza dokumentarja li jingiebu quddiem il-Qorti; u

(b) Il-Qorti għandha tivverifika l-kunfidenzjalità jew xort'oħra tal-informazzjoni pprezentata.

Kap. 12.

(6) Bla ħsara għad-dispożizzjonijiet ta' dan l-Att, id-dispożizzjonijiet tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandhom, *mutatis mutandis*, japplikaw għall-infurzar tas-sentenzi u għall-proċedimenti ġudizzjarji kollha mibdija skont dan l-Att quddiem il-Qorti, u l-Qorti tal-Appell.

(7) Meta tagħti s-sentenzi u d-digriet skont id-dispożizzjonijiet ta' dan l-Att, il-Qorti tista' tirrikorri għas-sentenzi tal-Qorti tal-Ġustizzja tal-Unjoni Ewropea, għal deċiżjonijiet u stqarrijiet rilevanti tal-Kummissjoni Ewropea, inklużi avvizi interpretattivi fuq id-dispożizzjonijiet rilevanti tat-TFUE u tal-legiżlazzjoni sekondarja relatati mal-kompetizzjoni u tista' wkoll tirreferi għad-deċiżjonijiet tagħha u tat-Tribunal tal-Appell għall-Kompetizzjoni u għall-Konsumatur u tal-Kummissjoni għall-Kummerċ Ġust."

Emenda tal-artikolu 14 tal-Att prinċipali.

**42.** L-artikolu 14 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) in-nota marginali tiegħu għandha tiġi sostitwita bil-kliem "Tmexxija tal-ilmenti.";

(b) is-subartikolu (2) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(2) Meta d-Direttur Ġenerali jikkunsidra li, fuq il-bażi ta' informazzjoni fil-pussess tiegħu, m'hemmx raġunijiet suffiċjenti sabiex jaġixxi fuq ilment jew jonqos għal xi raġuni oħra milli jinvestiga lment kontra intrapriża u, jew għaqda ta' intrapriži konċernati skont l-Att, huwa għandu jinforma b'dan lil min għamel l-ilment.";

(ċ) is-subartikolu (3) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(3) Jekk id-Direttur Ġenerali jikkunsidra li m'hemmx raġunijiet suffiċjenti sabiex jaġixxi fuq ilment jew jonqos milli jinvestiga xi lment skont l-Att kif imsemmi fis-subartikolu preċedenti, min jagħmel l-ilment ikun jista' jippreżenta rikors ġuramentat fil-Qorti, fi żmien għoxrin jum minn meta jiġi nnotifikat bid-deċiżjoni tad-Direttur Ġenerali, sabiex jitlob lill-Qorti sabiex tinħareġ ordni lid-Direttur Ġenerali sabiex jaġixxi fuq l-ilment jew jinvestiga l-ilment skont l-Att kontra l-intrapriża u, jew l-għaqda ta' intrapriži konċernati:

Izda jekk wara li tisma' l-evidenza ta' min jagħmel l-ilment u tad-Direttur Ġenerali l-Qorti tkun sodisfatta li l-ilment huwa ġustifikat u, jew li d-Direttur Ġenerali ma għandux raġunijiet legittimi għaliex naqas milli jaġixxi fuq ilment jew li jinvestiga lment, il-Qorti għandha tagħti sentenza li biha tordna lid-Direttur Ġenerali jibda l-investigazzjoni jew johroġ kull ordni oħra li l-Qorti jidhrilha xierqa f'dak il-każ.";

(d) is-subartikolu (4) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(4) Kull parti fil-proċedimenti quddiem il-Qorti li tħossha aggravata bis-sentenza tal-Qorti mogħtija skont is-subartikolu (3), tista' tappella fuq punti ta' dritt u, jew ta' fatt quddiem il-Qorti tal-Appell permezz ta' rikors ippreżentat fir-reġistru ta' dik il-qorti fi żmien għoxrin jum mid-data tas-sentenza tal-Qorti."; u

(e) is-subartikoli (5) sa (10) tiegħu għandhom jiġu mħassra.

43. L-artikolu 14Ċ tal-Att prinċipali għandu jiġi mħassar.

Thassir tal-artikolu 14Ċ tal-Att prinċipali.

44. L-artikolu 15 tal-Att prinċipali għandu jiġi sostitwit b'dan li

Sostituzzjoni tal-artikolu 15 tal-Att prinċipali.

gej:

"Miżuri  
*interim*."

15. (1) Il-Qorti għandha, fuq rikors ippreżentat mid-Direttur Ġenerali, f'każijiet ta' urġenza minhabba f'riskju li ssir ħsara serja u irreparabbli lill-kompetizzjoni fuq il-bażi ta' sejba ta' ksur *prima facie* tal-artikoli 5 u, jew 9 tal-Att u, jew tal-Artikoli 101 u 102 tat-TFUE, toħroġ miżuri *interim* fuq kull intrapriża u, jew għaqda ta' intrapriži konċernati kif hija tqis xieraq fiċ-ċirkostanzi:

Iżda l-miżuri *interim* maħruġa skont din id-dispożizzjoni għandhom ikunu proporzjonati u għandhom japplikaw għal perjodu speċifiku jew sas-sentenza finali tal-Qorti fuq il-mertu tal-każ:

Iżda wkoll, il-miżuri *interim* jistgħu jiġu mgeġda mill-Qorti sa fejn huwa meħtieġ u neċessarju fuq rikors ippreżentat mid-Direttur Ġenerali fil-Qorti.

(2) Ir-rikors ippreżentat mid-Direttur Ġenerali skont is-subartikolu (1) għandu jiddikjara l-fatti kollha magħrufa minnu u r-raġunijiet għaliex huwa jqis li l-impożizzjoni ta' miżuri *interim* hija meħtieġa fil-każ. Dak ir-rikors għandu wkoll jinkludi s-sottomissjonijiet kollha li għandhom isiru flimkien mad-dokumenti kollha li jsostnu t-talba li ġiet ippreżentata.

(3) Il-konvenut għandu jippreżenta nota fi żmien tmint ijiem mid-data tan-notifika tar-rikors, liema risposta tkun tinkludi s-sottomissjonijiet kollha flimkien mad-dokumenti kollha li jsostnu r-risposta li tkun qiegħda tiġi ppreżentata.

(4) Il-Qorti għandha tiddeċiedi r-rikors b'urġenza *in camera* jew wara li tisma' lill-partijiet, jekk hekk tħoss xieraq, iżda ma għandhiex tkun iffissata aktar minn seduta waħda għal dan il-għan.

(5) Jista' jsir appell mill-miżuri *interim* imposti mill-Qorti skont is-subartikolu (1) b'rikors preżentat fil-Qorti tal-Appell fi żmien sitt ijiem mid-data ta' dak id-digriet dwar il-legalità, inkluża l-proporzjonalità tal-miżuri *interim*, u l-parti li kontra tagħha dan ir-rikors huwa ppreżentat għandha tirrispondi għalih fi żmien sitt ijiem mid-data tan-notifika tar-rikors.

(6) Il-Qorti tal-Appell għandha tiddeċiedi fuq ir-rikors skont is-subartikolu (5) b'mod spedjenti."

45. L-artikoli 17 u 18 tal-Att prinċipali għandhom jiġu mħassra.

Thassir tal-artikoli 17 u 18 tal-Att prinċipali.

46. L-artikolu 19 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 19 tal-Att prinċipali.

"Pubblikazzjoni ta' sentenzi u digrieti.

19. (1) Meta tippubblika s-sentenzi u d-digrieti, il-Qorti għandha tqis l-interess legittimu tal-intrapriżi konċernati fir-rigward tal-protezzjoni tas-sigrieti tan-negozju jew informazzjoni kunfidenzjali oħra. Il-Qorti tista' tagħti lill-partijiet konċernati l-opportunità li jispeċifikaw il-partijiet kunfidenzjali tas-sentenza jew tad-digriet li huma jixtiequ li jkunu esklużi mill-pubblikazzjoni:

Iżda l-Qorti għandha fl-aħħar mill-aħħar tiddeċiedi liema verżjoni għandha tiġi ppubblikata.

(2) Id-Direttur Ġenerali għandu wkoll jippubblika avviż fuq is-sit elettroniku tal-Awtorità li biha jiġi ddikjarat li ġie pprezentat rikors ġuramentat skont l-artikolu 12A, wara li jitqies l-interess legittimu tal-intrapriżi fir-rigward tal-protezzjoni tas-sigrieti tan-negozju u informazzjoni kunfidenzjali oħra. Il-pubblikazzjoni tista' tinkludi l-ismijiet tal-intrapriża u, jew tal-għaqda ta' intrapriżi li kontra tagħha d-Direttur Ġenerali jkun ipprezenta r-rikors ġuramentat, kif ukoll deskrizzjoni qasira tat-tip ta' allegat ksur kif ukoll tas-settur tan-negozju affettwat."

47. L-artikolu 21 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 21 tal-Att prinċipali.

"Penali.

21. (1) Il-Qorti għandha timponi penali ta' mhux aktar minn għaxra fil-mija tad-dhul totali tal-intrapriża u, jew għaqda ta' intrapriżi konċernati fis-sena ta' negozju ta' qabel għal kull wieħed mill-ksur li fih l-intrapriża u, jew għaqda ta' intrapriżi, b'intenzjoni jew b'negligenza:

(a) tikser id-dispożizzjonijiet tal-artikoli 5 u, jew 9 tal-Att; u, jew

(b) tikser l-Artikoli 101 u, jew 102 tat-TFUE:

Iżda meta ksur magħmul minn għaqda ta' intrapriżi jkun jirrigwarda l-attivitajiet tal-membri tagħha, il-penali ma għandhiex tkun aktar minn għaxra fil-mija tad-dħul annwali totali ta' kull membru attiv fis-suq affettwat mill-ksur magħmul mill-għaqda ta' intrapriżi.

(2) (a) Meta tagħti sentenza li biha ssib ksur tal-artikoli 5 u, jew 9 tal-Att u, jew tal-Artikoli 101 u, jew 102 tat-TFUE, il-Qorti timponi penali fuq l-għaqda ta' intrapriżi li fiha tqis id-dħul tan-negozju annwali tal-membri tagħha, u l-għaqda ta' intrapriżi tkun insolventi, il-Qorti għandha tordna lill-għaqda ta' intrapriżi toħroġ sejha għall-kontribuzzjonijiet mill-membri tagħha sabiex tkun tista' tkopri l-ammont tal-penali dovuta fiż-żmien iffissat mill-Qorti:

Iżda fis-sentenza l-Qorti tista' wkoll tispeçifika fis-sentenza tagħha li jekk il-kontribuzzjonijiet imsemmija fil-paragrafu (a) ma jsirux lill-għaqda ta' intrapriżi fiż-żmien iffissat mill-Qorti, il-pagament tal-penali għandu jsir direttament minn kwalunkwe intrapriża li kellha r-rappreżentanti tagħha membri tal-korpi li jieħdu d-deciżjonijiet tal-għaqda ta' intrapriżi:

Iżda wkoll, fis-sentenza l-Qorti tista' wkoll tispeçifika fis-sentenza tagħha li meta l-applikazzjoni tal-proviso precedenti ma tkunx biżżejjed sabiex jiġi żgurat il-ħlas sħiħ tal-penali, il-ħlas tal-bilanç għandu jsir minn kull membru tal-għaqda ta' intrapriżi li kienu attivi fis-suq li fih seħħ il-ksur.

(b) Il-provisos preċedenti ta' dan is-subartikolu ma għandhomx japplikaw kontra dawk l-intrapriži li juru li huma ma implimentawx id-deċiżjoni illegali tal-għaqda ta' intrapriži u li huma ma kinux jafu bl-eżistenza tagħha jew li huma naqsu attivament milli jkollhom x'jaqsmu ma' dik id-deċiżjoni minn qabel ma d-Direttur Ġenerali beda jinvestiga l-każ.

(ċ) Ir-responsabbiltà finanzjarja ta' kull intrapriża fir-rigward tal-ħlas tal-penali ma għandhiex tkun iktar minn għaxra fil-mija tad-dħul totali tagħha fis-sena tan-negozju preċedenti.

(3) (a) Is-subartikolu (1) għandu japplika, *mutatis mutandis*, meta intrapriża u, jew għaqda ta' intrapriži, b'intenzjoni jew b'negligenza:

(i) tonqos milli timxi ma' ordni ta' waqfien u ebda tkomplija u, jew ordni ta' konformità skont l-artikolu 13A;

(ii) tonqos milli timxi ma' miżura *interim* skont l-artikolu 15;

(iii) tonqos milli timxi ma' rabta magħmula vinkolanti skont l-artikolu 12Ċ;

(b) Meta dan is-subartikolu jiġi applikat għal għaqda ta' intrapriži, is-subartikolu (2) għandu, *mutatis mutandis*, japplika.

(4) (a) Sabiex tiddetermina l-ammont tal-penali, il-Qorti għandha tiegħu f'konsiderazzjoni l-gravità u d-dewmien tal-ksur u kull ċirkostanza aggravanti jew attenwanti.

(b) Iċ-ċirkostanzi aggravanti jinkludu:

(i) li l-Qorti kienet diġà imponiet penali fuq l-istess intrapriża jew għaqda ta' intrapriži għall-istess ksur jew għal wieħed simili;

(ii) li l-intrapriża jew għaqda ta' intrapriži konċernati kienet diġà wettqet ksur skont l-artikoli 5 u, jew 9 ta' dan l-Att u, jew l-Artikoli 101 u, jew 102 tat-TFUE skont deċiżjoni jew sentenza li saret *res judicata*;

(iii) il-fatt li l-intrapriża jew l-għaqda ta' intrapriži kellha rwol ewlieni, bħala awtriċi jew provokatrici;

(iv) miżuri koersivi jew ta' ritaljazzjoni meħuda kontra intrapriži ohra li jkunu mmirati li jiżguraw it-tkomplija tal-ksur.

(ċ) Iċ-ċirkostanzi attenwanti jinkludu:

(i) li l-involviment tal-intrapriża jew tal-għaqda ta' intrapriži fil-ksur kien sostanzjalment limitat;

(ii) li l-intrapriża jew l-għaqda ta' intrapriži waqqfet il-ksur minn jeddha;

(iii) li l-intrapriża jew l-għaqda ta' intrapriži tat kontribut sinifikanti sabiex jinkixef il-ksur;

(iv) li l-intrapriża aġixxiet taħt pressjoni jew giet imġiegħla.

(5) Il-Qorti tista' timponi penali ta' mhux anqas minn elf u ħames mitt euro (€1,500) u mhux aktar minn tletin elf euro (€30,000) meta xi persuna, intrapriża u, jew għaqda ta' intrapriži, b'intenzjoni jew b'negligenza, waqt li għaddejja investigazzjoni skont l-artikolu 12 tal-Att jew waqt li għaddejja xi inkjesta settorjali skont l-artikolu 11A tal-Att:

(a) tagħti xi informazzjoni falza, mhux preċiża jew qarrieqa; jew

(b) tipproduċi jew tagħti, jew tikkawża jew xjentement thalli li jiġi prodott jew mogħti xi dokument jew informazzjoni li hija tkun taf li tkun falza f'xi dettall sostanzjali; jew

(ċ) tipprevjeni milli ssir jew ixxejjel xi investigazzjoni jew inkjesta settorjali.

(6) Il-Qorti tista' timponi penali ta' mhux anqas minn għaxart elef euro (€10,000) u mhux aktar minn ħamsin elf euro (€50,000) meta xi persuna, intrapriża u, jew għaqda ta' intrapriži, waqt li għaddejja investigazzjoni skont l-artikolu 12:

(a) tonqos milli toqgħod għal spezzjoni u, jew tfixkel lid-Direttur Ġenerali u, jew l-uffiċjali tiegħu u, jew kull persuna oħra awtorizzata jew imqabbda mid-Direttur Ġenerali sabiex teżercita s-setgħat mogħtija skont mandat mahruġ skont l-artikolu 12(7)(a) tal-Att; jew

(b) tikser xi sigilli affissi minn uffiċjali jew persuni oħra li jakkumpanjaw kif awtorizzati mid-Direttur Ġenerali waqt spezzjoni.

(7) (a) Il-Qorti tista' wkoll, b'zieda mal-penali msemmija fis-subartikoli (1), (3), (5) jew (6), tordna lill-intrapriża u, jew lill-għaqda ta' intrapriži timxi ma' kull ordni maħruġa mill-Qorti fl-iqsar żmien possibbli imma f'kull każ sa mhux aktar tard minn sebat (7) ijiem mid-data tal-imsemmija sentenza. Jekk l-intrapriża u, jew l-għaqda ta' intrapriži tonqos milli timxi ma' kull ordni bħal dik fi żmien iffissat mill-Qorti, il-Qorti tkun tista' timponi, kontra l-intrapriża u, jew l-għaqda ta' intrapriži konċernati, pagament perjodiku ta' penali li ma jkunx iktar minn ħamsa fil-mija tal-medja tad-dħul ta' kuljum tas-sena tan-negozju preċedenti tal-intrapriża u, jew l-għaqda ta' intrapriži konċernati, u dan għal kull jum ta' nuqqas li fih l-intrapriża jew l-għaqda ta' intrapriži tonqos milli tikkonforma mal-obbligazzjoni tagħha, liema pagament perjodiku ta' penali jibda jgħodd mat-tmiem taż-żmien iffissat mill-Qorti fis-sentenza li biha tordnalha jew tordnalhom:

(i) jimxu ma' ordni ta' waqfien u ebda tkompliġa u, jew ordni ta' konformità skont l-artikolu 13A;

(ii) jimxu ma' miżuri *interim* skont l-artikolu 15;

(iii) jimxu ma' rabta magħmula vinkolanti skont l-artikolu 12Ċ;

(iv) joqogħdu għal spezzjoni u jipproduċu oġġetti, dokumenti jew *records* oħra mitluba kif imsemmi fl-artikolu 12;

(v) bla ħsara għat-tieni proviso tal-artikolu 12(2)(a), jipprovdu informazzjoni kompluta b'risposta għal talba għal informazzjoni kif imsemmi fl-artikoli 12 u 11A;

(vi) jipprovdu informazzjoni korretta u, jew jipproduċu d-dokumenti mitluba b'risposta għal talbiet għal informazzjoni kif imsemmija fl-artikoli 12 u 11A;

(vii) jieqfu milli jimxu skont kull imġiba oħra li tfixkel investigazzjoni jew inkjesta settorjali u, jew li jirrimedjaw għal kull att jew omissjoni.

(b) Meta l-intrapriża jew l-għaqda ta' intrapriži konċernati timxi mal-obbligazzjonijiet skont is-subartikolu (7)(a), il-Qorti tkun tista' tiffissa ammont definittiv għall-pagament perġodiku ta' penali, liema ammont ikun anqas minn dak iffissat mill-Qorti fid-deċiżjoni oriġinali tagħha.

(ċ) Meta jiġi applikat dan is-subartikolu għal għaqda ta' intrapriži, is-subartikolu (2) għandu, *mutatis mutandis*, japplika.

(8) Meta tiġi biex tiddetermina l-penali skont dan l-artikolu, il-Qorti għandha, meta teżercita d-diskrezzjoni tagħha, tiżgura li l-penalitajiet imposti huma effettivi, proporzjonati u disważivi.

(9) Ir-responsabbiltà għall-pagament tal-penali skont dan l-artikolu għandha tkun mingħajr preġudizzju għal kull responsabbiltà oħra li persuna, intrapriża u, jew għaqda ta' intrapriži tista' tkun soġġetta għaliha skont kull liġi oħra li tkun."

Thassir tal-artikoli 21A sal-artikolu 26 tal-Att prinċipali.

**48.** L-artikoli 21A sal-artikolu 26 tal-Att prinċipali għandhom jiġu mħassra.

49. L-artikolu 26A tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 26A tal-Att prinċipali.

(a) in-nota marginali tiegħu għandha tiġi sostitwita bil-kliem "Preskrizzjoni għall-impożizzjoni ta' penalitajiet.";

(b) is-subartikolu (1) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(1) Penali skont l-artikolu 21 tal-Att għandha tkun imposta biss jekk proċedimenti ġudizzjarji dwar ksur ikkontemplat fl-Att ġew mibdija fi żmien ħames snin wara li jispicċa l-ksur:

Iżda f'każ ta' ksur ta' dan l-Att li jirrigwarda talbiet għall-informazzjoni, l-għotja ta' dokumenti u t-twettiq ta' spezzjonijiet, penali skont l-artikolu 21 tal-Att għandha tkun imposta biss jekk inbdew proċedimenti ġudizzjarji fi żmien tliet snin wara l-waqfien tal-ksur.";

(c) is-subartikolu (2) tiegħu għandu jiġi mħassar;

(d) is-subartikolu (3) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(3) Il-perjodu ta' preskrizzjoni għall-impożizzjoni ta' penalitajiet għandu jiġi interrott b'kull għemil tad-Direttur Ġenerali jew, f'każ ta' applikazzjoni tal-Artikoli 101 u 102 tat-TFUE, ukoll b'kull azzjoni tal-Kummissjoni Ewropea jew ta' awtorità għall-kompetizzjoni ta' Stat Membru bil-għan li jinvestigaw jew jinbdew proċedimenti għall-ksur. Il-perjodu ta' preskrizzjoni għandu jiġi interrott b'effett mid-data li fiha l-azzjoni tkun ġiet notifikata lil tal-anqas intrapriża waħda jew għaqda ta' intrapriži li tkun ippartecipat fil-ksur.";

(e) is-subartikolu (4) tiegħu għandu jiġi emendat kif ġej:

(i) fil-paragrafu (ii) il-kliem "il-ħruġ ta' awtorizzazzjoni bil-miktub iffirmata mid-Direttur Ġenerali jew ta'" għandhom jiġu mħassra;

(ii) fil-paragrafu (iv) il-kliem "in-notifika ta' stqarrija ta' oġġezzjonijiet magħmula skont l-artikolu 12A jew" għandhom jiġu mħassra; u

(f) is-subartikolu (7) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(7) Il-perjodu ta' preskrizzjoni għall-impożizzjoni ta' penaltajiet għandu jiġi sospiż matul iż-żmien li fih ikunu għadhom pendenti proċedimenti quddiem il-Qorti jew quddiem il-Qorti tal-Appell skont id-dispożizzjonijiet ta' dan l-Att."

Emenda tal-artikolu 27 tal-Att prinċipali.

**50.** Is-subartikolu (1) tal-artikolu 27 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) il-kliem "Meta quddiem xi qorti ta' ġurisdizzjoni ċivili" għandhom jiġu sostitwiti bil-kliem "Mingħajr preġudizzju għad-dispożizzjonijiet tal-artikoli 3 u 12A(1), meta quddiem xi qorti oħra ta' ġurisdizzjoni ċivili li mhijiex il-Qorti Ċivili (Sezzjoni tal-Kummerċ)"; u

(b) fil-proviso tiegħu, il-kliem "il-qorti għandha ssegwi dik id-deċiżjoni." għandhom jiġu sostitwiti bil-kliem "il-qorti għandha ssegwi dik id-deċiżjoni:" u minnufih wara għandu jiżdied il-proviso ġdid li ġej:

"Iżda wkoll meta l-kwistjoni ta' kompetizzjoni mqajma quddiem xi qorti ta' ġurisdizzjoni ċivili hija diġà soġġetta għal proċedimenti mibdija mid-Direttur Ġenerali quddiem il-Qorti jew se tkun soġġetta għal proċedimenti quddiem il-Qorti f'xi mument kif kontemplat fl-Att, kull qorti oħra ta' ġurisdizzjoni ċivili fejn tqajmet il-kwistjoni ta' kompetizzjoni msemmija fis-subartikolu (1) għandha tissospendi l-proċeduri."

Emenda tal-artikolu 28 tal-Att prinċipali.

**51.** Il-verżjoni Ingliża tan-nota marginali tal-artikolu 28 tal-Att prinċipali għandha tiġi sostitwita bil-kliem "It shall not be lawful to issue any precautionary warrant."

Emenda tal-artikolu 31 tal-Att prinċipali.

**52.** Fl-artikolu 31 tal-Att prinċipali l-kliem "membru tat-Tribunal tal-Appell," għandhom jiġu mħassra.

Żieda ta' artikolu 31A ġdid mal-Att prinċipali.

**53.** Minnufih wara l-artikolu 31 tal-Att prinċipali għandu jiġi miżjud dan l-artikolu ġdid li ġej:

"Kawżi.  
Kap. 12.

31A. It-tariffi msemmija fl-Iskeda A tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandhom japplikaw għall-kawżi mibdija skont id-dispożizzjonijiet ta' dan l-Att."

Emenda tal-artikolu 33 tal-Att prinċipali.

**54.** L-artikolu 33 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1)(a) tiegħu, il-kliem "u in konnessjoni ma' proċeduri quddiem il-Kummissjoni" għandhom jiġu mħassra; u

(b) fis-subartikolu (2)(b) tiegħu, il-kliem "it-Tribunal tal-Appell," għandhom jiġu sostitwiti bil-kliem "il-Qorti".

Taqsimha IV

Emendi għall-Att dwar l-Organizzazzjonijiet Volontarji

**55.** Din it-Taqsimha temenda l-Att dwar l-Organizzazzjonijiet Volontarji u għandha tinqara u tinftiehem haġa waħda mal-Att dwar l-Organizzazzjonijiet Volontarji, hawn aktar 'il quddiem f'din it-Taqsimha msejjaħ "l-Att prinċipali".

Emendi għall-Att dwar l-Organizzazzjonijiet Volontarji. Kap. 492.

**56.** Fl-artikolu 35(4)(a)(ii) tal-Att prinċipali, il-kliem "u Bżonnijiet Speċjali" għandhom jiġu sostitwiti bil-kliem "u Diżabilità".

Emenda tal-artikolu 35 tal-Att prinċipali.

**57.** Minnufih wara l-artikolu 41 tal-Att prinċipali għandu jidhol dan l-artikolu l-ġdid li ġej:

Zieda ta' artikolu ġdid 42 mal-Att prinċipali.

"Dispożizzjoni transitorja. 42. L-artikolu 35, li jistabbilixxi l-Kunsill Malti għas-Settur tal-Volontarjat kif kien fis-sehħ qabel id-dhul fis-sehħ tal-Att tal-2018 li jemenda l-Att dwar l-Organizzazzjonijiet Volontarji, għandu jibqa' fis-sehħ sas-6 ta' Novembru, 2019."

Att XXXVI tal-2018.

Taqsimha V

Emendi għall-Att dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur

**58.** Din it-Taqsimha temenda l-Att dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur u għandha tinqara u tinftiehem haġa waħda mal-Att dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur, hawn aktar 'il quddiem f'din it-Taqsimha msejjaħ "l-Att prinċipali".

Emendi għall-Att dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur. Kap. 510.

**59.** L-artikolu 2 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 2 tal-Att prinċipali.

(a) it-tifsira "President" għandha tiġi mhassra;

(b) minnufih wara t-tifsira "programm ta' standards" għandha tiżdied it-tifsira ġdida li ġejja:

L.S. 12.19. " "Qorti Ċivili" tfisser il-Qorti Ċivili (Sezzjoni tal-Kummerċ) kif imwaqqfa bl-artikolu 3 tal-Ordni dwar it-Twaqqif ta' Sezzjonijiet tal-Qrati Ċivili"; u

(ċ) it-tifsira "Tribunal tal-Appell" għandha tiġi mhassra.

A 700

Emenda tal-artikolu 14 tal-Att prinċipali.

**60.** L-artikolu 14 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1)(a) tiegħu, il-kliem "li jinvestiga, jiddetermina u jrażżan prattiċi restrittivi," għandhom jiġu sostitwiti bil-kliem "li jinvestiga prattiċi restrittivi li allegatament jiddistorċu jew jirrestringu l-kompetizzjoni u li jaġixxi bħala parti ufficjali fi proċedimenti mibdija mid-Direttur Ġenerali quddiem il-Qorti Ċivili taħt l-Att dwar il-Kompetizzjoni u quddiem il-Qorti tal-Appell f'każ li jkun hemm appell minn sentenzi tal-Qorti Ċivili mogħtija taħt l-Att dwar il-Kompetizzjoni"; u

(b) fis-subartikolu (1)(c) tiegħu, il-kliem "li jaġixxi bħala l-awtorità kompetenti nazzjonali f'Malta kif magħruf bis-saħħa tal-artikolu 35(1) tar-Regolament tal-Kunsill (KE) Nru 1/2003" għandhom jiġu sostitwiti bil-kliem "li jaġixxi flimkien mal-Qorti Ċivili bħala l-awtorità kompetenti nazzjonali f'Malta kif magħruf bis-saħħa tal-artikolu 35(1) tar-Regolament tal-Kunsill (KE) Nru 1/2003:

Iżda għall-għanijiet ta' dan is-subartikolu l-awtoritajiet tal-kompetizzjoni kompetenti fir-rigward tal-applikazzjoni tal-Artikoli 101 u 102 tat-TFUE, skont ir-Regolament tal-Kunsill (KE) Nru 1/2003 fuq l-implimentazzjoni tar-regoli dwar il-kompetizzjoni mniżżlin fl-Artikoli 81 u 82 tat-Trattat, ĠU L1 tal-04/01/2003, p.1 (Regolament 1/2003) għandhom ikunu:

(a) il-Qorti Ċivili sabiex tiegħu deċiżjoni u timponi penalitajiet u rimedji oħra; u

(b) l-Ufficċju għall-Kompetizzjoni sabiex jinvestiga u jibda proċedimenti quddiem il-Qorti Ċivili;".

Emenda tal-artikolu 29 tal-Att prinċipali.

**61.** L-artikolu 29 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (1) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(1) Kull persuna, intrapriża jew għaqda ta' intrapriži jew xi korp ieħor li tissottometti informazzjoni jew kummenti f'waħda mis-sitwazzjonijiet imniżżla hawn isfel jew sussegwentement tissottometti iżjed informazzjoni lid-Direttur Ġenerali fil-kors tal-investigazzjoni, għandha b'mod ċar tidentifika kull materjal li hi tikkunsidra kunfidenzjali, tagħti r-raġunijiet, u tipprovdi verżjoni separata mhux kunfidenzjali, fejn applikabbli sa dik id-data stabbilita mid-Direttur Ġenerali

biex turi l-fehmiet tagħha:

(a) min jagħmel l-ilment taħt l-Att dwar il-Kompetizzjoni jew taħt l-Att dwar l-Affarijiet tal-Konsumatur; Kap. 379.  
Kap. 378.

(b) persuna, intrapriża jew għaqda ta' intrapriži jew xi korp ieħor li tkun qed tħares talba għall-forniment ta' informazzjoni taħt id-dispożizzjonijiet ta' dan l-Att, l-Att dwar il-Kompetizzjoni, l-Att dwar l-Affarijiet tal-Konsumatur u kull Att ieħor, jew regolamenti magħmula taħthom; Kap. 379.  
Kap. 378.

(c) indirizzat tal-istqarrija tal-oġġezzjonijiet magħmula taħt ir-Regolamenti dwar il-Kontroll ta' Koncentrazzjonijiet fejn jintwerew il-fehmiet tiegħu dwar l-oġġezzjoni; L.S. 379.08.

(d) indirizzat ta' stedina mid-Direttur Ġenerali biex jibdew diskussjonijiet li jwasslu għall-ftehim taħt l-artikolu 12B tal-Att dwar il-Kompetizzjoni."; Kap. 379.

(b) is-subartikolu (3) tiegħu għandu jiġi sostitwit kif ġej:

"(3) Fil-każ ta' stqarrija tal-oġġezzjonijiet mibgħuta mid-Direttur Ġenerali (Kompetizzjoni) taħt ir-Regolamenti dwar il-Kontroll ta' Koncentrazzjonijiet, persuni, intrapriži jew għaqda ta' intrapriži jistgħu jiġu mitluba biex jidentifikaw xi parti mill-istqarrija ta' oġġezzjonijiet li fil-fehma tagħhom ikun fiha sigrieti tan-negozju jew informazzjoni kunfidenzjali oħra."; L.S. 379.08.

(c) is-subartikolu (9) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(9) F'dawk il-każijiet meta l-persuna jew l-intrapriża jew l-għaqda ta' intrapriži jew xi korp ieħor ma taqbilx mad-deċiżjoni tad-Direttur Ġenerali fis-subartikolu (8), il-persuna jew l-intrapriża jew l-għaqda ta' intrapriži jew xi korp ieħor tista' titlob l-istħarriġ tagħha permezz ta' rikors ġuramentat prezentat fil-Qorti Ċivili fi żmien għaxart ijiem minn meta d-deċiżjoni tad-Direttur Ġenerali tiġi notifikata:

Iżda l-Qorti Ċivili għandha tappunta u tiddeċiedi kull kwistjoni skont dan is-subartikolu fl-iqsar żmien possibbli:

Iżda wkoll, id-deċiżjoni tal-Qorti Ċivili għandha tkun finali u ma jista' jkun hemm ebda appell minnha jew kontestazzjoni tagħha."

Thassir tat-Taqsima IX tal-Att prinċipali.

**62.** It-Taqsima IX tal-Att prinċipali intitolata "Twaqqif tat-Tribunal tal-Appell tal-Kompetizzjoni u tal-Konsumatur" għandha tiġi mħassra.

Emenda tal-artikolu 44 tal-Att prinċipali.

**63.** Fl-artikolu 44 tal-Att prinċipali, il-kliem "jingħata mill-President tat-Tribunal tal-Appell." għandhom jiġu sostitwiti bil-kliem "jingħata mill-Qorti tal-Appell fi smiġh pubbliku quddiem l-istess qorti."

Emenda tal-artikolu 48 tal-Att prinċipali.

**64.** Il-proviso tal-artikolu 48(2) tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Iżda meta l-entitajiet ikunu speċifikament inkarigati mil-liġi sabiex iżommu miżati, dawk il-miżati għandhom jiġu miġbura mill-entitajiet konċernati."

Emenda tal-artikolu 64 tal-Att prinċipali.

**65.** L-artikolu 64 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fit-tieni proviso tal-paragrafu (a) tas-subartikolu (2) tiegħu, il-kliem "it-Tribunal tal-Appell jista' fuq applikazzjoni tal-Awtorità" għandhom jiġu sostitwiti bil-kliem "il-Qorti Ċivili tista' fuq rikors tal-Awtorità";

(b) fil-proviso tal-paragrafu (d) tas-subartikolu (2) tiegħu, il-kliem "it-Tribunal tal-Appell" għandhom jiġu sostitwiti bil-kliem "il-Qorti Ċivili"; u

(ċ) is-subartikolu (3) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(3) Jekk mir-riferta tal-impjegat inkarigat minn servizz tal-att jinstab li l-persuna li għandha tiġi notifikata bl-att, għalkemm ma tirriżultax li qiegħda barra minn Malta u d-dhul fil-post tar-residenza tagħha ma jkunx jista' jsir, jew il-post tar-residenza tagħha ma jkunx magħruf, il-Qorti Ċivili tista', wara applikazzjoni mill-Awtorità, tordna illi n-notifika ssir billi titwaħħal kopja tal-att fil-post, fil-belt jew fid-distrett fejn soltu jitwaħħlu l-atti uffiċjali, u billi jiġi ppubblikat dak l-avviż fil-qosor fil-Gazzetta u f'gurnal ta' kuljum wiehed jew iktar minn wiehed skont kif il-Qorti Ċivili tiddeċiedi u, meta jkun possibbli, jekk il-post tar-residenza jkun magħruf, billi titwaħħal kopja tal-avviż mal-bieb ta' dik ir-residenza. Il-Qorti Ċivili tista' wkoll taddotta dawk il-miżuri oħra li jkun jidhrilha xierqa

sabiex l-att issir taf bih il-persuna li lilha għandu jkun notifikat. F'dawk il-każijiet is-servizz għandu jitqies li jkun sar fit-tielet ġurnata tax-xogħol wara l-aħħar data meta tkun giet publikata jew minn meta tkun twaħhlet il-kopja, skont liema tiġi l-aktar tard. F'każijiet meta s-servizz ikun ġie ordnat li jsir b'urgenza, is-servizz jitqies li jkun sar f'dak iż-żmien speċifiku, wara t-twaħhli jew il-publikazzjoni skont kif il-Qorti Ċivili tista' tistabbilixxi, liema żmien għandu jissema fl-istess publikazzjoni jew twaħhli."

66. L-artikolu 69 tal-Att prinċipali għandu jiġi mħassar.

Emenda tal-artikolu 69 tal-Att prinċipali.

67. L-artikolu 70 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 70 tal-Att prinċipali.

"Dispożizzjonijiet transitorji fir-rigward tal-Att dwar il-Kompetizzjoni u l-Att dwar l-Affarijiet tal-Konsumatur. Kap. 379. Kap. 378.

70. (1) Id-dispożizzjonijiet tal-Att dwar il-Kompetizzjoni u l-Att dwar l-Affarijiet tal-Konsumatur fis-seħh qabel it-23 ta' Mejju 2011, għandhom jibqgħu japplikaw, skont il-każ, għal kull:

(a) investigazzjoni pendenti quddiem id-Direttur tal-Uffiċċju għall-Kompetizzjoni Ġusta u quddiem id-Direttur tal-Affarijiet tal-Konsumatur, kif sostitwiti mid-Direttur Ġenerali (Kompetizzjoni) u mid-Direttur Ġenerali (Affarijiet tal-Konsumatur);

(b) proċedimenti pendenti quddiem il-Kummissjoni għall-Kummerċ Ġust u l-Bord tal-Appell għall-Affarijiet tal-Konsumatur, kif sostitwiti mit-Tribunal tal-Appell għall-Kompetizzjoni u għall-Konsumatur u kif eventwalment sostitwiti mill-Qorti Ċivili; it-Tribunal għal Talbiet tal-Konsumaturi u l-qrati; u

(ċ) deċiżjonijiet u sentenzi li ma jkunux saru *res judicata*.

Kap. 379. (2) Id-dispożizzjonijiet tal-Att dwar il-  
 Kap. 378. Kompetizzjoni u tal-Att dwar l-Affarijiet tal-  
 Konsumatur fis-sehħ wara t-23 ta' Mejju  
 2011, iżda qabel id-dhul fis-sehħ tal-Att tal-  
 2019 li jemenda l-Att dwar il-Kompetizzjoni  
 u l-Att dwar l-Affarijiet tal-Konsumatur u  
 Ligijiet oħra għandhom ukoll jibqgħu  
 japplikaw, skont il-każ, għal kull:

(a) proċedimenti li nbdev wara  
 d-data msemmija fis-subartikolu (2), u li  
 għadhom pendenti fiż-żmien tad-dhul  
 fis-sehħ tal-Att tal-2019 li jemenda l-Att  
 dwar il-Kompetizzjoni u l-Att dwar l-  
 Affarijiet tal-Konsumatur u Ligijiet  
 oħra, quddiem it-Tribunal tal-Appell  
 għall-Kompetizzjoni u għall-  
 Konsumatur kif sostitwit mill-Qorti  
 Ċivili; it-Tribunal għal Talbiet tal-  
 Konsumaturi u l-qrati; u

(b) deċiżjoni u sentenza  
 mogħtija wara t-23 ta' Mejju 2011 u li  
 ma kinux saru *res judicata* fiż-żmien  
 tad-dhul fis-sehħ tal-Att tal-2019 li  
 jemenda l-Att dwar il-Kompetizzjoni u  
 l-Att dwar l-Affarijiet tal-Konsumatur u  
 Ligijiet oħra:

Kap. 379. Iżda d-dispożizzjonijiet tal-Att  
 Kap. 378. dwar il-Kompetizzjoni u l-Att dwar l-  
 Affarijiet tal-Konsumatur fis-sehħ wara  
 d-dhul fis-sehħ tal-Att tal-2019 li  
 jemenda l-Att dwar il-Kompetizzjoni u  
 l-Att dwar l-Affarijiet tal-Konsumatur u  
 Ligijiet oħra, għandhom japplikaw għal  
 investigazzjonijiet li nbdev wara t-23  
 ta' Mejju 2011 u li għadhom pendenti  
 quddiem id-Direttur Ġenerali  
 (Kompetizzjoni) u quddiem id-Direttur  
 Ġenerali (Affarijiet tal-Konsumatur):

Iżda wkoll, fir-rigward ta' appelli minn kull deċiżjoni tat-Tribunal tal-Appell għall-Kompetizzjoni u għall-Konsumatur, tal-Kummissjoni għall-Kummerċ Ġust jew il-Bord tal-Appell għall-Affarijiet tal-Konsumatur li jkunu pendenti quddiem il-Qorti tal-Appell wara d-dhul fis-seħh tal-Att tal-2019 li jemenda l-Att dwar il-Kompetizzjoni u l-Att dwar l-Affarijiet tal-Konsumatur u Ligijiet oħra, l-appellant għandu jkollu għoxrin jum mid-data hawn fuq imsemmija, jew għoxrin jum mill-ewwel udjenza f'tali appell, skont liema l-aħħar, sabiex jippreżenta kull aggravju ulterjuri ta' appell fuq punt ta' fatt.

(3) Għall-finijiet tas-subartikolu (1):

Kap. 379. (a) id-Direttur Ġenerali (Kompetizzjoni) għandu jkollu s-setgħat tad-Direttur tal-Uffiċċju tal-Kompetizzjoni Ġusta kif mogħtija fl-Att dwar il-Kompetizzjoni; u

Kap. 378. (b) id-Direttur Ġenerali (Affarijiet tal-Konsumatur) għandu jkollu s-setgħat tad-Direttur għall-Affarijiet tal-Konsumatur kif mogħtija fl-Att dwar l-Affarijiet tal-Konsumatur, qabel it-23 ta' Mejju 2011.

(4) Għall-finijiet tas-subartikolu (1)(b) il-Qorti Ċivili għandha tiġi vestita bis-setgħa:

Kap. 379. (a) tal-Kummissjoni għall-Kummerċ Ġust kif mogħtija fl-Att dwar il-Kompetizzjoni; u

Kap. 378. (b) tal-Bord tal-Appell għall-Affarijiet tal-Konsumatur kif mogħtija fl-Att dwar l-Affarijiet tal-Konsumatur, qabel it-23 ta' Mejju 2011.

(5) Għall-finijiet tas-subartikolu (2):

Kap. 378. (a) id-Direttur Ġenerali (Affarijiet tal-Konsumatur) għandu jkollu s-setgħat tad-Direttur Ġenerali (Affarijiet tal-Konsumatur) kif mogħtija fl-Att dwar l-Affarijiet tal-Konsumatur; u

Kap. 379. (b) id-Direttur Ġenerali (Kompetizzjoni) għandu jkollu s-setgħat tad-Direttur Ġenerali (Kompetizzjoni) kif mogħtija fl-Att dwar il-Kompetizzjoni,

wara d-dħul fis-seħħ tal-Att tal-2019 li jemenda l-Att dwar il-Kompetizzjoni u l-Att dwar l-Affarijiet tal-Konsumatur u Ligijiet oħra.

Kap. 379. (6) Għall-finijiet tas-subartikolu (2)(a), il-Qorti Ċivili għandu jkollha s-setgħat tat-Tribunal tal-Appell għall-Kompetizzjoni u għall-Konsumatur kif mogħtija fl-Att dwar il-Kompetizzjoni, l-Att dwar l-Affarijiet tal-Konsumatur u l-Att dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur, qabel id-dħul fis-seħħ tal-Att tal-2019 li jemenda l-Att dwar il-Kompetizzjoni u l-Att dwar l-Affarijiet tal-Konsumatur u Ligijiet oħra."

Thassir tat-Tieni Skeda tal-Att prinċipali.

**68.** It-Tieni Skeda tal-Att prinċipali għandha tiġi mhassra.

Sostituzzjoni tat-Tielet Skeda tal-Att prinċipali.

**69.** It-Tielet Skeda tal-Att prinċipali għandha tiġi sostitwita b'dan li ġej:

"IT-TIELET SKEDA  
(ARTIKOLU 18)

LISTA TA' ATTI LEGIŻLATTIVI TAL-UE GĦAL LIEMA  
GĦANIJIET L-UFFIĊĊJU GĦALL-AFFARIJIET TAL-  
KONSUMATUR HUWA L-AWTORITÀ NAZZJONALI  
KOMPETENTI

1. Id-Direttiva tal-Kunsill 93/13/KEE tal-5 ta' April 1993 dwar klawsoli ingusti f'kuntratti mal-konsumatur.
2. Id-Direttiva 98/6/KE tal-Parlament Ewropew u tal-Kunsill tas-16 ta' Frar 1998 dwar il-protezzjoni tal-konsumatur fl-

indikazzjoni tal-prezzijiet ta' prodotti offruti lill-konsumaturi.

3. Id-Direttiva 1999/44/KE tal-Parlament Ewropew u tal-Kunsill tal-25 ta' Mejju 1999 dwar ċerti aspetti tal-bejgħ ta' oġġetti tal-konsum u garanziji assoċjati magħhom.
4. Ir-Regolament (KE) Nru 261/2004 tal-Parlament Ewropew u tal-Kunsill tal-11 ta' Frar 2004 li jstabbilixxi regoli komuni dwar il-kumpens u l-assistenza għal passigġieri fil-każ li ma jithallewx jitilgħu u ta' kancellazzjoni jew dewmien twil ta' titjiriet, u li jhassar ir-Regolament (KEE) Nru 295/91.
5. Id-Direttiva 2005/29/KE tal-Parlament Ewropew u tal-Kunsill tal-11 ta' Mejju 2005 dwar prattiċi kummerċjali żleali fin-negozju mal-konsumatur fis-suq intern u li temenda d-Direttiva tal-Kunsill 84/450/KEE, id-Direttivi 97/7/KE, 98/27/KE u 2002/65/KE tal-Parlament Ewropew u tal-Kunsill, u r-Regolament (KE) Nru 2006/2004 tal-Parlament Ewropew u tal-Kunsill (Direttiva dwar Prattiċi Kummerċjali Żleali).
6. Id-Direttiva 2008/48/KE tal-Parlament Ewropew u tal-Kunsill tat-23 ta' April 2008 dwar ftehim ta' kreditu għall-konsumatur u li tħassar id-Direttiva tal-Kunsill 87/102/KEE.
7. Id-Direttiva 2011/83/UE tal-Parlament Ewropew u tal-Kunsill tal-25 ta' Ottubru 2011 dwar drittijiet tal-konsumatur, li temenda d-Direttiva tal-Kunsill 93/13/KEE u d-Direttiva 1999/44/KE tal-Parlament Ewropew u tal-Kunsill u li tħassar id-Direttiva tal-Kunsill 85/577/KEE u d-Direttiva 97/7/KE tal-Parlament Ewropew u tal-Kunsill.
8. Id-Direttiva 2006/114/KE tal-Parlament Ewropew u tal-Kunsill tat-12 ta' Diċembru 2006 dwar reklamar qarrieqi u komparattiv (però fir-rigward tal-Artikoli 1, 2c, 4 sa 8 tiegħu biss).
9. Ir-Regolament (UE) Nru 181/2011 tal-Parlament Ewropew u tal-Kunsill tas-16 ta' Frar 2011 dwar id-drittijiet tal-passigġieri fit-trasport bix-xarabank u bil-kowċ u li jemenda r-Regolament (KE) Nru 2006/2004.
10. Ir-Regolament (UE) Nru 1177/2010 tal-Parlament Ewropew u tal-Kunsill tal-24 ta' Novembru 2010 dwar id-drittijiet tal-passigġieri meta jivvjaġġaw bil-baħar jew minn passaġġi fuq l-ilma interni u li jemenda r-Regolament (KE) Nru 2006/2004."

Taqsimha VI  
Emendi għall-Att dwar Proċedimenti Kollettivi

Emendi għall-Att dwar Proċedimenti Kollettivi. Kap. 520.

**70.** Din it-Taqsimha temenda l-Att dwar Proċedimenti Kollettivi u għandha tingħar u tintfiehemi haġa waħda mal-Att dwar il-Proċedimenti Kollettivi, hawn aktar 'il quddiem f'din it-Taqsimha msejjaħ "l-Att prinċipali".

Emenda tal-Iskeda A tal-Att prinċipali.

**71.** Fil-paragrafu II tal-Iskeda A tal-Att prinċipali, il-kliem "u dawk l-Atti imsemmija fl-artikolu 111 tal-Att dwar l-Affarijiet tal-Konsumatur" għandhom jiġu mħassra.

Taqsimha VII  
Emendi Konsegwenzjali

Emendi konsegwenzjali għal-L.S. 12.19.

**72.** (1) L-artikolu 5A tal-Ordni dwar it-Twaqqif ta' Sezzjonijiet tal-Qorti Ċivili għandu jiġi sostitwit b'dan li ġej:

"Assenjament ta' kawżi lill-Qorti Ċivili (Sezzjoni tal-Kummerċ).

Kap. 386.  
Kap. 379.

Kap. 378.

Kap. 510.

5A. Għandhom jiġu assenjati lill-Qorti Ċivili (Sezzjoni tal-Kummerċ) rikorsi li jaqgħu taħt il-kompetenza tal-Qorti Ċivili u li huma relatati ma' materji regolati mill-Att dwar il-Kumpanniji, l-Att dwar il-Kompetizzjoni u kull regolament magħmul taħtu, l-Att dwar l-Affarijiet tal-Konsumatur u kull regolament magħmul taħtu, u l-Att dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur."

Emendi konsegwenzjali għal-L.S. 12.20.

(2) Ir-regolament 5A tar-Regolamenti dwar il-Qorti Ċivili (Sezzjoni tal-Familja), il-Prim'Awla tal-Qorti Ċivili u l-Qorti tal-Magistrati (Għawdex) (Ġurisdizzjoni Superjuri) (Sezzjoni tal-Familja) għandu jiġi sostitwit b'dan li ġej:

"Assenjament ta' kawżi lill-Qorti Ċivili (Sezzjoni tal-Kummerċ).

Kap. 386.  
Kap. 379.

Kap. 378.  
Kap. 510.

5A. Għandhom jiġu assenjati lill-Qorti Ċivili (Sezzjoni tal-Kummerċ) rikorsi li jaqgħu taħt il-kompetenza tal-Qorti Ċivili u li huma relatati ma' materji regolati mill-Att dwar il-Kumpanniji, l-Att dwar il-Kompetizzjoni u kull regolament magħmul taħtu, l-Att dwar l-Affarijiet tal-Konsumatur u kull regolament magħmul taħtu, u l-Att dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur."

Emendi konsegwenzjali għal-L.S. 378.01.

(3) Ir-Regoli dwar it-Tribunal għal Talbiet tal-Konsumaturi għandhom jiġu emendati kif ġej:

(a) fir-regola 2 tagħhom, it-tifsira "Direttur" għandha tiġi

sostitwita b'dan li ġej:

" "Direttur Ġenerali" tfisser id-Direttur Ġenerali (Affarijiet tal-Konsumatur) kif imfisser fl-Att;" u

(b) il-kliem "Direttur" u "Direttur għall-Affarijiet tal-Konsumatur" għandhom jiġu sostitwiti bil-kliem "Direttur Ġenerali" kull fejn jidhru fir-regoli kollha.

(4) Fir-Regolamenti dwar Prezzijiet Indikati skont l-Att dwar l-Affarijiet tal-Konsumatur, il-kelma "Direttur" għandha tiġi sostitwita bil-kliem "Direttur Ġenerali" kull fejn tidher.

Emendi  
konsegwenzjali  
għal-  
L.S. 378.09.

(5) Ir-Regolamenti dwar Kuntratti ta' Kreditu għall-Konsumaturi marbutin ma' Proprjetà Immobili Residenzjali għandhom jiġu emendati kif ġej:

Emendi  
konsegwenzjali  
għal-  
L.S. 378.10.

(a) fir-regolament 2 tagħhom:

(i) it-tifsira "Direttur Ġenerali" għandha tiġi sostitwita b'dan li ġej:

" "Direttur Ġenerali" tfisser id-Direttur Ġenerali (Affarijiet tal-Konsumatur) kif imfisser fl-Att;"

(ii) minnufih wara t-tifsira "prattika ta' rbit" għandha tizdied it-tifsira ġdida li ġejja:

" "Qorti Ċivili" tfisser il-Qorti Ċivili (Sezzjoni tal-Kummerċ) kif imwaqqfa bl-artikolu 3 tal-Ordni dwar it-Twaqqif ta' Sezzjonijiet tal-Qrati Ċivili;"

L.S. 12.19.

(b) fir-regolament 3A tagħhom, il-kliem "rispettivi tagħhom b'mod effettiv." għandhom jiġu sostitwiti bil-kliem "rispettivi tagħhom b'mod effettiv:" u minnufih wara għandu jizdied il-proviso ġdid li ġej:

"Izda fir-rigward ta' dan is-subregolament u ta' kull referenza oħra f'dawn ir-regolamenti għall-applikazzjoni u l-infurzar ta' dawn ir-regolamenti mid-Direttur Ġenerali, dan għandu jkun mingħajr preġudizzju għall-kompetenzi mogħtija lill-Qorti Ċivili permezz tal-Att u permezz tal-Att dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur, u għall-proċeduri ġudizzjarji stabbiliti fl-Att.";

Kap. 510.

(ċ) ir-regolament 23 tagħhom għandu jiġi sostitwit b'dan li ġej:

"Investigazzjonijiet, proċeduri ġudizzjarji, penali u dritt ta' appell.

23. (1) Mingħajr preġudizzju għar-regolament 23A, id-Direttur Ġenerali għandu jipproċedi skont l-artikolu 12 tal-Att u meta, mal-konkluzjoni ta' investigazzjoni, jidhirlu *prima facie* li hemm ksur ta' dawn ir-regolamenti, id-Direttur Ġenerali għandu jibda proċeduri ġudizzjarji kontra l-persuna konċernata quddiem il-Qorti Ċivili permezz ta' rikors ġuramentat u għal dawn il-proċeduri ġudizzjarji għandhom japplikaw id-dispożizzjonijiet tat-Taqsima IIA tal-Att.

(2) Bla ħsara għad-dispożizzjonijiet tat-Taqsima IIA tal-Att, fis-sentenza tagħha l-Qorti Ċivili għandha timponi penali u toħroġ kull ordni, jew tieġu kull miżura li hija tista' tqis xierqa skont l-Att, kontra kull persuna li tikser jew tonqos li tosserva xi dispożizzjoni ta' dawn ir-regolamenti:

Iżda l-MFSA ma għandhiex, matul il-proċeduri ġudizzjarji jew permezz ta' kull proċedura oħra, titlob li tiġi imposta penali fir-rigward tal-istess ksur.

(3) Kull persuna li tikser xi dispożizzjoni ta' dawn ir-regolamenti tkun hatja ta' ksur punibbli b'penali ta' mhux anqas minn elf euro (€1,000) u mhux aktar minn ħamsa u erbgħin elf euro (€45,000).

(4) Iżda f'każ ta' nuqqas ta' konformità ma' ordni ta' tħaris, il-Qorti Ċivili għandha wkoll timponi penali li ma tkunx anqas minn mija u tletin euro (€130) u ma tkunx aktar minn mitejn u tletin euro (€230) għal kull jum li fih hemm dak in-nuqqas ta' konformità.

(5) Meta tkun qiegħda tiddeciedi l-ammont tal-penali msemmi f'dan ir-regolament, il-Qorti Ċivili għandha tkun gwidata wkoll mill-kunsiderazzjonijiet li ġejjin:

(a) għal ksur taħt dawn ir-regolamenti l-ammont bażiku tal-penali għandu jkun ta' għoxrin elf euro (€20,000):

Iżda l-Qorti Ċivili tista', meta tkun qiegħda tistabbilixxi l-penali, tqis ċirkostanzi li jistgħu jwasslu għal żieda jew tnaqqis ta' dak l-ammont bażiku:

Iżda wkoll il-Qorti Ċivili għandha tagħmel dan fuq il-bażi ta' valutazzjoni komprensiva li tqis iċ-ċirkostanzi rilevanti kollha, inkluż il-valur tal-kreditu taht il-kuntratt ta' kreditu u *turnover* tal-kreditur;

(b) il-Qorti Ċivili tista' timponi penali oġħla mill-ammont bażiku meta jkun hemm ċirkostanzi aggravanti, meta tqis, b'mod partikolari, is-serjetà u ż-żmien tal-kontinwità tal-ksur u l-ammont tar-rikavat magħmul b'mod mhux xieraq bħala riżultat tal-ksur;

(ċ) mingħajr preġudizzju għall-ġeneralità tal-paragrafu (b), dawn li ġejjin għandhom dejjem jitqiesu bħala ċirkostanzi aggravanti:

(i) it-tieni ksur jew ksur sussegwenti;

(ii) meta l-ksur huwa prattika kummerċjali li mhux ġusta skont l-Att; u

(d) l-ammont bażiku jista' jiġi mnaqqas jekk il-Qorti Ċivili ssib li hemm ċirkostanzi mitiganti, b'mod partikolari:

(i) meta l-kreditur jew l-intermedjarju tal-kreditu, skont il-każ, iressaq evidenza li huwa jkun waqqaf il-ksur rilevanti qabel jew malli d-Direttur Ġenerali beda investigazzjoni;

(ii) meta l-kreditur jew l-intermedjarju tal-kreditu, skont il-każ, iressaq evidenza li huwa jkun ħa passi adegwati biex inaqqas l-effetti negattivi tal-ksur.

Kap. 510. (6) Fl-eżerċizzju tal-funzjonijiet tiegħu skont dawn ir-regolamenti, id-Direttur Ġenerali għandu jkollu l-istess setgħat kif preskritti skont l-Att, sakemm ma jkunux għew mogħtija kompetenzi lill-Qorti Ċivili bl-Att u bl-Att dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur.

(7) Kull persuna li tħossha aggravata b'sentenza, ordni, penali jew miżura mogħtija mill-Qorti Ċivili, tista' tappella quddiem il-Qorti tal-Appell fuq kull punt ta' dritt u, jew fatt, billi tippreżenta rikors fir-reġistru tal-Qorti tal-Appell fi żmien għoxrin jum mid-data tas-sentenza tal-Qorti Ċivili:

Iżda l-Qorti tal-Appell għandha tappunta l-każ għas-smiġħ sa mhux aktar tard minn sitt xhur mid-data tas-sentenza tal-Qorti Ċivili."; u

(d) it-tieni proviso tar-regolament 23A(1) tagħhom għandu jiġi sostitwit b'dan li ġej:

"Iżda d-Direttur Ġenerali ma għandu bl-ebda mod jitlob l-impożizzjoni ta' penali għall-istess att jew omissjoni.".

Emendi  
konsegwenzjali  
għal-  
L.S. 378.11.

(6) L-Ordni għall-għanijiet tal-artikoli 94, 100 u 101 ta' l-Att dwar l-Affarijiet tal-Konsumatur għandu jiġi mħassar.

Emendi  
konsegwenzjali  
għal-  
L.S. 378.12.

(7) Ir-Regolamenti dwar Kreditu lill-Konsumatur għandhom jiġu emendati kif ġej:

(a) fir-regolament 3 tagħhom:

(i) it-tifsira "id-Direttur" għandha tiġi sostitwita b'dan li ġej:

" "id-Direttur Ġenerali" tfisser id-Direttur Ġenerali (Affarijiet tal-Konsumatur) kif imfisser fl-Att;";

(ii) minnufih wara t-tifsira "overrunning" għandha

tiżdied din it-tifsira ġdida li ġejja:

L.S. 12.19. " "Qorti Ċivili" tfisser il-Qorti Ċivili (Sezzjoni tal-Kummerċ) kif imwaqqfa bl-artikolu 3 tal-Ordni dwar it-Twaqqif ta' Sezzjonijiet tal-Qrati Ċivili";

(b) ir-regolament 22 tagħhom għandu jiġi emendat kif ġej:

(i) in-nota marginali tiegħu għandha tiġi sostitwita bi "Sorveljar u investigazzjonijiet."; u

(ii) minnufih wara l-paragrafu (ċ) tiegħu għandu jiżdied il-paragrafu ġdid li ġej:

"(d) jinvestiga kull ksur allegat u, kif meħtieġ, jibda proċeduri ġudizzjarji quddiem il-Qorti Ċivili skont l-Att.";

(ċ) ir-regolament 23 tagħhom għandu jiġi sostitwit b'dan li ġej:

"Investigazzjonijiet, proċeduri ġudizzjarji, penali u dritt ta' appell. 23. (1) Id-Direttur Ġenerali għandu jipproċedi skont l-artikolu 12 tal-Att u meta, mal-konklużjoni ta' investigazzjoni, jidhirli *prima facie* li hemm ksur ta' dawn ir-regolamenti, id-Direttur Ġenerali għandu jibda proċedimenti ġudizzjarji kontra l-persuna konċernata quddiem il-Qorti Ċivili permezz ta' rikors ġuramentat u għal dawn il-proċedimenti ġudizzjarji għandhom japplikaw id-dispożizzjonijiet tat-Taqsima IIA tal-Att.

(2) Bla ħsara għad-dispożizzjonijiet tat-Taqsima IIA tal-Att, fis-sentenza tagħha l-Qorti Ċivili għandha timponi penali u toħroġ kull ordni, jew tiegħu kull miżura li hija tista' tqis xierqa skont l-Att, kontra kull persuna li tikser jew tonqos li tosserva xi dispożizzjoni ta' dawn ir-regolamenti.

(3) Kull persuna li tikser xi dispożizzjoni ta' dawn ir-regolamenti tkun hatja ta' ksur punibbli b'penali ta' mhux anqas minn elf euro (€1,000) u mhux aktar minn ħamsa u erbgħin elf euro (€45,000).

(4) F'każ ta' nuqqas ta' konformità ma' ordni ta' tharis, il-Qorti Ċivili għandha wkoll timponi penali għal kull jum li ma tkunx anqas minn mija u tletin euro (€130) u ma tkunx aktar minn mitejn u tletin euro (€230) għal kull jum li fih hemm dak in-nuqqas ta' konformità.

(5) Meta tkun qiegħda tiddeċiedi l-ammont tal-penali msemmi f'dan ir-regolament, il-Qorti Ċivili għandha tkun gwidata mill-kunsiderazzjonijiet li ġejjin:

(a) għal ksur taht dawn ir-regolamenti l-ammont bażiku tal-penali għandu jkun ta' għoxrin elf euro (€20,000):

Izda l-Qorti Ċivili tista', meta tkun qiegħda tistabilixxi l-penali, tqis ċirkostanzi li jistgħu jwasslu għal żieda jew tnaqqis ta' dak l-ammont bażiku:

Izda wkoll il-Qorti Ċivili għandha tagħmel dan fuq il-bażi ta' valutazzjoni komprensiva li tqis iċ-ċirkostanzi rilevanti kollha, inkluż il-valur tal-kreditu taht il-kuntratt ta' kreditu u *t-turnover* tal-kreditur;

(b) il-Qorti Ċivili tista' timponi penali oġġla mill-ammont bażiku meta jkun hemm ċirkostanzi aggravanti, meta tqis, b'mod partikolari, is-serjetà u ż-żmien tal-kontinwità tal-ksur u l-ammont tar-rikavat magħmul b'mod mhux xieraq bħala riżultat tal-ksur;

(ċ) mingħajr preġudizzju għall-generalità tal-paragrafu (b), dawn li ġejjin għandhom dejjem jitqiesu bħala ċirkostanzi aggravanti:

(i) it-tieni ksur jew ksur sussegwenti;

(ii) meta l-ksur huwa Prattika kummerċjali li mhux ġusta skont l-Att; u

(d) l-ammont bażiku jista' jiġi mnaqqas jekk il-Qorti Ċivili ssib li hemm ċirkostanzi mitiganti, b'mod partikolari:

(i) meta l-kreditur jew l-intermedjarju tal-kreditu, skont il-każ, iressaq evidenza li huwa jkun waqqaf il-ksur rilevanti qabel jew malli d-Direttur Ġenerali beda investigazzjoni;

(ii) meta l-kreditur jew l-intermedjarju tal-kreditu, skont il-każ, iressaq evidenza li huwa jkun ħa passi adegwati biex inaqqas l-effetti negattivi tal-ksur.

Kap. 510.

(6) Fl-eżerċizzju tal-funzjonijiet tiegħu skont dawn ir-regolamenti, id-Direttur Ġenerali għandu jkollu l-istess setgħat kif preskritti skont l-Att, sakemm ma jkunux ġew mogħtija kompetenzi lill-Qorti Ċivili bl-Att u bl-Att dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur.

(7) Kull persuna li tħossha aggravata b'sentenza, ordni, penali jew miżura mogħtija mill-Qorti Ċivili, tista' tappella quddiem il-Qorti tal-Appell fuq kull punt ta' dritt u, jew fatt, billi tippreżenta rikors fir-reġistru tal-Qorti tal-Appell fi żmien għoxrin jum mid-data tas-sentenza tal-Qorti Ċivili:

Iżda l-Qorti tal-Appell għandha tappunta l-każ għas-smiġħ sa mhux aktar tard minn sitt xhur mid-data tas-sentenza tal-Qorti Ċivili."; u

(d) il-kelma "Direttur" għandha tkun sostitwita bil-kliem "Direttur Ġenerali" kull fejn tidher fir-regolamenti kollha.

(8) Ir-Regolamenti dwar l-Ipprezzar tas-Servizzi tal-Ajru għandhom jiġu emendati kif ġej:

Emendi  
konsegwenzjali  
għal-  
L.S. 378.13.

(a) fir-regolament 2 tagħhom:

(i) it-tifsira "id-Direttur" għandha tiġi sostitwita b'dan li ġej:

" "id-Direttur Ġenerali" tfisser id-Direttur Ġenerali (Affarijiet tal-Konsumatur) kif imfisser fl-Att"; u

(ii) minnufih wara t-tifsira "id-Direttur" għandha

tiġi miżjuda t-tifsira ġdida li ġejja:

" "Qorti Ċivili" tfisser il-Qorti Ċivili (Sezzjoni tal-Kummerċ) kif imwaqqfa bl-L.S. 12.19. artikolu 3 tal-Ordni dwar it-Twaqqif ta' Sezzjonijiet tal-Qrati Ċivili;"

(b) ir-regolament 3 tagħhom għandu jiġi sostitwit b'dan li ġej:

"Persuna mahtura. 3. (1) Id-Direttur Ġenerali għandu, skont l-Att, ikun responsabbli għall-isorveljar u l-investigazzjonijiet fir-rigward tal-konformità mad-dispożizzjonijiet tal-artikolu 23 tar-Regolament.";

(ċ) ir-regolament 4 tagħhom għandu jiġi sostitwit b'dan li ġej:

"Investigazzjonijiet u proċeduri ġudizzjarji. Kap. 510. 4. Eskluż meta jkunu ġew assenjati kompetenzi lill-Qorti Ċivili skont l-Att jew skont l-Att dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur, fit-tweqqif tal-funzjonijiet tiegħu skont dawn ir-regolamenti d-Direttur Ġenerali għandu jkollu l-istess setgħat kif preskritt skont l-Att, inkluża s-setgħa li jinvestiga u li jibda proċeduri ġudizzjarji skont l-Att quddiem il-Qorti Ċivili.";

(d) ir-regolament 5 tagħhom għandu jiġi sostitwit b'dan li ġej:

"Dritt ta' appell. 5. Kull persuna li tħossha aggravata b'sentenza, ordni, penali jew miżura mogħtija mill-Qorti Ċivili, tista' tappella quddiem il-Qorti tal-Appell fuq kull punt ta' dritt u, jew fatt, billi tippreżenta rikors fir-reġistru tal-Qorti tal-Appell fi żmien għoxrin jum mid-data tas-sentenza tal-Qorti Ċivili:

Iżda l-Qorti tal-Appell għandha tappunta l-każ għas-smiġh sa mhux aktar tard minn sitt xhur mid-data tas-sentenza tal-Qorti Ċivili.";

(e) il-kelma "Direttur" għandha tkun sostitwita bil-kliem "Direttur Ġenerali" kull fejn tidher fir-regolamenti kollha.

(9) Ir-Regolamenti dwar il-kumpens u l-assistenza għal passigġieri tal-ajru li ma jithallexw jitolgħu għandhom jiġu emendati kif ġej:

Emendi  
konsegwenzjali  
għal-  
L.S. 378.14.

(a) minnufih wara t-tifsira "id-Direttur Ġenerali" fir-regolament 2 tagħhom, għandha tizzied it-tifsira ġdida li ġejja:

L.S. 12.19. " "Qorti Ċivili" tfisser il-Qorti Ċivili (Sezzjoni tal-Kummerċ) kif imwaqqfa bl-artikolu 3 tal-Ordni dwar it-Twaqqif ta' Sezzjonijiet tal-Qrati Ċivili;"

(b) ir-regolament 4 tagħhom għandu jiġi sostitwit b'dan li ġej:

"Persuna mahtura, investigazzjonijiet u proċeduri ġudizzjarji.

4. (1) Għall-finijiet tal-Artikolu 16 tar-Regolament 261/2004, id-Direttur Ġenerali huwa l-persuna mahtura bħala responsabbli għall-isorveljar u l-investigazzjonijiet fir-rigward tal-konformità mad-dispożizzjonijiet tar-Regolament 261/2004 dwar titjiriet minn ajruporti li jinsabu f'Malta u dwar titjiriet minn terzi pajjiżi lejn ajruporti li jinsabu f'Malta.

Kap. 510 (2) Eskluż meta jkunu ġew assenjati kompetenzi lill-Qorti Ċivili skont l-Att jew skont l-Att dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur, fit-twettiq tal-funzjonijiet tiegħu skont dawn ir-regolamenti d-Direttur Ġenerali għandu jkollu l-istess setgħat kif preskritt skont l-Att, inkluża s-setgħa li jinvestiga u li jibda proċedimenti ġudizzjarji skont l-Att quddiem il-Qorti Ċivili.";

(ċ) ir-regolament 5 tagħhom għandu jiġi sostitwit b'dan li ġej:

"Penali.

5. Trasportatur tal-ajru li jopera li jonqos li jikkonforma mal-obbligazzjonijiet imposti bl-Artikoli 4 sa 6, 10, 11 jew 14 tar-Regolament 261/2004 ikun ħati ta' ksur punibbli b'penali ta' mhux anqas minn erba' mija u sebghin euro (€470) u mhux aktar minn ħamest elef euro (€5,000):

Iżda f'każ ta' nuqqas ta' konformità ma' ordni ta' tharis il-Qorti Ċivili għandha timponi penali ta' kuljum ta' mhux anqas minn mija u għoxrin euro (€120) u mhux aktar minn mitejn u tletin euro (€230) għal kull jum li fih hemm dak in-nuqqas ta' konformità."; u

(d) ir-regolament 7 tagħhom għandu jiġi sostitwit b'dan li ġej:

"Dritt ta' appell.

7. Kull persuna li thossha aggravata b'sentenza, ordni, penali jew miżura mogħtija mill-Qorti Ċivili, tista' tappella quddiem il-Qorti tal-Appell fuq kull punt ta' dritt u, jew fatt, billi tippreżenta rikors fir-registru tal-Qorti tal-Appell fi żmien għoxrin jum mid-data tas-sentenza tal-Qorti Ċivili:

Iżda l-Qorti tal-Appell għandha tappunta l-każ għas-smiġħ sa mhux aktar tard minn sitt xhur mid-data tas-sentenza tal-Qorti Ċivili."

Emendi  
konsegwenzjali  
għal-  
L.S. 378.15.

(10) Ir-Regolamenti dwar id-Drittijiet tal-Passigġieri fit-Trasport bix-Xarabank u bil-Kowċ għandhom jiġu emendati kif ġej:

(a) fir-regolament 2(1) tagħhom:

(i) minnufih wara t-tifsira "id-Direttur Ġenerali" għandha tiżdied din it-tifsira ġdida li ġejja:

" "Qorti Ċivili" tfisser il-Qorti Ċivili (Sezzjoni tal-Kummerċ) kif imwaqqfa bl-artikolu 3 tal-Ordni dwar it-Twaqqif ta' Sezzjonijiet tal-Qrati Ċivili;" u

(ii) it-tifsira "it-Tribunal tal-Appell tal-Kompetizzjoni u tal-Konsumatur" għandha tiġi mħassra;

(b) ir-regolament 3 tagħhom għandu jiġi sostitwit b'dan li ġej:

"Persuna mahtura, investigazzjonijiet u proċeduri ġudizzjarji.

3. (1) Għall-finijiet tar-Regolament (EU) Nru 181/2011, id-Direttur Ġenerali huwa l-persuna mahtura responsabbli għall-isorveljar u l-investigazzjonijiet fir-rigward tal-konformità mad-dispożizzjonijiet tar-Regolament (EU) Nru 181/2011.

Kap. 510.

(2) Eskluż meta jkunu ġew assenjati kompetenzi lill-Qorti Ċivili skont l-Att jew skont l-Att dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarjiet tal-Konsumatur, fit-twettiq tal-funzjonijiet tiegħu skont dawn ir-regolamenti d-Direttur Ġenerali għandu jkollu l-istess setgħat kif preskritt skont l-Att, inkluża s-setgħa li jinvestiga u li jibda proċeduri ġudizzjarji skont l-Att quddiem il-Qorti Ċivili.";

(ċ) ir-regolament 5 tagħhom għandu jiġi sostitwit b'dan li ġej:

"Penali.

5. Kull persuna li tonqos li tosserva l-obbligazzjonijiet stabbiliti fir-Regolament (EU) Nru 181/2011 tkun ħatja ta' ksur punibbli b'penali ta' mhux anqas minn erba' mija u sebgħin euro (€470) u mhux aktar minn sebgħa u erbgħin elf euro (€47,000):

Iżda f'każ ta' nuqqas ta' konformità ma' ordni ta' tħaris maħruġ skont l-Att, il-Qorti Ċivili għandha timponi penali ta' kuljum ta' mhux anqas minn mija u għoxrin euro (€120) u mhux aktar minn mitejn u tletin euro (€230) għal kull jum li fih hemm dak in-nuqqas ta' konformità.";

(d) ir-regolament 6 tagħhom għandu jiġi sostitwit b'dan li ġej:

"Dritt ta' Appell.

6. Kull persuna li tħossha aggravata b'sentenza, ordni, penali jew miżura mogħtija mill-Qorti Ċivili, tista' tappella quddiem il-Qorti tal-Appell fuq kull punt ta' dritt u, jew fatt, billi tipprezenta rikors fir-registru tal-Qorti tal-Appell fi żmien għoxrin jum mid-data tas-sentenza tal-Qorti Ċivili:

Iżda l-Qorti tal-Appell għandha tappunta l-każ għas-smiġħ sa mhux aktar tard minn sitt xhur mid-data tas-sentenza tal-Qorti Ċivili.";

(e) ir-regolament 7 tagħhom għandu jiġi mħassar.

(11) Ir-Regolamenti dwar id-Drittijiet tal-Passiġġieri meta jivvjagġaw bil-Baħar jew minn Passaġġi fuq l-Ilma Interni għandhom jiġu emendati kif ġej:

Emendi  
konsegwenzjali  
għal-  
L.S. 378.16

(a) fir-regolament 2(1) tagħhom:

(i) it-tifsira "it-Tribunal tal-Appell tal-Kompetizzjoni u tal-Konsumatur" għandha tiġi mħassra; u

(ii) minnufih wara t-tifsira "id-Direttur Ġenerali" għandha tiżdied it-tifsira ġdida li ġejja:

"Qorti Ċivili" tfisser il-Qorti Ċivili (Sezzjoni tal-Kummerċ) kif imwaqqfa bl-artikolu 3 tal-L.S. 12.19. Ordni dwar it-Twaqqif ta' Sezzjonijiet tal-Qrati Ċivili;"

(b) ir-regolament 3 tagħhom għandu jiġi sostitwit b'dan li ġej:

"Persuna mahtura, investigazzjonijiet u proċeduri ġudizzjarji.

3. (1) Għall-finijiet tar-Regolament (EU) Nru 1177/2010, id-Direttur Ġenerali huwa l-persuna mahtura bħala responsabbli għall-isorveljar u l-investigazzjonijiet fir-rigward tal-konformità mad-dispożizzjonijiet tar-Regolament (EU) Nru 1177/2010.

(2) Eskluż meta jkunu ġew assenjati kompetenzi lill-Qorti Ċivili skont l-Att jew skont l-Att dwar l-Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarjiet tal-Konsumatur, fit-tweqqif tal-funzjonijiet tiegħu skont dawn ir-regolamenti d-Direttur Ġenerali għandu jkollu l-istess setgħat kif preskritt skont l-Att, inkluża s-setgħa li jinvestiga u li jibda proċeduri ġudizzjarji skont l-Att quddiem il-Qorti Ċivili.";

Kap. 510.

(ċ) ir-regolament 5 tagħhom għandu jiġi sostitwit b'dan li ġej:

"Penali.

5. Kull persuna li tonqos li tosserva l-obbligazzjonijiet stabbiliti fir-Regolament (EU) Nru 181/2011 tkun ħatja ta' ksur punibbli b'penali ta' mhux anqas minn erba' mija u sebgħin euro (€470) u mhux aktar minn sebgħa u erbgħin elf euro (€47,000):

Iżda f'każ ta' nuqqas ta' konformità ma' ordni ta' tharis maħruġ skont l-Att, il-Qorti Ċivili għandha timponi penali ta' kuljum ta' mhux anqas minn mija u għoxrin euro (€120) u mhux aktar minn mitejn u tletin euro (€230) għal kull jum li fih hemm dak in-nuqqas ta' konformità.";

(d) ir-regolament 6 tagħhom għandu jiġi sostitwit b'dan li ġej:

"Dritt ta' appell.

6. Kull persuna li tħossha aggravata b'sentenza, ordni, penali jew miżura mogħtija mill-Qorti Ċivili, tista' tappella quddiem il-Qorti tal-Appell fuq kull punt ta' dritt u, jew fatt, billi tippreżenta rikors fir-registru tal-Qorti tal-Appell fi żmien għoxrin jum mid-data tas-sentenza tal-Qorti Ċivili:

Iżda l-Qorti tal-Appell għandha tappunta l-każ għas-smiġħ sa mhux aktar tard minn sitt xhur mid-data tas-sentenza tal-Qorti Ċivili."; u

(e) ir-regolament 7 tagħhom għandu jiġi mħassar.

(12) Ir-Regolamenti dwar id-Drittijiet tal-Konsumatur għandhom jiġu emendati kif ġej:

Emendi  
konsegwenzjali  
għal-  
L.S. 378.17.

(a) fir-regolament 2(1) tagħhom minnufih wara t-tifsira "post tan-negożju" għandha tiżdied it-tifsira ġdida li ġejja:

L.S. 12.19. " "Qorti Ċivili" tfisser il-Qorti Ċivili (Sezzjoni tal-Kummerċ) kif imwaqqfa bl-artikolu 3 tal-Ordni dwar it-Twaqqif ta' Sezzjonijiet tal-Qrati Ċivili";

(b) ir-regolament 27 tagħhom għandu jiġi sostitwit b'dan li ġej:

"Penalitajiet u dritt ta' appell.

27. (1) Bla ħsara għad-dispożizzjonijiet tal-Att dwar proċeduri ġudizzjarji istitwiti mid-Direttur Ġenerali wara s-sejbien *prima facie* ta' ksur, il-Qorti Ċivili għandha timponi penali ta' mhux anqas minn ħames mitt euro (€500) u mhux aktar minn sebgħa u erbgħin elf euro (€47,000) fuq kull persuna li tonqos milli timxi skont kull dispożizzjoni ta' dawn ir-regolamenti.

(2) Kull persuna li tħossha aggravata b'sentenza, ordni, penali jew miżura mogħtija mill-Qorti Ċivili, tista' tappella quddiem il-Qorti tal-Appell fuq kull punt ta' dritt u, jew fatt, billi tippreżenta rikors fir-registru tal-Qorti tal-Appell fi żmien għoxrin jum mid-data tas-sentenza tal-Qorti Ċivili:

Iżda l-Qorti tal-Appell għandha tappunta l-każ għas-smiġħ sa mhux aktar tard minn sitt xhur mid-data tas-sentenza tal-Qorti Ċivili."

Emendi  
konsegwenzjali  
għal-  
L.S. 378.18.

(13) Ir-Regolamenti dwar is-Soluzzjoni Alternattiva għat-Tilwim (ADR) tal-Konsumatur (Ġenerali) għandhom jiġu emendati kif ġej:

(a) fir-regolament 2(2) tagħhom minnufih wara t-tifsira "proċedura tal-ADR" għandha tiżdied it-tifsira ġdida li ġejja:

"Qorti Ċivili" tfisser il-Qorti Ċivili (Sezzjoni tal-Kummerċ) kif imwaqqfa bl-artikolu 3 tal-L.S. 12.19. Ordni dwar it-Twaqqif ta' Sezzjonijiet tal-Qrati Ċivili";

(b) it-Taqsima IV tagħhom għandha tiġi mħassra; u

(ċ) minnufih wara r-regolament 20 tagħhom għandhom jiżdiedu dawn ir-regolamenti ġodda li ġejjin:

"L-applikabbiltà ta' ċertu dispożizzjonijiet tal-Att dwar investigazzjonijiet u proċeduri ġudizzjarji.

21. L-artikoli 43D, 43E u 43F tal-Att u t-Taqsima IIA tal-Att għandhom japplikaw għall-investigazzjonijiet tal-Kunsill fir-rigward tal-konformità mad-dispożizzjonijiet ta' dawn ir-regolamenti, u għall-proċeduri ġudizzjarji sussegwenti kif istitwiti mill-Kunsill quddiem il-Qorti Ċivili.

Penalitajiet u d-dritt ta' appell.

22. (1) Bla ħsara għad-dispożizzjonijiet tal-Att fir-rigward ta' proċedimenti ġudizzjarji istitwiti mill-Kunsill wara sejbien *prima facie* ta' ksur, il-Qorti Ċivili għandha timponi penali ta' mhux anqas minn ħames mitt euro (€500) u mhux aktar minn għaxart elef euro (€10,000) fuq kull persuna li tonqos milli timxi skont id-dispożizzjonijiet ta' dawn ir-regolamenti:

Iżda l-Qorti Ċivili tista' wkoll timponi penali ta' mhux anqas minn għoxrin euro (€20) imma mhux aktar minn mitt euro (€100) għal kull ġurnata li fiha jkun hemm il-ksur fuq kull persuna li tonqos milli tosserva xi obbligi stabbiliti f'dawn ir-regolamenti jew kull ordni jew miżura maħruġa mill-Qorti Ċivili.

(2) Kull persuna li tħossha aggravata b'sentenza, ordni, penali jew miżura mogħtija mill-Qorti Ċivili, tista' tappella quddiem il-Qorti tal-Appell fuq kull punt ta' dritt u, jew fatt, billi tippreżenta rikors fir-reġistru tal-Qorti tal-Appell fi żmien għoxrin jum mid-data tas-sentenza tal-Qorti Ċivili:

Iżda l-Qorti tal-Appell għandha tappunta l-każ għas-smiġħ sa mhux aktar tard minn sitt xhur mid-data tas-sentenza tal-Qorti Ċivili."

(14) Ir-Regolamenti dwar il-Kontroll ta' Koncentrazzjonijiet għandhom jiġu emendati kif ġej:

Emendi  
konsegwenzjali  
għal-  
L.S. 379.08.

(a) ir-regolament 2 tagħhom għandu jiġi emendat kif ġej:

(i) fit-tifsira "koncentrazzjoni" il-kliem "tat-*turnover* totali ta' l-intrapriżi konċernati" għandhom jiġu sostitwiti bil-kliem "tat-*turnover* totali kombinat f'Malta tal-intrapriżi konċernati";

(ii) minnufih wara t-tifsira "kontroll" għandha tiżdied it-tifsira ġdida li ġejja:

" "Qorti" tfisser il-Qorti Ċivili (Sezzjoni tal-Kummerċ) kif imwaqqfa bl-artikolu 3 tal-Ordni dwar it-Twaqqif ta' Sezzjonijiet tal-Qrati Ċivili";

L.S. 12.19.

(iii) it-tifsira "Tribunal tal-Appell" għandha tiġi mħassra;

(b) is-subregolament (6) tar-regolament 9 tagħhom għandu jiġi sostitwit b'dan li ġej:

"(6) Meta l-Qorti f'sentenza tannulla d-deċiżjoni kollha kemm hi jew parti minn deċiżjoni tad-Direttur Ġenerali meħuda taħt dawn ir-regolamenti, il-perjodi stipulati f'dawn ir-regolamenti għandhom jerggħu jibded għaddejjin mid-data tas-sentenza tal-Qorti, jew jekk jiġi ppreżentat appell mis-sentenza tal-Qorti, mid-data tas-sentenza tal-Qorti tal-Appell.";

(ċ) ir-regolament 10 tagħhom għandu jiġi emendat kif ġej:

(i) fis-subregolament (2), minnufih wara l-kliem

"l-iskop tat-talba" għandhom jiżdiedu l-kliem "u għandu wkoll jispeċifika liema informazzjoni hija meħtieġa u jiffissa żmien li fih din l-informazzjoni għandha tiġi pprovduta"; u

(ii) is-subregolament (3) għandu jiġi mħassar;

(d) ir-regolament 11 tagħhom għandu jiġi emendat kif ġej:

(i) fis-subregolament (1), minnufih wara l-kelma "setgħa" għandhom jiżdiedu l-kliem "li jwettaq spezzjoni u"; u

(ii) is-subregolament (2) għandu jiġi mħassar;

(e) minnufih wara r-regolament 12 tagħhom għandu jiżdied ir-regolament ġdid li ġej:

"Kontenuti  
tar-rikors  
ġuramentat.

12A. Id-dispożizzjonijiet tal-artikolu 12A tal-Att għandhom, *mutatis mutandis*, japplikaw meta d-Direttur Ġenerali jitlob l-impożizzjoni ta' penali fuq persuna, intrapriża, u, jew għaqda ta' intrapriži skont ir-regolamenti 13 u 14.";

(f) is-subregolament (1) tar-regolament 13 tagħhom għandu jiġi sostitwit b'dan li ġej:

"(1) Il-Qorti għandha timponi penali ta' mhux anqas minn elf euro (€1,000) u mhux aktar minn għaxart elef euro (€10,000) fuq kull persuna, intrapriża u, jew għaqda ta' intrapriži li b'intenzjoni jew b'negligenza:

(i) tonqos milli tinnotifika koncentrazzjoni skont ir-regolament 5 qabel ma tiġi implimentata;

(ii) tagħti informazzjoni mhux korretta jew qarrieqa f'notifika skont ir-regolament 5;

(iii) tagħti informazzjoni mhux korretta b'risposta għal talba magħmula skont ir-regolament 10 jew tonqos milli tagħti informazzjoni f'dak il-perjodu ffissat mid-Direttur Ġenerali skont ir-regolament 10;

(iv) tipprovdi l-kotba mitluba jew *records* oħra tan-negożju imma dawn ma jkunux kompleti, waqt investigazzjonijiet skont ir-regolament 11, jew

tirrifjuta milli toqgħod għal investigazzjoni jew spezzjoni skont ir-regolament 11.";

(g) ir-regolament 14 tagħhom għandu jiġu emendat kif ġej:

(i) ir-regolament 14 għandu jiġi enumerat mill-ġdid bħala r-regolament 14(1);

(ii) il-kliem "tal-artikolu 21(4) u (6)" għandhom jiġu sostitwiti bil-kliem "tal-artikolu 21(7)";

(iii) fil-paragrafu (i) il-kliem "jipprovdu l-informazzjoni kompleta u korretta mitluba b'deċiżjoni konformi mar-regolament 10" għandhom jiġu sostitwiti bil-kliem "jipprovdu l-informazzjoni kompleta u korretta skont ir-regolament 10";

(iv) fil-paragrafu (ii) il-kliem "joqogħdu għal investigazzjoni ordnata b'deċiżjoni konformi mar-regolament 11" għandhom jiġu sostitwiti bil-kliem "joqogħdu għal investigazzjoni skont ir-regolament 11"; u

(v) minnufih wara s-subregolament (1) kif enumerat mill-ġdid għandu jiżdied is-subregolament (2) ġdid li ġej:

"(2) Meta persuna li tkun direttur, *manager*, segretarju jew uffiċjal simili ta' intrapriża jew għaqda ta' intrapriži tonqos mingħajr raġuni valida milli tipprovdi l-informazzjoni mitluba fiż-żmien mogħti, il-Qorti tista' timponi penali sa elfejn u erba' mitt euro (€2,400) għal kull ġurnata li jkun hemm dak in-nuqqas.";

(h) ir-regolament 14A tagħhom għandu jiġi sostitwit b'dan li ġej:

"Applikazzjoni tal-artikolu 13B tal-Att. 14A. Id-dispożizzjonijiet tal-artikolu 13B tal-Att għandhom, *mutatis mutandis*, japplikaw għas-sentenzi mogħtija mill-Qorti skont ir-regolamenti 13 u 14.";

(i) is-subregolament (1) tar-regolament 16 tagħhom għandu jiġi emendat kif ġej:

(i) fil-paragrafu (a), il-kliem "il-proviso li jinsab

mar-regolament 8(2), ir-regolament 8(3) sa (5), ir-regolament 13 u r-regolament 14" għandhom jiġu sostitwiti bil-kliem "il-proviso li jinsab mar-regolament 8(2) u r-regolament 8(3) sa (5)";

(ii) fil-paragrafu (b), il-kliem "il-proviso li jinsab mar-regolament 8(2), ir-regolament 8(3) sa (5), ir-regolament 13 u r-regolament 14" għandhom jiġu sostitwiti bil-kliem "il-proviso li jinsab mar-regolament 8(2) u r-regolament 8(3) sa (5)";

(iii) fil-paragrafu (ċ), il-kliem "il-proviso li jinsab mar-regolament 8(2), ir-regolament 8(3) sa (5), ir-regolament 13 u r-regolament 14" għandhom jiġu sostitwiti bil-kliem "il-proviso li jinsab mar-regolament 8(2) u r-regolament 8(3) sa (5)";

(j) ir-regolament 18 tagħhom għandu jiġi sostitwit b'dan li ġej:

"Dritt li jintalab appell quddiem il-Qorti Ċivili (Sezzjoni tal-Kummerċ) u appell quddiem il-Qorti tal-Appell.  
L.S. 12.19.

18. (1) Il-persuni, intrapriżi jew għaqda ta' intrapriżi konċernati u kull terza persuna li jkollha d-dritt ta' smiġh skont ir-regolament 16(5) jistgħu, fi żmien għoxrin jum min-notifika tad-deċiżjoni finali tad-Direttur Ġenerali skont ir-regolamenti 6, 7 u 8 jew fil-każ ta' terzi persuni fi żmien għoxrin jum mid-data tal-pubblikazzjoni tagħha, jipprezentaw rikors quddiem il-Qorti fuq punti ta' dritt u, jew ta' fatt, li fih jitolbu li jsir appell mid-deċiżjoni tad-Direttur Ġenerali.

(2) Ir-rikors għandu jiġi nnotifikat lid-Direttur Ġenerali u d-Direttur Ġenerali għandu jipprezenta r-risposta tiegħu fi żmien għoxrin jum mid-data tan-notifika tar-rikors.

(3) Rikors ipprezentat quddiem il-Qorti skont is-subregolament (1) ma għandux ikollu l-effett li jissospendi d-deċiżjoni, hlief meta l-Qorti, fuq talba raġunata magħmula minn parti kkonċernata fil-proċedimenti u wara li l-Qorti tkun ikkunsidrat is-sottomissjonijiet tal-partijiet kollha fil-proċedimenti, il-Qorti tissospendi d-deċiżjoni b'dawk il-kundizzjonijiet li hija tqis li jkunu xierqa, u tagħti r-raġunijiet tagħha u dan sakemm ikun hemm deċiżjoni finali mill-Qorti fuq l-appell.

(4) Il-Qorti għandu jkollha s-setgħa li tissostitwixxi d-diskrezzjoni tagħha għal dik tad-Direttur Ġenerali, inkluża s-setgħa li tikkonferma, timmodifika jew tħassar bi sħiħ jew parzjalment id-deċiżjoni tad-Direttur Ġenerali:

Iżda meta l-Qorti tħassar bi sħiħ jew parzjalment id-deċiżjoni tad-Direttur Ġenerali hija tista' tirreferi l-kwistjoni lura lid-Direttur Ġenerali sabiex jieħu deċiżjoni ġdida.

(5) Id-Direttur Ġenerali u kull parti oħra fil-proċedimenti quddiem il-Qorti li tħossha aggravata mis-sentenza mogħtija mill-imsemmija Qorti, tista' tappella fuq punti ta' dritt u, jew ta' fatt quddiem il-Qorti tal-Appell permezz ta' rikors ipprezentat fir-reġistru ta' dik il-qorti fi żmien għoxrin jum mid-data tas-sentenza tal-Qorti.

(6) L-intrapriżi kkonċernati, id-Direttur Ġenerali u kull terza persuna jistgħu jitolbu lill-Qorti tismagħhom bil-magħluq meta s-sottomissjonijiet li jkunu ser jagħmlu jew l-evidenza li tkun ser tiġi prodotta tkun ta' natura kunfidenzjali jew tinkludi sigrieti tan-negozju.

(7) (a) Għandhom jiġu pprezentati verżjoni kunfidenzjali u verżjoni mhux kunfidenzjali tal-osservazzjonijiet bil-miktub kollha u tal-evidenza dokumentarja kollha li jiġu pprezentati quddiem il-Qorti; u

(b) Il-Qorti għandha tivverifika l-kunfidenzjalità jew xort'oħra tal-informazzjoni pprezentata.

(8) Fl-interpretazzjoni ta' dawn ir-regolamenti il-Qorti tista' tirrikorri għal sentenzi tal-Qorti tal-Ġustizzja tal-Unjoni Ewropea, għal deċiżjonijiet u stqarrijiet rilevanti tal-Kummissjoni Ewropea, inklużi avviżi interpretattivi fuq id-dispożizzjonijiet rilevanti tat-TFUE u għal leġiżlazzjoni sekondarja relatata mal-kompetizzjoni u tista' wkoll tirreferi għad-deċiżjonijiet tagħha u tat-Tribunal tal-Appell għall-Kompetizzjoni u għall-Konsumatur.

Kap. 12.

(9) Bla ħsara għad-dispożizzjonijiet ta' dawn ir-regolamenti, id-dispożizzjonijiet tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandhom, *mutatis mutandis*, japplikaw għall-proċedimenti quddiem il-Qorti.";

(k) minnufih wara r-regolament 18 tagħhom għandu jiżdied dan ir-regolament ġdid li ġej:

"Preskrizzjoni li tikkonċerna l-impożizzjoni ta' penalitajiet.

18A. L-artikolu 26A tal-Att għandu, *mutatis mutandis*, japplika fir-rigward tal-perjodu ta' preskrizzjoni għall-impożizzjoni ta' penalitajiet.";

(l) ir-regolament 20 tagħhom għandu jiġi sostitwit b'dan li ġej:

"20. Fl-interpretazzjoni tar-regolament 4(4) u tar-regolament 4(2)(b), id-Direttur Ġenerali għandu jirrikorri għal -

(a) sentenzi tal-Qorti u d-deċiżjonijiet preċedenti tagħha;

(b) sentenzi tal-Qorti tal-Ġustizzja tal-Unjoni Ewropea;

(ċ) deċiżjonijiet rilevanti tal-Kummissjoni Ewropea;

(d) l-Avviżi Interpretattivi u l-Linji Gwida tal-Kummissjoni Ewropea dwar id-dispożizzjonijiet

rilevanti tat-TFUE u tal-leġislazzjoni sekondarja relatata mal-kompetizzjoni; u

(e) ġurisprudenza barranija oħra li tkun pertinenti."; u

(m) l-Iskeda tagħhom għandha tiġi emendata kif ġej:

(i) fis-sezzjoni B(e) tagħha, il-kliem "multa amministrattiva" għandhom jiġu sostitwiti bil-kelma "penali" u l-kliem ", kif imposta mid-Direttur Ġenerali" għandhom jiġu jithassru; u

(ii) fis-sezzjoni E tagħha, il-kliem: "Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur Uffiċċju għall-Kummerċ Ġust Cannon Road Sta. Venera - SVR 1411 Malta" għandhom jiġu sostitwiti bil-kliem "Awtorità ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur Uffiċċju għall-Kompetizzjoni Mizzi House Triq Nazzjonali Blata l-Bajda HMR 9010 Malta".

(15) Ir-Regolamenti dwar l-Istabbiliment ta' Sanzjonijiet u Pieni għandhom jiġu emendati kif ġej:

Emendi  
konsegwenzjali  
għal-  
L.S. 500.02.

(a) fir-regolamenti 2(1) tagħhom:

(i) it-tifsira "Bord tal-Appell" għandha tiġi mħassra;

(ii) minnufih wara t-tifsira "il-korp responsabbli għall-protezzjoni tal-konsumatur" għandha tiżdied it-tifsira ġdida li ġejja:

" "Qorti Ċivili" tfisser il-Qorti Ċivili (Sezzjoni tal-Kummerċ) kif imwaqqfa bl-L.S. 12.19. artikolu 3 tal-Ordni dwar it-Twaqqif ta' Sezzjonijiet tal-Qrati Ċivili;"

(b) ir-regolament 3 tagħhom għandu jiġi sostitwit b'dan li ġej:

"Investigazzjonijiet, proċeduri ġudizzjarji u penali.  
L.S. 500.01.

Kap. 378.

3. Fl-eżerċizzju tal-funzjonijiet tiegħu skont l-artikolu 10(2) tal-Att u skont ir-regolament 7 tar-Regolamenti dwar Nomina ta' Diversi Entitajiet, il-korp responsabbli għall-protezzjoni tal-konsumatur għandu, kif iqis xieraq u skont kemm applikabbli, fir-rigward ta' investigazzjonijiet, proċeduri ġudizzjarji u rikjesti għall-impożizzjoni ta' penali, isegwi l-proċedura stabbilita fl-artikoli 12 u 12A tal-Att dwar l-Affarijiet tal-Konsumatur u fit-Taqsimiet IIA, IIB, XII u XIIA tal-Att dwar l-Affarijiet tal-Konsumatur:

Iżda soġġett għad-dispożizzjonijiet tal-Att dwar l-Affarijiet tal-Konsumatur, il-Qorti Ċivili għandha timponi penali ta' mhux anqas minn erba' mija u sebgħin euro (€470) u mhux aktar minn sebgħa u erbgħin elf euro (€47,000) fuq kull persuna li tonqos milli tosserva xi dispożizzjonijiet ta' dawn ir-regolamenti."; u

(ċ) ir-regolament 4 tagħhom għandu jigi sostitwit b'dan li ġej:

"Dritt ta' appell.

4. Kull persuna li tthossha aggravata b'sentenza, ordni, penali jew miżura mogħtija mill-Qorti Ċivili, tista' tappella quddiem il-Qorti tal-Appell fuq kull punt ta' dritt u, jew fatt, billi tipprezenta rikors fir-registru tal-Qorti tal-Appell fi żmien għoxrin jum mid-data tas-sentenza tal-Qorti Ċivili:

Iżda l-Qorti tal-Appell għandha tappunta l-każ għas-smiġħ sa mhux aktar tard minn sitt xhur mid-data tas-sentenza tal-Qorti Ċivili."

Thassir ta' L.S. 510.01.

(16) Ir-Regolamenti dwar Hatra tal-President tat-Tribunal tal-Appell għall-Kompetizzjoni u għall-Konsumatur għandhom jigu mħassra.

Emendi Konsegwenzjali għall-Kap.12.

(17) Minnufih wara s-subparagrafu (5) tal-partita 4 tat-Tariffa A fl-Iskeda A tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandu

jiżdied dan is-subparagrafu ġdid li ġej:

Kap. 379.  
L.S. 379.08.

"(6) (a) Minkejja d-dispożizzjonijiet tal-paragrafi 3 u 4 u b'żieda mad-drittijiet imsemmija fil-paragrafu 2, għall-kawżi mibdija skont id-dispożizzjonijiet tal-Att dwar il-Kompetizzjoni u r-Regolamenti dwar il-Kontroll ta' Konċentrazzjonijiet, id-dritt intaxxat għandu jkun dak ta' sitt mija u ħamsin euro (€650).

Kap. 379.  
L.S. 379.08.

(b) Fil-każ ta' appelli minn sentenzi mogħtija skont l-Att dwar il-Kompetizzjoni u r-Regolamenti dwar il-Kontroll ta' Konċentrazzjonijiet, is-subparagrafu (7) tal-paragrafu 3 għandu japplika *mutatis mutandis*."

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Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 229 tad-29 ta' Mejju, 2019.

ANĠLU FARRUGIA  
*Speaker*

RAYMOND SCICLUNA  
*Skrivan tal-Kamra tad-Deputati*

I assent.

(L.S.)

**GEORGE VELLA**  
**President**

31st May, 2019

**ACT No. XVI of 2019**

*An ACT to amend the Competition Act, Cap. 379 and the Consumer Affairs Act, Cap. 378 and other Laws, to extend the competence of the Civil Court (Commercial Section) and to make ancillary and consequential provisions thereto.*

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:

Short title and commencement.

**1.** (1) The short title of this Act is the Competition Act and Consumer Affairs Act and other Laws (Amendment) Act, 2019.

(2) This Act shall come into force on such date as the Minister for Justice, Culture and Local Government, may by notice in the Gazette establish, and different dates may be so established for different provisions of this Act.

Part I  
Amendments to the Code of Organization  
and Civil Procedure

2. This Part amends the Code of Organization and Civil Procedure and it shall be read and construed as one with the Code of Organization and Civil Procedure, hereinafter in this Part referred to as "the Code".

Amendments to the Code of Organization and Civil Procedure. Cap. 12.

3. Sub-article (7) of article 36 of the Code shall be substituted by the following:

Amendment of article 36 of the Code.

"(7) The Civil Court (Commercial Section) shall take cognizance of all claims against persons, whether natural or legal, residing or having their ordinary abode or registered office in the Islands of Malta and the Islands of Gozo and Comino and of all other causes, expressly assigned by law to such section of the Civil Court:

Provided that where the Civil Court (Commercial Section) is to hear causes concerning claims against persons, whether natural or legal, residing or having their ordinary abode or registered office in the Islands of Gozo and Comino, it shall hold its sittings in the building of the Courts of Gozo:

Provided further that the provisions of Sub-title IV of Title I of Book Third of this Code, sub-titled "Of Referees" shall, *mutatis mutandis*, apply to matters relating to the Competition Act and any regulations made thereunder and the Consumer Affairs Act and any regulations made thereunder."

Cap. 379.

Cap. 378.

4. In paragraph (a) of article 37 of the Code the words "before the Court of Magistrates (Gozo) and the Civil Court, First Hall" shall be substituted by the words "before the Court of Magistrates (Gozo), the Civil Court, First Hall and the Competition and Consumer Appeals Tribunal".

Amendment of article 37 of the Code.

5. Article 38 of the Code shall be amended as follows:

Amendment of article 38 of the Code.

(a) in sub-article (1) thereof the words "before the Court of Magistrates (Gozo) sitting in its superior jurisdiction and before the Civil Court, First Hall" shall be substituted by the words, "before the Court of Magistrates (Gozo) sitting in its superior jurisdiction, before the Civil Court, First Hall and before the Competition and Consumer Appeals Tribunal";

(b) in sub-article (2) thereof, immediately after the words, "said Court" shall be added the words "or the

Competition and Consumer Appeals Tribunal";

(c) in sub-article (3) thereof, the words "Court of Magistrates (Gozo) (Superior Jurisdiction) and the Civil Court, First Hall" shall be substituted by the words "Court of Magistrates (Gozo) (Superior Jurisdiction), the Civil Court, First Hall and the Competition and Consumer Appeals Tribunal"; and

(d) in sub-article (6) thereof, the words "the Civil Court (Commercial Section)." there shall be substituted by the words "the Civil Court (Commercial Section):" and immediately after there shall be added the following proviso:

Cap. 379.  
Cap. 378.

Cap. 510.

"Provided that all causes instituted in terms of the Competition Act and any regulations made thereunder, the Consumer Affairs Act and any regulations made thereunder and the Malta Competition and Consumer Affairs Authority Act and which are pending before the Competition and Consumer Appeals Tribunal, on the entry into force of the Competition Act and Consumer Affairs Act and other Laws (Amendment) Act, 2019, shall also be continued before the Civil Court (Commercial Section)."

## Part II

### Amendments to the Consumer Affairs Act

Amendments to  
the Consumer  
Affairs Act.  
Cap. 378.

**6.** This Part amends the Consumer Affairs Act and it shall be read and construed as one with the Consumer Affairs Act, hereinafter in this Part referred to as "the principal Act".

Amendment of  
article 2 of the  
principal Act.

**7.** Article 2 of the principal Act shall be amended as follows:

(a) the definition "Appeals Tribunal" shall be deleted;  
and

(b) immediately after the definition "the Board", there shall be added the following new definition:

S.L. 12.19. " "Civil Court" means the Civil Court (Commercial Section) established by article 3 of the Civil Courts (Establishment of Sections) Order;"

Substitution of  
article 3 of the  
principal Act.

**8.** Article 3 of the principal Act shall be substituted by the

following:

"Responsibility of the Director General and competences of the Civil Court.

Cap. 510.

3. The Director General shall be responsible for the administration of this Act and investigations according to this Act, and for these purposes the Director General shall exercise the responsibilities vested in the Office for Consumer Affairs by article 17 of the Malta Competition and Consumer Affairs Authority Act and by this Act except where competences are assigned to the Civil Court by this Act and by the Malta Competition and Consumer Affairs Authority Act:

Provided that the Director General may delegate any of his functions and powers to any officer or employee of the Authority."

9. Article 7 of the principal Act shall be amended as follows:

Amendment of article 7 of the principal Act.

(a) in sub-article (2) thereof the words "requirements in connection therewith." shall be substituted by the words "requirements in connection therewith:" and immediately there after there shall be added the following proviso:

"Provided that this is without prejudice to the competences assigned to the Civil Court by this Act."; and

(b) in sub-article (3)(b) thereof the words "administrative fine" shall be substituted by the word "penalty".

10. Article 12 of the principal Act shall be substituted by the following:

Substitution of article 12 of the principal Act.

"Investigations.

12. (1) In order to ensure the observance of the provisions of this Act and any regulations made thereunder, the Director General shall have the power to carry out investigations of his own motion or upon a reasonable allegation in writing, also from a qualified entity, of an infringement of the provisions of this Act and any regulations made thereunder.

(2) Upon commencing investigations concerning an alleged infringement of this Act or of any regulations made thereunder, the Director General shall notify in writing the person concerned that an investigation has commenced, informing the person concerned of the nature of the alleged infringement.

(3) The person concerned shall present his submissions to the Director General within twenty days from the notification of the commencement of investigations.

(4) During the investigations, the Director General, to discharge his functions under this Part, may also adopt the power of entry of inspection and the power to request and obtain information according to articles 103 and 104, and the provisions of article 105 shall also apply accordingly.

(5) Where, upon the conclusion of an investigation, it appears *prima facie* to the Director General, that an infringement of a provision of this Act or of any regulations made thereunder has occurred, the Director General shall institute judicial proceedings against the person concerned before the Civil Court by means of a sworn application:

Provided that the Director General may, instead of proceeding judicially, in those instances referred to in article 12A, seek an undertaking from the trader in terms of the said article 12A."

Substitution of article 12A of the principal Act.

**11.** Article 12A of the principal Act shall be substituted by the following:

"Undertakings.

12A. (1) Upon the conclusion of an investigation according to article 12(5), where it appears *prima facie* to the Director General, that a trader has engaged in conduct that constitutes an infringement of, or a failure to comply with, any regulations made under article 7 or under the provisions of article 9, or an infringement or a failure to comply with the provisions of articles 44 to 47 and 51A to 51E, the Director General may, at his discretion, instead of instituting judicial proceedings before the Civil Court against the trader

according to article 12(5), caution the trader and seek an undertaking in writing from the trader that he shall refrain from the conduct or practice specified in the undertaking for such period not exceeding three years, or for any longer period that the Director General may establish.

(2) The undertaking shall contain such other terms and conditions as may be agreed, including, where the circumstances so warrant, the provision of compensation for aggrieved consumers, and, or the restitution of any money or property given by the consumers.

(3) Where the Director General deems it appropriate, he may publish the said undertaking in at least two daily newspapers, and the publication expenses shall be borne by the trader.

(4) The Director General shall maintain a register of undertakings made under this article, which register shall be kept at the principal office of the Office and the register may be seen by any person at such times as may be established by the Director General.

(5) Where in the opinion of the Director General a trader has not abided by the undertaking, the Director General shall file a sworn application before the Civil Court requesting that Civil Court to find the trader liable of having infringed the undertaking, and to impose a penalty according to article 106A:

Provided that the trader shall in any case remain bound by the undertaking for the remaining period."

**12.** Article 12B of the principal Act shall be amended as follows:

Amendment of article 12B of the principal Act.

(a) in sub-article (1) thereof the words "Without prejudice to article 12A," shall be substituted by the words "Without prejudice to article 12,"; and

(b) sub-article (2) thereof shall be substituted by the following:

"(2) The Director General shall, within forty-five days after the day on which he receives the complaint,

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publish a response stating how he proposes to deal with the complaint, and in particular whether an investigation will be initiated."

Addition of new Part IIA and new articles to the principal Act.

**13.** Immediately after article 12B of the principal Act there shall be added the following new PART IIA and new articles:

"PART IIA

Judicial proceedings before the Civil Court  
and the Court of Appeal

Written pleadings.

12C. (1) The sworn application referred to in article 12(5) shall:

(a) provide the facts that have brought the Director General to conclude that *prima facie* there is an infringement of the provisions of this Act and of the regulations made thereunder;

(b) include the request of the Director General for a declaration of the Civil Court that the person concerned, against whom the judicial proceedings are instituted, has infringed the provisions of this Act and of the regulations made thereunder and is liable for such infringement; and

(c) contain a request by the Director General to the Civil Court for:

(i) the imposition of a penalty on the defendant according to article 106A for each infringement, and, or

(ii) the issue of a compliance order with regard to the defendant, and, or

(iii) any other remedy as contemplated in this Act, and, or

(iv) any other relevant order that may be necessary according to the circumstances of the case:

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Provided that the provisions of article 156 of the Code of Organization and Civil Procedure shall, where applicable, also apply to the sworn application.

(2) The sworn application shall also be notified to any qualified entity that had alleged the infringement according to article 12(1).

Cap. 12. (3) The person concerned shall, within twenty days from the notification to him of the sworn application, file a sworn reply, and the provisions of article 158 of the Code of Organization and Civil Procedure shall, *mutatis mutandis*, apply in this case.

Specific powers of the Civil Court. 12D. In judicial proceedings, instituted by the Director General following investigations of commercial practices as defined in article 51A that appear to be unfair in terms of the provisions of Part VIII, the Civil Court may, immediately after the conclusion of the written pleadings:

(a) require the defendant to furnish evidence as to the accuracy of factual claims in relation to a commercial practice if, taking into account the legitimate interest of the defendant and any other party to the proceedings, such a requirement appears appropriate on the basis of the circumstances of the particular case; and

(b) consider factual claims as inaccurate if the evidence demanded in accordance with paragraph (a) of this article, is not furnished or is deemed insufficient by the Civil Court.

Interim measures. 12E. (1) In cases of urgency due to the risk of immediate and serious harm to the collective interests of consumers, the Director General, may at any stage prior to the conclusion of an investigation initiated according to article 12, file an application before the Civil Court requesting that interim measures are issued for such period of time to be established by the Civil Court, so that the person concerned remedies the situation.

(2) The sworn application shall be served on the person concerned, who shall within eight days from the notification thereof, file his reply to propose any remedies or to contest the request for interim measures providing the reasons thereto.

(3) The Civil Court shall decide the application with urgency either *in camera* or after hearing the advocates of the parties, if it deems fit, provided that not more than one sitting may be fixed for such purpose.

(4) The decree of the Civil Court ordering the issue of interim measures shall be enforceable upon its delivery, shall remain in force for the period of time established by the Civil Court, and no appeal shall lie from the decree:

Provided that nothing precludes the Court from revoking any interim measures, from renewing the same interim measures for further periods or from modifying the said interim measures in so far as this is necessary and appropriate, according to the circumstances of the case, upon an application of the Director General or by the person concerned.

(5) Any person who infringes the decree ordering the interim measures shall be liable to a penalty according to article 106A.

Order by the Civil Court.

12F. Where the Civil Court delivers a judgement finding an infringement of this Act or of any regulations made thereunder, the Civil Court may, without prejudice to the provisions of article 106A and to any other remedy provided for under this Act, order the restitution of any money or property given by the consumer.

Compliance orders.

12G. (1) Without prejudice to the provisions of article 106A and of sub-article (8), whether or not at the request of the Director General, or of a qualified entity, the Civil Court may, at its discretion, where it deems it reasonably appropriate or necessary in the public interest, in its judgement finding the defendant liable of infringing the provisions of this Act or of the regulations made thereunder, issue a compliance order:

- (a) on the defendant, requiring:-
  - (i) the deletion or alteration of terms in a consumer contract that the Civil Court considers to be unfair to consumers in accordance with the provisions of Part VII of this Act; and

(ii) the incorporation of terms in a consumer contract that the Civil Court considers to be necessary for the better information of consumers, or for preventing a significant imbalance between the rights and obligations of the parties, and this to the benefit of consumers;

(b) requiring the defendant engaging or proposing to engage in any unfair commercial practice, to discontinue or refrain from such practice, and, or to take any measures specified in the compliance order, including the making of a corrective statement, within the time specified therein to ensure that the provisions of Part VIII of this Act are complied with;

(c) requiring the defendant to take any measures specified in the compliance order, including the making of a corrective statement, within the time specified in the compliance order to ensure that this Act and any regulations made thereunder or any law dealing with consumer rights and protection as may be designated by Order in the Gazette by the Minister acting after consulting the Council, are complied with; and

(d) requiring the defendant to cease and desist from committing an offence or an infringement of this Act or of any regulations made thereunder or of any other law dealing with consumer rights and protection as may be designated by Order in the Gazette by the Minister after consulting the Council.

(2) The qualified entity requesting a compliance order in terms of sub-article (1):

(i) shall file a sworn application, that is to be notified to all the parties to the judicial proceedings;

(ii) shall satisfy the Civil Court that the qualified entity has tried to achieve the cessation of the infringement in consultation with either the defendant or both the defendant and another qualified entity and that cessation was not achieved within two weeks from the request for cessation; and

(iii) shall not be required to have or to prove an interest in, or to be affected by, the matter or act in issue.

(3) Where the qualified entity is from another Member State, the Civil Court shall treat the list of qualified entities published by the European Commission as conclusive proof of the legal capacity of the qualified entity to present such written application in Malta:

Cap. 12. Provided that, as far as applicable, the provisions of article 180 of the Code of Organization and Civil Procedure, shall, *mutatis mutandis*, apply.

(4) Where the qualified entity is from Malta, and such entity is not included in the list of qualified entities published by the European Commission, the Civil Court shall order the Director General, at the request of the qualified entity concerned, to communicate to the European Commission the name and objects of such entity and that such qualified entity should be added to the list of qualified entities so as to facilitate the redress of intra-community infringements.

(5) Any person who fails to comply with a compliance order issued by the Civil Court, shall be liable to a penalty according to article 106A(2).

(6) Where a compliance order has been requested, the Civil Court shall in all cases act as expeditiously as possible.

(7) Once issued by the Civil Court, a compliance order shall come into force with immediate effect.

(8) When requesting the issue of a compliance order, the Director General shall not have to prove:

(a) actual loss or damage, or

(b) actual recklessness, negligence or fault on the part of the defendant.

(9) Prior to issuing a compliance order, the Civil Court shall, whenever it deems it possible and reasonable, request the defendant to declare whether he is prepared to comply voluntarily with this Act or with any regulations made thereunder or with any other law dealing with consumer rights and protection as may be designated by the Minister after consulting the Council, by Order in the Gazette.

(10) The Civil Court may, in its judgement, in order to eliminate or reduce the continuing effects of any non-observance of any provisions of this Act or any regulations made thereunder or of any other law dealing with consumer rights and protection as may be designated by the Minister after consulting the Council by Order in the Gazette, order the defendant:

(a) to publish a copy of the compliance order, in full or in part and in such form as the Civil Court deems to be appropriate and adequate; and, or

(b) to publish a corrective statement as required by the compliance order in relation to any infringement of this Act, or of any regulations made thereunder, or of any other law dealing with consumer rights and protection as may be designated by the Minister after consulting the Council by Order in the Gazette:

Provided that with regard to the publication referred to in this sub-article, the Civil Court shall order that this publication is made in at least two daily newspapers and if appropriate, in any other medium of communication, at the expense of the defendant, after the lapse of twenty days from the judgement and provided that no appeal has been filed:

Provided further that where such publication is not effected as aforesaid by the defendant, the Civil Court shall authorize the Director General to effect the publication himself, and to recover from the defendant any expenses incurred.

Procedure  
and  
judgements.

12H. (1) Proceedings before the Civil Court shall be held in public with due regard to the protection of confidential information or of business secrets:

Provided that the person concerned, or the Director General, or the complainant may request the Civil Court to be heard behind closed doors where the submissions to be made or the evidence to be produced is of a confidential nature or contains business secrets:

Provided further that for the purposes of this provision a confidential and a non-confidential version of any written observations and documentary evidence shall be produced and the Civil Court shall verify the confidentiality or otherwise of the information submitted.

(2) Before giving its judgment, the Civil Court may have recourse to the judgments of the Court of Justice of the European Union, to the relevant decisions and, or statements of the European Commission, including interpretations of the European Regulations and Directives relative to consumer protection and may also refer to its decisions and to the decisions of the Competition and Consumer Appeals Tribunal.

(3) Where the Civil Court has found the defendant liable of an infringement or of infringements of this Act or of any regulations made thereunder, it shall impose a penalty according to article 106A for each infringement.

(4) Subject to the right of appeal established in article 12I, the decisions of the Civil Court shall be final and binding.

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(5) Subject to the provisions of this Act, the provisions of the Code of Organization and Civil Procedure shall, *mutatis mutandis*, apply to all judicial proceedings instituted according to this Act, before the Civil Court and the Court of Appeal and to the enforcement of judgements.

Appeals to the Court of Appeal.

12I. The Director General and, or any party to the proceedings before the Court, who feels aggrieved by the judgment of the Civil Court, may appeal before the Court of Appeal, on any point of law and, or of fact, by means of an application filed in the registry of the Court of Appeal within twenty days from the date of the judgment of the Civil Court:

Provided that the Court of Appeal shall appoint the case for hearing by not later than six months from when the appeal application is served on all the parties."

14. Immediately after article 12I of the principal Act there shall be added the following new title:

Addition of new title 'Part IIB' to the principal Act.

"PART IIB  
Criminal proceedings and related provisions".

15. Article 14A of the principal Act shall be substituted by the following:

Substitution of article 14A of the principal Act.

"Court orders.

14A. Where the court finds that a person has committed an offence under this Act or under any regulations made thereunder, the Court may, without prejudice to any other order that it may make under any other law:

(a) order the restitution of any money, property or other consideration given by the consumer;

(b) make an order of specific performance against that person; and

(c) make any other order the court considers appropriate."

16. Articles 14B and 15 of the principal Act shall be deleted.

Deletion of articles 14B and 15 of the principal Act.

17. Article 43D of the principal Act shall be substituted by the following:

Substitution of article 43D of the principal Act.

"Role of the Council as the competent ADR regulatory authority and the Civil Court.

43D. (1) Except where competences are assigned to the Civil Court by this Act, the Council shall be the competent ADR regulatory authority, and in the exercise of such a role the Council shall independently and autonomously perform the following functions:

(a) determine whether an entity is qualified to act as an ADR entity;

(b) monitor and investigate the operations and conduct of ADR entities and of traders;

(c) following investigations of ADR entities and, or of traders that indicate *prima facie* that there are infringements of the law and of their obligations at law, institute judicial proceedings according to Part IIA before the Civil Court, in so far as this is applicable.

(2) Unless provided otherwise by the law, the Council in the exercise of its functions under this Part shall regulate its own procedure.

(3) The Council shall exercise its regulatory functions however so described through its Chairman and, or through one or more of such public officers and, or public entity or entities as may from time to time be authorized by the Council for that purpose:

Provided that no such functions shall be exercised by any entity which is or may have been designated to act as residual ADR entity, or else is or was an ADR entity."

Substitution of article 43E of the principal Act.

**18.** Article 43E of the principal Act shall be substituted by the following:

"Application of certain investigative powers provisions of Part XII.

43E. The provisions of articles 102, 103, 104 and 105, in so far as they relate to the exercise of the powers of investigation of the Director General in the performance of his regulatory functions, shall similarly apply to the Chairman of the Council when acting to monitor and investigate ADR entities and traders."

Substitution of article 43F of the principal Act.

**19.** Article 43F of the principal Act shall be substituted by the

following:

"Application of Part IIA with regard to judicial proceedings before the Civil Court.

43F. With regard to the functions of the Council established in article 43D(1)(c) the institution of judicial proceedings by the Council and the relative judicial process shall be according to PART IIA before the Civil Court, in so far as this is applicable and excluding any references therein to qualified entities."

**20.** Article 43G of the principal Act shall be substituted by the following:

Substitution of article 43G of the principal Act.

"Powers to make regulations.

43G. The Minister may make regulations on any aspect relating to consumer to trader alternative dispute resolution procedures, on the role and functions of the Council under this Part, and for the better functioning of such ADR procedures in Malta, including the power of the Council to request the Civil Court to impose penalties not exceeding fifty thousand euro (€50,000) and, or not exceeding one hundred euro (€100) for each day of non-compliance by the decision of the Civil Court, and the procedure to be followed by the Council in the investigative process and in any subsequent judicial proceedings before the Civil Court."

**21.** Articles 94 to 101 of the principal Act shall be deleted.

Deletion of articles 94 to 100 of the principal Act.

**22.** The title of 'Part XII' of the principal Act shall be substituted by the new title "Investigative powers".

Substitution of the title 'Part XII' of the principal Act.

**23.** In paragraph (c) of article 105 of the principal Act the words "refuses or fails to furnish information as required under this Part or else" shall be deleted.

Amendment of article 105 of the principal Act.

**24.** Immediately after article 105 there shall be added the following new Part XIII:

Addition of new Part XIII to the principal Act.

"PART XIIA

Offences, Penalties and related provisions

Offences. 106. A person found guilty of an offence against this Act or of any regulation made thereunder shall, unless a different punishment is prescribed therefor, on conviction be liable to a fine (*multa*) of not less than four hundred and seventy euro (€470) and not more than forty-seven thousand euro (€47,000).

Penalties. 106A. (1) The Civil Court shall impose a penalty upon any person who is found to have infringed a provision of this Act or of any regulation made thereunder for each infringement.

(2) A penalty imposed for an infringement under sub-article (1) shall not be less than four hundred and seventy euro (€470) and not more than forty-seven thousand euro (€47,000):

Provided that in the case of non-compliance with a compliance order, the Civil Court shall also impose a daily penalty of not less than one hundred and twenty euro (€120) and of not more than two hundred and thirty euro (€230) for each day of non-compliance:

Provided further that in the case of non-compliance with the decree of the Civil Court ordering an interim measure, the Civil Court shall also impose a daily penalty of not less than one hundred and twenty euro (€120) and of not more than two hundred and thirty euro (€230) for each day of non-compliance.

(3) Without prejudice to the rules that the Civil Court shall apply when determining the penalties in respect of infringements of the articles referred to in the Second Schedule, in determining the amount of a penalty in respect of infringements of any other provision of this Act, of infringements of regulations made under this Act and of infringements of provisions of other laws administered by the Director General, the Civil Court shall in exercising its discretion ensure that the penalties imposed are effective, proportionate and dissuasive."

25. Articles 107, 107A, 108, 109, 110B, 110C, 110D, 110E, 110F, 110G and 110H of the principal Act shall be deleted.

Deletion of articles 107, 107A, 108, 109, 110B, 110C, 110D, 110E, 110F, 110G and 110H of the principal Act.

26. Part XIII of the principal Act shall be substituted by the following:

Substitution of Part XIII of the principal Act.

"PART XIII  
Miscellaneous

Prime Minister may extend operation of articles 10, 12, 12A and Parts IIA, IIB, XII and XIIA to other laws.

111. The Prime Minister may, by order in the Gazette, direct that the provisions of articles 10, 12, 12A and Parts IIA, IIB, XII and XIIA shall apply to offences and, or infringements under any other law administered by the Director General, or under any law whereby maximum prices for goods or services are fixed, or whereby minimum standards are fixed for goods or services.

Refund of monies paid.

112. Participants, other than those who establish, operate or promote a pyramid promotional scheme in terms of rule 14 of the First Schedule, shall be entitled not later than two years from the date on which they have made the last payment to institute an action before the ordinary courts to demand a full refund of any monies paid by them into the scheme.

Exemption from liability.

113. No action shall lie against the Director General, or any of his officers or any authorised person acting under his discretion or control, or against any member of the Council, for any act or omission in connection with this Act or any regulations made thereunder, unless such act or omission was done in bad faith.

Prescription for judicial proceedings and for offences.

114. The institution of judicial proceedings and the prosecution of an offence under this Act or any regulations made thereunder, shall be prescribed by the lapse of five years from the date on which the infringement or the offence is alleged to have been committed.

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No precautionary warrant. 115. No precautionary warrant or other order under any other law shall be issued by any court or tribunal restraining or restricting the Director General in the exercise of his functions under this Act and under the Malta Competition and Consumer Affairs Authority Act."

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Amendment of the First Schedule to the principal Act.

**27.** The First Schedule to the principal Act shall be amended as follows:

(a) in paragraph 4 thereof, the words "/her" and "/she/it" shall be deleted; and

(b) in paragraph 5 thereof, the word "/she" shall be deleted.

Amendment of the Second Schedule to the principal Act.

**28.** The Second Schedule to the principal Act shall be substituted by the following:

"SECOND SCHEDULE  
(Article 106A(3))

Penalties

1. In determining the amount of the penalty specified in article 106A, in respect of the infringements of the articles referred to in this Schedule, and without prejudice to the provisions of article 106A(3), the Civil Court shall also be guided by the following considerations.

Infringements under article 51F

2. For each infringement under article 51F, the basic amount of the penalty shall be two thousand three hundred and fifty euro (€2,350):

Provided that the Civil Court may, in establishing the penalty, take into account circumstances that may lead to an increase or decrease in the basic amount:

Provided further that the Civil Court shall do so on the basis of an overall assessment which takes into account all the relevant circumstances.

3. The Civil Court may impose a higher penalty than the basic amount where there are aggravating circumstances, having regard to the gravity and duration of the infringement and, or the amount of gains improperly made as a result of the

infringement.

4. Without prejudice to the generality of rule 3, the following shall in all cases be deemed as aggravating circumstances:
  - where the infringement is an unfair commercial practice listed in the First Schedule, the basic amount shall be increased by a sum not less than one thousand seven hundred and fifty euro (€1,750) and not more than four thousand six hundred and fifty euro (€4,650);
  - in the case of a second or subsequent infringement, the basic amount shall be increased by two thousand three hundred and fifty euro (€2,350) for each and every subsequent infringement;
  - where the practice or scheme constituting the infringement is the principal means by which the trader runs or operates his business, the basic amount shall be increased by a sum not less than one thousand seven hundred and fifty euro (€1,750) and not more than four thousand six hundred and fifty euro (€4,650);
  - where the practice or scheme constituting the infringement is specifically targeting vulnerable consumers, the basic amount shall be increased by two thousand three hundred and fifty euro (€2,350);
  - where the unfair commercial practice is accompanied by any of the factors listed in article 51E(2) of the Act, the basic amount shall be increased by a sum not less than one thousand seven hundred and fifty euro (€1,750) and not more than four thousand six hundred and fifty euro (€4,650).
5. The basic amount of the penalty may be decreased where the Civil Court finds that there are mitigating circumstances, in particular:
  - where the defendant provides evidence that he terminated the unfair commercial practice constituting the infringement as soon as the Director General commenced investigations under article 12, the basic amount shall be decreased by not more than twenty *per centum*;

- where the defendant provides evidence that he has taken adequate steps to reduce the negative effects of the infringements, the basic amount shall be decreased by not more than ten *per centum*.
6. The final amount of the penalty for each and every infringement, shall not, in any event, exceed forty-seven thousand euro (€47,000) or be lower than four hundred and seventy euro (€470).

Infringements under article 12A

7. For the infringement referred to in article 12A, the amount of the penalty shall not be less than four thousand six hundred and fifty euro (€4,650) and not more than eleven thousand six hundred and fifty euro (€11,650).

Infringements under article 12E

8. For the infringement referred to in article 12E, the amount of the penalty shall not be less than four thousand six hundred and fifty euro (€4,650) and not more than eleven thousand six hundred and fifty euro (€11,650):

Provided that in the case of non-compliance with the decree of the Civil Court ordering an interim measure, the Civil Court shall also impose a daily penalty of not less than one hundred and twenty euro (€120) and of not more than two hundred and thirty euro (€230) for each day of non-compliance.

Infringements under article 12G

9. For the infringement referred to in article 12G, the amount of the penalty shall not be less than four thousand six hundred and fifty euro (€4,650) and not more than twenty-three thousand three hundred euro (€23,300):

Provided that in the case of non-compliance with a compliance order, the Civil Court shall also impose a daily penalty of not less than one hundred and twenty euro (€120) and of not more than two hundred and thirty euro (€230) for each day of non-compliance."

Part III  
Amendments to the Competition Act

**29.** This Part amends the Competition Act and it shall be read and construed as one with the Competition Act, hereinafter in this Part referred to as "the principal Act".

Amendments to the Competition Act.  
Cap. 379.

**30.** Article 2 of the principal Act shall be amended as follows:

Amendment of article 2 of the principal Act.

(a) the definition "Appeals Tribunal" shall be deleted;

(b) immediately after the definition "association of undertakings" there shall be added the following new definition:

Cap. 510. " "Authority" means the Malta Competition and Consumer Affairs Authority established by article 3 of the Malta Competition and Consumer Affairs Authority Act;"

(c) immediately after the definition "the Board" there shall be added the following new definition:

S.L. 12.19. " "Court" means the Civil Court (Commercial Section) established by article 3 of the Civil Courts (Establishment of Sections Order);" and

(d) the definition "President" shall be deleted.

**31.** Article 3 of the principal Act shall be substituted by the following:

Substitution of article 3 of the principal Act.

"Responsibility of the Director General and the Court.

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3. The Director General and the Court shall have the exclusive competence to apply the provisions of this Act and, for this purpose, the Director General shall exercise the responsibilities vested in the Office for Competition under article 14 of the Malta Competition and Consumer Affairs Authority Act and under this Act except where competences are assigned to the Court in this Act and in the Malta Competition and Consumer Affairs Authority Act:

Provided that the Director General may delegate any of his powers to any officer or employee of the Authority."

Amendment of article 8 of the principal Act.

**32.** In sub-article (1) of article 8 of the principal Act the words "general" after the word "Board" shall be deleted and the word "form" shall be substituted by the word "from".

Amendment of article 11A of the principal Act.

**33.** Sub-articles (3) and (5) of article 11A of the principal Act shall be deleted and sub-article (4) thereof shall be renumbered as sub-article (3).

Amendment of article 12 of the principal Act.

**34.** Article 12 of the principal Act shall be amended as follows:

(a) in the proviso to sub-article (2) thereof the words "duty of professional secrecy." shall be substituted by the words "duty of professional secrecy:" and immediately thereafter there shall be added the following proviso:

"Provided further that during the course of any investigation, when a person, undertaking or association of undertakings answers to questions raised by the Office both in writing and verbally, the person, undertaking or association of undertakings concerned shall not be obliged to provide any answer which might involve an admission on its part of the existence of an infringement of articles 5, and, or 9 of the Act, and, or Articles 101 and, or 102 of the TFEU but it is in any event obliged to answer factual questions and to provide documents.";

(b) sub-article (3) thereof shall be substituted by the following:

"(3) When sending a request for information to an undertaking or association of undertakings, the Director General shall state the legal basis and the purpose of the request, specify what information is required and fix a time limit within which the information is to be provided.";

(c) in sub-article (6) thereof the words "the Appeals Tribunal and before any court of law:" shall be substituted by the words "the Court and before any other court of law:";

(d) sub-article (7)(a) thereof shall be substituted by the following:

"(7)(a) The Director General and, or his officers and,

or any other person authorised or appointed by the Director General duly authorised by a warrant issued by the Magistrate may, for the purpose of any investigation under this article, enter into and search any premises, land or means of transport where the Director General has reason to believe that information relevant to the investigation may be found, and in the course of any such search the Director General and, or his officers, shall be empowered to:

(i) inspect and examine any object or document;

(ii) seize and confiscate any object or document, or take extracts or copies of documents;

(iii) require any information which is stored in a computer or any other object or device which is accessible from the premises, land or means of transport and which the Director General and, or his officers consider relevant to the investigation, to be delivered in a form in which it can be taken away and in which it is visible and legible;

(iv) order the non-removal of any object or documents from any such premises, land or means of transport;

(v) close and seal any or all parts of such premises, land or means of transport, or put any object under seal;

(vi) ask any representative or member or staff of the undertaking or association of undertakings concerned for an explanation of any fact or document relating to the subject-matter and purpose of the inspection or to state to the best of their knowledge and belief where the documents may be found and record the answers;

(vii) take any steps which appear to be necessary to preserve any object or document or to prevent any interference with such object or document.";

(e) paragraph (b) of sub-article (7) thereof shall be substituted by the following:

"(b) The Magistrate, in deciding whether to issue a warrant under sub-article (7)(a) shall ensure that the coercive measures envisaged are neither arbitrary nor excessive, having regard, in particular, to the gravity of the suspected infringement, to the importance of the evidence sought, to the involvement of the undertaking or association of undertakings concerned and to the reasonable likelihood that any object, document or record relating to the subject matter of the inspection are kept in the premises, land or means of transport for which the warrant is requested:

Provided that the Magistrate, in deciding whether to issue a warrant under sub-article (7)(a), may also take into account the possibility that in the case where it is the Director General who would request these objects, documents or records, these would not be produced, but would instead be concealed, removed, tampered with or destroyed.";

(f) sub-article (8) thereof shall be amended as follows:

(i) paragraph (a) thereof shall be substituted by the following:

"(a) The warrant mentioned in sub-article (7)(a) shall specify the subject-matter, purpose of the inspection, the date on which the inspection is to begin and the relative penalties provided for in article 21.";

(ii) paragraph (b) thereof shall be substituted by the following:

"(b) The powers conferred by article 12(7)(a) are to be exercised by the Director General and, or his officers and, or any person authorised or appointed by the Director General on production of a warrant issued under that article.";

(iii) paragraph (c) thereof shall be substituted by the following:

"(c) The Director General and, or any of his officers and, or any person authorised or appointed by the Director General entering premises, land or means of transport by virtue

of a warrant issued under sub-article (7)(a) may take with them such equipment as appears to them to be necessary.";

(iv) paragraph (d) thereof shall be deleted;

(g) paragraph (a) of sub-article (9) thereof shall be substituted by the following:

"(a) In the course of any search as is referred to in sub-article (7), the Director General and, or any of his officers and, or any person authorised or appointed by the Director General may request the assistance of the Police and in such case the Police shall require a warrant issued by the Magistrate to assist the Director General in the search.";

(h) sub-article (11) thereof shall be substituted by the following:

"(11) In the course of an inspection under this article, the undertakings or association of undertakings or persons subject to the inspection may be assisted by legal counsel of their choice:

Provided that officers may wait a reasonable time for the legal counsel to arrive before starting the inspection and during this time, officers may take any reasonable measures to prevent any potential tampering with evidence or to prevent any potential communication by which other undertakings will be informed that an investigation is taking place:

Provided further that the right of such assistance may delay but shall not have the effect of suspending the inspection."; and

(i) sub-article (13) thereof shall be substituted by the following:

"(13) No search may be commenced on any premises, land or means of transport after seven o'clock in the evening and before seven o'clock on the next following morning, unless there is reason to believe that delay could cause the loss of information and the search is expressly authorised by the Magistrate, to take place between the said times.".

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Substitution of article 12A of the principal Act.

**35.** Article 12A of the principal Act shall be substituted by the following:

"Contents of the sworn application.

12A. (1) Where, following an investigation, the Director General considers that an infringement of articles 5 and, or 9 of this Act and, or an infringement of Articles 101 and, or 102 of the TFEU may have occurred, he shall file a sworn application in Court.

(2) The sworn application mentioned in sub-article (1) shall:

(a) Set the facts which led the Director General to find a suspected infringement of articles 5 and, or 9 of the Act and, or a suspected infringement of Articles 101 and, or 102 of the TFEU.

(b) Where appropriate, contain a request by the Director General for the Court to issue a judgement finding an infringement of articles 5 and, or 9 of this Act and, or an infringement of Articles 101 and, or 102 of the TFEU against the undertaking and, or association of undertakings concerned.

(c) Contain a request by the Director General for the Court to impose a penalty, and, or any other remedy on the undertaking and, or association of undertakings concerned as contemplated in this Act:

Provided that the Director General may also indicate a specific amount of the penalty either in its sworn application or by a note presented in Court during proceedings:

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Provided further that the provisions of article 156 of the Code of Organization and Civil Procedure shall, where applicable, also apply to the sworn application.

(3) In addition to the above, the Director General may also include a report in the Maltese or English language with the findings of the investigation carried out by him.

(4) Without prejudice to the provisions of article 12A(1), the Director General may also file a sworn application requesting the imposition of a penalty on the undertaking, and, or association of undertakings concerned in all the other instances pursuant to the provisions of article 21.

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(5) The undertaking and, or association of undertakings against whom the sworn application is served, shall file by no later than twenty days from date of service, a sworn reply and the provisions of article 158 of the Code of Organization and Civil Procedure shall, *mutatis mutandis*, apply in this case.

(6) During court proceedings, the undertaking and, or association of undertakings concerned in receipt of a sworn application, shall be entitled upon a request to this effect in their sworn reply, to have access to the file of the investigation concerning their case, without prejudice to the non-disclosure of information or documents identified by the Director General as containing business secrets or other confidential information, or of internal documents of the Director General or of the Competition Authorities of other Member States. The Director General shall provide access to the file of the investigation at any time prior to the conclusion of his evidence.

(7) In the exercise of his responsibilities, the Director General shall have recourse to the judgements of the Court of Justice of the European Union, and to relevant decisions and statements of the European Commission including interpretative notices on the relevant provisions of the TFEU and secondary legislation relative to competition and may have recourse to his decisions and to those of the Competition and Consumer Appeals Tribunal and the Commission for Fair Trading."

36. Article 12B of the principal Act shall be substituted by the

Substitution of  
article 12B of  
the principal  
Act.

following:

"Settlement  
procedure.

12B. (1) The Director General together with any undertaking and, or association of undertakings shall have the right to demand, either during the investigation before the Office or at a later stage when the Director General files a sworn application against the undertaking and, or association of undertakings concerned that the investigation or the proceedings before the Court, as the case may be, are terminated by means of the settlement procedure which includes the imposition of a penalty by the Court, as provided for in the following provisions of this article.

(2) The termination of the investigation before the Office or the termination of proceedings before the Court by means of settlement, shall be granted by virtue of a judgement delivered by the Court upon the demand made jointly by the Director General and any undertaking, and, or association of undertakings concerned, where the Director General and the undertaking, and, or association of undertakings concerned agree that the investigation before the Office or the proceedings before the Court, as the case may be, are terminated by means of the settlement procedure, which includes the imposition of a penalty by the said Court:

Provided that not all undertakings and or, association of undertakings which are under investigation or which are subject to proceedings before the Court must agree to submit to a settlement procedure.

(3) The joint demand mentioned in sub-article (2) shall be made by means of a joint application filed in Court:

Provided that the Court must be satisfied that all the requirements of sub-article (7) are reflected in the joint application:

Provided further that after the Court considers that the requirements of sub-article (7) have all been satisfied, the Court shall appoint a sitting to confirm that the undertaking, and, or association of undertakings concerned are not contesting the contents of the settlement submissions and that all the parties concerned express their unconditional willingness to terminate the investigation before the Office or the proceedings before the Court by means of the settlement procedure, after which sitting, the Court shall pronounce judgement on the basis of the joint application.

(4) In the course of an investigation concerning an alleged infringement of articles 5 and, or 9 of the Act and, or an alleged infringement of Articles 101 and, or 102 of the TFEU, the Director General may prior to the filing of a sworn application in Court pursuant to article 12A of the Act, if he deems it appropriate for the expeditious and efficient conclusion of the investigation, invite all, some or one of the undertakings concerned and, or the association of undertakings concerned to indicate in writing, within the time limit set by him, whether they are prepared to engage in settlement discussions with a view to possibly introducing settlement submissions:

Provided that, the Director General shall not be obliged to take into account the replies received after the expiry of that time limit:

Provided further that, at any time during the course of an investigation, any undertaking and, or association of undertakings concerned may also request to engage in settlement discussions with the Director General:

Provided further that, the decision regarding the initiation of the settlement discussions falls within the exclusive competence of the Director General.

(5) Should the Director General ascertain that sufficient progress in the settlement discussions have taken place, the Director General shall invite the undertaking and, or association of undertakings concerned to introduce their settlement submissions by a joint application to be filed before the Court within a time limit as set by the Director General with a view to conclude the settlement procedure:

Provided, that before the Director General sets a time limit to introduce their settlement submissions, the undertaking and, or association of undertakings concerned may be informed of the main elements of the suspected infringement, consisting of:

- (i) the evidence found;
- (ii) the legal assessment of the facts; and
- (iii) the specific amount of the penalty to be requested by the Director General in the joint application:

Provided further that before the Director General sets a time limit for the undertaking and, or association of undertakings to introduce their settlement submissions, the undertaking and, or association of undertakings concerned may have limited access to the file of the investigation concerning their case which is granted only to the extent that the Director General deems reasonable in view of the objectives of the settlement procedure. If access to the file is granted, the Director General shall provide partial access to the case file by providing non-confidential versions of any specified accessible document listed in the case file at that point in time:

Provided further that before the Director General sets a time limit for the undertaking and, or association of undertakings to introduce their settlement submissions, the undertaking and, or association of undertakings concerned shall be given the opportunity to present their views on the alleged infringement and make observations:

Provided further, that if the undertaking and, or association of undertakings fails to submit the settlement submissions within the time limit set by the Director General, it shall be considered that the undertaking, and, or association of undertakings concerned has withdrawn from the settlement procedure.

(6) The documents and the information exchanged between the Director General and the undertaking and, or association of undertakings concerned during the settlement procedure are confidential:

Provided that the information given pursuant to sub-article (5) shall be confidential *vis-à-vis* third parties, save where the Director General has given a prior explicit authorization for disclosure:

Provided further that the exchanged documents will only be accessible to other undertakings and, or association of undertakings which are under investigation or which have been served with a sworn application pursuant to article 12A, if the lack of access to these documents would hinder the rights of defence of the said undertaking and, or association of undertakings concerned.

(7) The settlement submissions which are to be included in the joint application shall contain a voluntary statement by the undertaking and, or association of undertakings concerned containing the following information:

(a) a statement by the undertaking and, or association of undertakings concerned, clearly and unequivocally admitting their participation in the infringement as well as their liability regarding articles 5 and, or 9 of the Act and, or Articles 101 and, or 102 of the TFEU;

(b) a factual and brief description of the conduct of the undertaking and, or the association of undertakings concerned, the objective of the conduct and the way in which it was carried out, its duration and the extent in which the undertaking and, or association of undertakings were involved;

(c) a statement of the undertaking and, or association of undertakings concerned declaring that they accept the maximum amount of the penalty that is being requested by the Director General in the joint application;

(d) a statement of the undertaking and, or association of undertakings concerned to the effect that they were sufficiently informed by the Director General regarding the main elements of the suspected infringement contained in sub-article (5) and a declaration of the undertaking and, or association of undertakings that they were given sufficient opportunity to be heard and to make their views known to the Director General;

(e) a statement of the undertaking and, or association of undertakings concerned that they will waive their right to obtain further or full access to the file of the investigation concerning their case;

(f) a statement of the undertaking and, or association of undertakings concerned containing its waiver of its right to appeal or challenge in any way the settlement procedure or the judgement of the Court including the penalty; and

(g) a statement of the undertaking and, or association of undertakings concerned that it agrees with the contents of the settlement submissions and that it agrees that a joint application is filed in Court with the Director General to terminate the investigation or the proceedings as the case may be, by means of settlement, and to request the Court to deliver a judgement according to the settlement submissions:

Provided that together with the settlement submissions the joint application shall also include a statement by the Director General:

(i) agreeing with the settlement submissions of the undertaking and, or association of undertakings concerned;

(ii) specifying the amount of the penalty he is requesting to be imposed on the undertaking and, or association of undertakings concerned; and

(iii) requesting the Court to deliver a judgement to terminate proceedings by means of settlement based on the settlement submissions of the undertaking and, or association of undertakings concerned contained in the joint application and to impose the amount of the penalty as requested by the Director General.

(8) Settlement discussions may also be proposed jointly by the parties at a later stage, when a sworn application would have already been filed by the Director General before the Court:

Provided that the Court may adjourn two sittings so that within such time the parties would be able to attempt to settle the dispute by filing a joint application as referred to in sub-article (3):

Provided further that if the Director General and, or the undertaking and, or association of undertakings concerned fail to file a joint application within the adjourned two sittings allocated by the Court, proceedings against the undertaking, and, or association of undertakings concerned shall continue according to the stage where the proceedings before the Court had arrived.

(9) If the undertaking, and, or association of undertakings concerned agree to terminate the investigation before the Office or the proceedings before the Court by means of settlement, by filing together with the Director General the joint application, the Director General shall reward the undertaking and, or association of undertakings for the settlement, by reducing between ten to thirty-five percent the amount of the penalty requested to be imposed by the Court on the undertaking, and, or association of undertakings concerned.

(10) The Director General may decide at his own discretion at any time during the settlement discussions to discontinue settlement procedure altogether in a specific case or with respect to one or more of the parties involved, if, for instance:

(a) procedural efficiencies are not likely to be achieved; or

(b) the settlement submissions do not contain all the requirements mentioned in sub-article (7); or

(c) the undertaking and, or association of undertakings do not have a sincere intention of settling the case or do not cooperate or have breached the confidentiality obligation by revealing to any third party the content of the settlement meetings held with the Director General or the contents of the documents to which access has been granted:

Provided that in case where the Director General discontinues the settlement discussions for any reason as provided for in this sub-article, or in the case where the undertaking and, or association of undertakings concerned or the Director General, as the case may be, withdraw or discontinue the settlement procedure as provided for in sub-articles in (5) and (8), the case shall proceed according to the stage where the investigation or proceedings have arrived.

(11) If the settlement procedure is discontinued either by the Director General or by the undertaking and, or association of undertakings concerned during the investigation before the Office or during Court proceedings while attempting to settle the dispute, any information and document provided by the undertaking, and, or association of undertakings concerned during the settlement procedure cannot be used as evidence to establish an infringement of articles 5, and, or 9 of the Act, and, or an infringement of Articles 101 and, or 102 of the TFEU against the undertaking and, or association of undertakings concerned or other parties to the investigation before any court of law:

Provided that the foregoing provision of this sub-article is without prejudice to sub-regulation (4)(c) of regulation 6 of the Competition Law Infringements (Actions for Damages) Regulations in the Schedule:

Provided further that documents and, or information which were already in the possession of the Office prior to being presented by the undertaking and, or association of undertakings concerned and any information which can be requested by the Office pursuant to article 12 of the Act, can be used as evidence by the Office and before any court of law to establish an infringement of articles 5, and, or 9 of the Act, and, or an infringement of Articles 101 and, or 102 of the TFEU against the undertaking, and, or association of undertakings concerned or against other parties to the investigation."

37. Article 12C of the principal Act shall be substituted by the

Substitution of article 12C of the principal Act.

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following:

"Commitments.

12C. (1) Instead of delivering a judgement finding an infringement pursuant to article 13(1), the Court may issue a judgement declaring commitments offered by the undertaking and, or the association of undertakings concerned involved in a suspected infringement to be binding on them, if the commitments are such as to bring the suspected infringement to an end and where those commitments meet the competition concerns expressed in that case:

Provided that when delivering such judgement, the Court shall not impose any penalty and shall not specify as to whether there has been an infringement of articles 5, and, or 9 of the Act and, or Articles 101 and, or 102 of the TFEU.

(2) Commitments shall not be applicable where the suspected infringement concerns secret cartels or any other agreements, decisions or concerted practices which involve price fixing, market sharing or output limitation:

Provided that in all other cases, the Court shall make a case by case assessment, after taking into consideration all the submissions of the parties to the proceedings, and any third party comments as provided in sub-article (5) as to whether commitments are the most appropriate measures to address the suspected infringement in the case at issue.

(3) The judgement may specify that those commitments may be adopted for a specific period of time and shall conclude that there are no longer grounds for action that can be taken by the Director General against the undertaking, and, or association of undertakings concerned.

(4) Where the Court intends to deliver a judgement under sub-article (1) and accepts the commitments proposed, it shall seek the views of market participants by publishing a concise summary of the case and the main contents of the commitments or of the proposed course of action on the Gazette, having regard to the legitimate interests of the undertakings as well as the protection of business secrets or other confidential information.

(5) Any interested party may submit their observations in the records of the case within the time limit fixed by the Court in its publication:

Provided that the Director General and the undertaking and, or association of undertakings concerned shall be notified and given a copy of the third party comments.

(6) The Court shall reopen the proceedings upon a sworn application by the Director General only where:

(a) there has been a material change in any of the facts on which the judgment was based; or

(b) the undertaking and, or association of undertakings concerned acted contrary to its commitments; or

(c) the judgment was based on incomplete, incorrect, or misleading information provided by the undertaking, and, or association of undertakings concerned."

**38.** Article 12D of the principal Act shall be deleted.

Deletion of article 12D of the principal Act.

**39.** Article 13 of the principal Act shall be substituted by the following:

Substitution of article 13 of the principal Act.

"Finding of an infringement by the Court.

13. (1) The Court may decide that an infringement of articles 5 and, or 9 of the Act, and, or an infringement of Articles 101 and, or 102 of the TFEU has occurred.

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(2) Where upon hearing the case the Court finds no infringement of articles 5 and, or 9 of the Act, it shall deliver a judgement to that effect:

Provided that if the Court concludes that the suspected infringement does not constitute a breach of articles 101 and, or 102 of the TFEU, the Court shall state in its judgement that there are no grounds for action in accordance with Article 5 of Council Regulation (EC) 1/2003."

Substitution of article 13A of the principal Act.

**40.** Article 13A of the principal Act shall be substituted by the following:

"Cease and Desist Order and Compliance Order.

13A. (1) The Court may in its judgement issue a cease and desist order whereby it orders the undertaking and, or association of undertakings concerned to cease and desist from participating in such agreement, decision, practice or conduct, and, or issue a compliance order setting behavioural or structural remedies addressed to the undertaking and, or association of undertakings concerned for the purpose of bringing the infringement to an immediate and effective end.

(2) Any behavioural or structural remedies set out in a compliance order shall be proportionate to the infringement committed and necessary to bring the infringement effectively to an end.

(3) Structural remedies set out in a compliance order may be imposed only where there is no equally effective behavioural remedy or where any equally effective behavioural remedy would be more burdensome for the undertaking concerned than the structural remedy."

Addition of new article 13B to the principal Act.

**41.** Immediately after article 13A of the principal Act there shall

be inserted the following new article:

"Procedure  
before the  
Court and  
appeals from  
decisions  
thereof.

13B. (1) The Director General and any party to the proceedings before the Court, who feel aggrieved by a judgement of the Court delivered under this Act may appeal on points of law and, or of fact before the Court of Appeal by means of an application filed in the registry of that court within twenty days from the date of the judgement of that court:

Provided that the Court of Appeal shall appoint the case for hearing by not later than six months from the date of service of the appeal application on the parties.

(2) If during an investigation the Director General institutes proceedings pursuant to article 12A(4) of the Act concerning requests for information, production of documents or the conduct of inspections, the Court shall endeavour to deliver a judgement upon hearing the parties in the shortest time possible:

Provided that an appeal from such a judgement as referred to in this sub-article, shall only lie after the definitive judgment in terms of articles 12C or 13 of the Act is delivered and together with an appeal from such definitive judgement. The judgement mentioned in this sub-article may not be challenged before the definitive judgement is delivered:

Provided further that, if following the investigation, the Director General does not proceed to institute proceedings in terms of article 12A(1) of the Act, the Director General shall inform the undertaking and, or association of undertakings concerned which shall have twenty days from the notification of the Director General of this fact to appeal from the judgement delivered by the Court pursuant to this sub-article.

(3) The undertaking or association of undertakings concerned, the Director General or the complainant may request the Court to be heard behind closed doors where the submissions to be made or evidence to be produced is of a confidential nature or contains business secrets.

(4) In all cases involving the application of Article 101 and, or 102 of the TFEU, the European Commission shall have a right to make submissions on any matter before the Court.

(5) (a) A confidential and a non-confidential version shall be produced of any written observations and documentary evidence submitted before the Court; and

(b) The Court shall verify the confidentiality or otherwise of the information submitted.

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(6) Subject to the provisions of this Act, the provisions of the Code of Organization and Civil Procedure shall, *mutatis mutandis*, apply to all judicial proceedings instituted according to this Act before the Court and the Court of Appeal and to the enforcement of judgements.

(7) When delivering judgements and decrees pursuant to the provisions of this Act, the Court may have recourse to the judgments of the Court of Justice of the European Union, and to relevant decisions and statements of the European Commission including interpretative notices on the relevant provisions of the TFEU and secondary legislation relative to competition and may also refer to its decisions and those of the Competition and Consumer Appeals Tribunal and the Commission for Fair Trading."

Amendment of article 14 of the principal Act.

**42.** Article 14 of the principal Act shall be amended as follows:

(a) the marginal note thereof shall be substituted by the words "Handling of complaints";

(b) sub-article (2) thereof shall be substituted by the following:

"(2) Where the Director General considers that on

the basis of the information in his possession there are insufficient grounds for acting on a complaint or fails for some other reason to investigate a complaint against an undertaking and, or association of undertakings concerned in terms of this Act, he shall inform the complainant.";

(c) sub-article (3) thereof shall be substituted by the following:

"(3) If the Director General considers that there are insufficient grounds to act on a complaint or fails to investigate a complaint in terms of the Act as referred to in the previous sub-article, it shall be lawful for the complainant to file a sworn application in Court, within twenty days from notification of the decision of the Director General, to request the Court to order the Director General to act on a complaint or investigate a complaint in terms of the Act against the undertaking and, or association of undertakings concerned:

Provided that, if after hearing the evidence tendered by the complainant and the Director General, the Court is satisfied that the complaint is justified and, or that the Director General has no lawful reasons for failing to act on a complaint or to investigate a complaint, the Court shall deliver a judgement ordering the Director General who shall thereupon commence the investigation or issue any other order which the Court considers appropriate in that case.";

(d) sub-article (4) thereof shall be substituted by the following:

"(4) Any party to the proceedings before the Court who feels aggrieved by the judgment of the Court delivered in terms of sub-article (3), may appeal on points of law and, or of fact before the Court of Appeal, by means of an application filed in the registry of that court within twenty days from the date of the judgment of the Court."; and

(e) sub-articles (5) to (10) thereof shall be deleted.

43. Article 14C of the principal Act shall be deleted.

Deletion of article 14C of the principal Act.

44. Article 15 of the principal Act shall be substituted by the

Substitution of article 15 of the principal Act.

following:

"Interim  
measures.

15. (1) The Court shall, upon an application filed by the Director General, in cases of urgency due to the risk of serious and irreparable harm to competition on the basis of a *prima facie* finding of an infringement of articles 5 and, or 9 of the Act and, or Articles 101 and, or 102 of the TFEU, issue interim measures on any undertaking and, or association of undertakings concerned as it may deem appropriate in the circumstances:

Provided that any interim measures issued according to this provision shall be proportionate and shall apply either for a specified period of time to be determined by the Court or until the final judgement on the merits of the case is delivered by this Court:

Provided further that the interim measures may be renewed by the Court in so far as it is necessary and appropriate upon an application filed by the Director General before the Court.

(2) The application filed by the Director General pursuant to sub-article (1) shall state all the facts known by him and the reasons why he deems that the imposition of interim measures is in this case required. Such application shall also contain all submissions to be made together with all documents in support of the demand that is being filed.

(3) The defendant shall file a note within eight days from the date of notification of the application, containing all submissions to be made together with all documents in support of the reply that is being filed.

(4) The court shall decide the application with urgency either *in camera* or after hearing the parties, if it deems fit, provided that not more than one sitting may be fixed for such purpose.

(5) An appeal from the interim measures imposed by the Court pursuant to sub-article (1) may be lodged by the aggrieved party by means of an application filed before the Court of Appeal, within six days from the date of such decree on the legality, including the proportionality of the interim measures and the party against whom such an application is filed shall reply thereto within six days from the date of service of such an application.

(6) The Court of Appeal shall decide on the application pursuant to sub-article (5) in an expedited manner."

45. Articles 17 and 18 of the principal Act shall be deleted.

Deletion of articles 17 and 18 of the principal Act.

46. Article 19 of the principal Act shall be substituted by the following:

Substitution of article 19 of the principal Act.

"Publication of judgements and decrees.

19. (1) When publishing judgements and decrees, the Court shall have regard to the legitimate interest of the undertakings concerned in the protection of their business secrets or other confidential information. The Court may give the parties concerned the opportunity to specify the confidential parts of the judgement or decree which they want to be excluded from publication:

Provided that the Court shall ultimately decide about which version shall be published.

(2) The Director General shall also publish on the website of the Authority a notice whereby it is stated that a sworn application has been filed pursuant to article 12A having regard to the legitimate interest of undertakings in the protection of their business secrets and other confidential information. The publication may contain the names of the undertaking and, or association of undertakings against whom the Director General has filed a sworn application and a brief description of the type of the alleged infringement as well as the affected business sector."

47. Article 21 of the principal Act shall be substituted by the

Substitution of article 21 of the principal Act.

following:

"Penalties. 21. (1) The Court shall impose a penalty of up to ten percent of the total turnover of an undertaking and, or association of undertakings concerned in the preceding business year for each infringement where the undertaking and, or association of undertakings intentionally or negligently:

(a) infringes the provisions of articles 5 and, or 9 of the Act; and, or

(b) infringes Article 101 and, or 102 of the TFEU:

Provided that where the infringement of an association of undertakings relates to the activities of its members, the penalty shall not exceed ten *per centum* of the sum of the total turnover of each member active on the market affected by the infringement of the association of undertakings.

(2) (a) Where, upon delivering a judgement finding an infringement of articles 5 and, or 9 of the Act and, or Articles 101 and, or 102 of the TFEU, a penalty is imposed by the Court upon an association of undertakings, taking account of the annual turnover of its members, and the association of undertakings is not solvent, the Court shall order the association of undertakings to call for contributions from its members to cover the amount of the penalty due within a time limit fixed by the Court:

Provided that the Court may also specify in its judgement that where the contributions referred to in paragraph (a) are not made to the association of undertakings within the time limit fixed by the Court, payment of the penalty shall be made directly by any of the undertakings whose representatives were members of the decision-making bodies of the association of undertakings:

Provided further that the Court may also specify in its judgement that where the application of the foregoing proviso is not sufficient to ensure the full payment of the penalty, payment of the balance shall be made by any of the members of the association of undertakings which were active on the market on which the infringement occurred.

(b) The foregoing provisos of this sub-article shall not apply to those undertakings which show that they have not implemented the unlawful decision of the association of undertakings and they were not aware of its existence or had actively distanced themselves from it, before the Director General started investigating the case.

(c) The financial liability of each undertaking in respect to the payment of the penalty shall not exceed ten *per centum* of its total turnover in the preceding business year.

(3) (a) Sub-article (1) shall, *mutatis mutandis*, apply when an undertaking and, or an association of undertakings intentionally or negligently:

(i) fails to comply with a cease and desist order and, or a compliance order pursuant to article 13A;

(ii) fails to comply with an interim measure pursuant to article 15;

(iii) fails to comply with a commitment made binding pursuant to article 12C;

(b) In the application of this sub-article to an association of undertakings, sub-article (2) shall, *mutatis mutandis*, apply.

(4) (a) In determining the amount of the penalty, the Court shall give due regard to the gravity and the duration of the infringement and to any aggravating or attenuating circumstances.

(b) Aggravating circumstances include:

(i) the Court having already imposed a penalty on the same undertaking or association of undertakings for the same or a similar infringement;

(ii) the undertaking or association of undertakings concerned having already committed an infringement under articles 5 and, or 9 of this Act and, or under Articles 101 and, or 102 of the TFEU according to a decision or judgement which has become *res judicata*;

(iii) the undertaking or association of undertakings having a leading role, as perpetrator or instigator;

(iv) retaliatory or other coercive measures taken against other undertakings aimed at ensuring the continuation of the infringement.

(c) Attenuating circumstances include:

(i) the involvement of the undertaking or association of undertakings in the infringement being substantially limited;

(ii) the undertaking or association of undertakings ending the infringement on its own accord;

(iii) the undertaking or association of undertakings significantly contributing to uncover the infringement;

(iv) the undertaking acting under severe duress or pressure.

(5) The Court may impose a penalty of not less than one thousand five hundred euro (€1,500) and not exceeding thirty thousand euro (€30,000) where any person, undertaking and, or association of undertakings in the course of any investigation pursuant to article 12 of the Act or in the course of a sector inquiry pursuant to article 11A of the Act intentionally or negligently:

(a) gives any false, inaccurate or misleading information; or

(b) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in any particular material; or

(c) prevents or hinders any investigation or sector inquiry.

(6) The Court may impose a penalty of not less than ten thousand euro (€10,000) and not exceeding fifty thousand euro (€50,000) where any person, undertaking and, or association of undertakings who in the course of any investigation pursuant to article 12:

(a) fails to submit to an inspection and, or obstructs the Director General and, or his officers and, or any other person authorised or appointed by the Director General in the exercise of their powers under a warrant issued under article 12(7)(a) of the Act; or

(b) breaks the seals affixed by officers or other accompanying persons authorised by the Director General during an inspection.

(7) (a) The Court may, in addition to the penalty referred to in sub-articles (1), (3), (5) or (6), also order the undertaking and, or association of undertakings, to comply with any orders issued by the Court within the shortest time possible but in any case by not later than seven (7) days from the date of the said judgement. If the undertaking and, or association of undertakings fails to comply with any such order within such time as fixed by the Court, the Court may impose on the undertaking and, or association of undertakings concerned periodic penalty payments not exceeding five per centum of the average daily turnover of the undertaking and, or association of undertakings concerned achieved in the preceding business year, for each day of delay during which the undertaking and, or association of undertakings fails to comply with its obligation, which daily penalty payment shall start to run upon termination of the time-limit as set out by the Court in its judgement in order to compel it or them:

(i) to comply with a cease and desist order and, or a compliance order pursuant to article 13A;

(ii) to comply with interim measures pursuant to article 15;

(iii) to comply with a commitment made binding pursuant to article 12C;

(iv) to submit to an inspection and to produce the required objects, documents or other records as referred to in article 12;

(v) without prejudice to the second proviso to article 12(2)(a) to supply complete information in response to a request for information referred to in articles 12 and 11A;

(vi) to supply correct information and, or to produce the requested documents in response to a request for information referred to in articles 12 and 11A;

(vii) to stop from pursuing any other conduct which is hindering the investigation or sector inquiry and, or to rectify any acts or omissions.

(b) Where the undertaking or association of undertakings concerned complies with the obligations pursuant to sub-article (7)(a), the Court may then set the definitive amount of the periodic penalty payment at a figure lower than that which was set out in the original decision of the Court.

(c) In the application of this sub-article to an association of undertakings, sub-article (2) shall, *mutatis mutandis*, apply.

(8) When determining the penalties pursuant to this article, the Court shall in exercising its discretion ensure that the penalties imposed are effective, proportionate and dissuasive.

(9) The liability for the payment of a penalty arising under this article shall be without prejudice to any other liability that a person, undertaking and, or association of undertakings may be subject to under any other law."

Deletion of articles 21A to article 26 of the principal Act.

**48.** Article 21A to article 26 of the principal Act shall be deleted.

Amendment of article 26A of the principal Act.

**49.** Article 26A of the principal Act shall be amended as follows:

(a) the marginal note thereof shall be substituted by the words "Prescription for the imposition of penalties.";

(b) sub-article (1) thereof shall be substituted by the following:

"(1) A penalty shall only be imposed under article 21 of the Act when judicial proceedings concerning infringements contemplated in the Act are instituted within five years after the termination of the infringement:

Provided that in the case of infringements of the Act concerning requests for information, production of documents and the conduct of inspections a penalty shall only be imposed under article 21 of the Act when judicial proceedings are instituted within three years after the termination of the infringement.";

(c) sub-article (2) thereof shall be deleted;

(d) sub-article (3) thereof shall be substituted by the following:

"(3) The prescription period for the imposition of penalties shall be interrupted by any action of the Director General or, in the case of the application of Articles 101 and 102 of the TFEU also, by any action of the European Commission or of a competition authority of a Member State with a view to investigating or instituting proceedings for the infringement. The prescription period shall be interrupted with effect from the date on which the action is notified to at least one undertaking or association of undertakings which has participated in the infringement.";

(e) sub-article (4) thereof shall be amended as follows:

(i) in paragraph (ii) the words "the issue of a written authorisation signed by the Director General or" shall be deleted;

(ii) in paragraph (iv) the words "the notification of a statement of objections in accordance with article 12A or" shall be deleted; and

(f) sub-article (7) thereof shall be substituted by the following:

"(7) The prescription period for the imposition of penalties shall be suspended for as long as proceedings instituted pursuant to the provisions under this Act are pending before the Court or the Court of Appeal."

**50.** Sub-article (1) of article 27 of the principal Act shall be amended as follows:

Amendment of article 27 of the principal Act.

(a) the words "Where before any court of civil jurisdiction" shall be substituted by the words "Without prejudice to the provisions of articles 3 and 12A(1), where before any other court of civil jurisdiction which is not the Civil Court (Commercial Section)"; and

(b) in the proviso thereto the words "shall abide by such decision." shall be substituted by the words "shall abide by such decision:" and immediately thereafter there shall be added the following new proviso:

"Provided further that where the competition question raised before any court of civil jurisdiction is subject already to proceedings instituted by the Director General before the Court or will be subject to proceedings before the Court at any point in time as contemplated in

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this Act any other court of civil jurisdiction where the competition question mentioned in sub-article (1) has been raised shall stay the proceedings."

Amendment of article 28 of the principal Act.

**51.** The marginal note of article 28 of the principal Act shall be substituted by the words "It shall not be lawful to issue any precautionary warrant."

Amendment of article 31 of the principal Act.

**52.** In article 31 of the principal Act the words "any member of the Appeals Tribunal," shall be deleted.

Addition of new article 31A of the principal Act.

**53.** Immediately after article 31 of the principal Act there shall be added the following new article:

"Causes.  
Cap. 12.

31A. The tariffs referred to in the Code of Organization and Civil Procedure in Schedule A shall apply to the causes instituted pursuant to the provisions of this Act."

Amendment of article 33 of the principal Act.

**54.** Article 33 of the principal Act shall be amended as follows:

(a) in sub-article (1)(a) thereof, the words "and in connection with procedures before the Commission" shall be deleted; and

(b) in sub-article (2)(b) thereof, the words "Appeals Tribunal" shall be substituted by the word "Court".

#### Part IV

#### Amendments to the Voluntary Organisations Act

Amendments to the Voluntary Organisations Act.  
Cap. 492.

**55.** This Part amends the Voluntary Organisations Act and it shall be read and construed as one with the Voluntary Organisations Act, hereinafter in this Part referred to as "the principal Act".

Amendment of article 35 of the principal Act.

**56.** In article 35(4)(a)(ii) of the principal Act, the words "and Special Needs" shall be substituted by the words "and Disability".

Addition of new article 42 to the principal Act.

**57.** Immediately after article 41 of the principal Act there shall be added the following new article:

"Transitory  
provision.

Act XXXVI of  
2018.

42. Article 35, establishing the Malta Council for the Voluntary Sector as in force prior to the coming into force of the Voluntary Organisations (Amendment) Act, 2018 shall continue to apply until the 6th of November of 2019."

Part V  
Amendments to the Malta Competition and  
Consumer Affairs Authority Act

**58.** This Part amends the Malta Competition and Consumer Affairs Authority Act, and it shall be read and construed as one with the Malta Competition and Consumer Affairs Authority Act, hereinafter in this Part referred to as "the principal Act".

Amendments to the Malta Competition and Consumer Affairs Authority Act. Cap. 510.

**59.** Article 2 of the principal Act shall be amended as follows:

Amendment of article 2 of the principal Act.

(a) the definition "Appeals Tribunal" shall be deleted;

(b) immediately after the definition "Chairman" there shall be added the following new definition:

S.L. 12.19. " "Civil Court" means the Civil Court (Commercial Section) established by article 3 of the Civil Court (Establishment of Sections) Order."; and

(c) the definition "President" shall be deleted.

**60.** Article 14 of the principal Act shall be amended as follows:

Amendment of article 14 of the principal Act.

(a) in sub-article (1)(a) thereof, the words "to investigate, determine and suppress restrictive practices;" shall be substituted by the words "to investigate practices which allegedly distort or restrict competition and to act as an official party in proceedings instituted by the Director General before the Civil Court under the Competition Act and in case when there is an appeal from judgements of the Civil Court delivered under the Competition Act before the Court of Appeal"; and

Cap. 379.

(b) in sub-article (1)(c) thereof, the words "to act as the national competition authority in Malta as designated by virtue of article 35(1) of Council Regulation (EC) No. 1/2003" shall be substituted by the words "to act together with the Civil Court, as the national competition authority in Malta as designated by virtue of article 35(1) of Council Regulation (EC) No. 1/2003:

Provided that for the purposes of this sub-article, the competent competition authority with regard to the application of Articles 101 and 102 of the TFEU, pursuant to Council Regulation (EC) No. 1/2003 on the implementation of the rules on competition laid down in

Articles 81 and 82 of the Treaty, OJ L1 of 04/01/2003, p.1 (Regulation 1/2003) shall be:

(a) the Civil Court for the adoption of decisions and imposition of penalties and other remedies; and

(b) the Office for Competition for investigating and instituting proceedings before the Civil Court;"

Amendment of article 29 of the principal Act.

**61.** Article 29 of the principal Act shall be amended as follows:

(a) sub-article (1) thereof shall be substituted by the following:

"(1) Any person, undertaking or association of undertakings or any other body which submits information or comments in one of the situations listed hereunder or subsequently submits further information to the Director General in the course of an investigation, shall clearly identify any material which it considers to be confidential, giving reasons therefor, and provide a separate non-confidential version, where applicable by the date set by the Director General for making its submissions known:

Cap. 379.  
Cap. 378.

(a) a complainant lodging a complaint under the Competition Act or under the Consumer Affairs Act;

Cap. 379.  
Cap. 378.

(b) a person, undertaking or association of undertakings or any other body complying with a request for the provision of information under the provisions of this Act, the Competition Act, the Consumer Affairs Act and any other Act, or regulations made thereunder;

S.L. 379.08.

(c) an addressee of objections made under the Control of Concentrations Regulations making known his views on the objection;

Cap. 379.

(d) the addressee of an invitation by the Director General to engage in settlement discussions under article 12B of the Competition Act.";

(b) sub-article (3) thereof shall be substituted by the following:

S.L. 379.08.

"(3) In the case of objections sent by the Director General (Competition) under the Control of Concentrations Regulations, the persons, undertakings and associations of undertakings concerned may be required to identify any part of the objections, in which in their view contains

business secrets or other confidential information."; and

(c) sub-article (9) thereof shall be substituted by the following:

"(9) In those cases where the person or undertaking or association of undertakings or any other body does not agree with the decision of the Director General issued under sub-article (8) the person or undertaking or association of undertakings or any other body may request a review thereof by sworn application to the Civil Court within ten days from when the decision of the Director General is notified:

Provided that the Civil Court shall appoint and decide any matter under this sub-article within the shortest time possible:

Provided further that the decision of the Civil Court shall be final and no appeal or challenge shall lie from such decision."

**62.** Part IX of the principal Act entitled "Establishment of the Competition and Consumer Appeals Tribunal" shall be deleted. Deletion of Part IX of the principal Act.

**63.** In article 44 of the principal Act, the words "administered by the President of the Appeals Tribunal." shall be substituted by the words "taken before the Court of Appeal, in a public hearing of the same court." Amendment of article 44 of the principal Act.

**64.** The proviso to article 48(2) of the principal Act shall be substituted by the following: Amendment of article 48 of the principal Act.

"Provided that where the entities are specifically entrusted by law to charge fees, those fees shall be levied by the entities concerned."

**65.** Article 64 of the principal Act shall be amended as follows: Amendment of article 64 of the principal Act.

(a) in the second proviso to paragraph (a) of sub-article (2) thereof, the words "the Appeals Tribunal may upon an application by the Authority" shall be substituted by the words "the Civil Court may upon an application by the Authority";

(b) in the proviso to paragraph (d) of sub-article (2) thereof, the words "Appeals Tribunal" shall be substituted by the words "Civil Court"; and

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(c) in sub-article (3) thereof, the words "Appeals Tribunal", wherever they so appear, shall be substituted by the words "Civil Court".

Deletion of article 69 of the principal Act.

**66.** Article 69 of the principal Act shall be deleted.

Substitution of article 70 of the principal Act.

**67.** Article 70 of the principal Act shall be substituted by the following:

"Transitory provisions in relation to the Competition Act and the Consumer Affairs Act.  
Cap. 379.  
Cap. 378.

70. (1) The provisions of the Competition Act and of the Consumer Affairs Act, existing prior to the 23rd May 2011, shall continue to apply, as the case may be, to all:

(a) investigations pending before the Director of the Office for Fair Competition and the Director of Consumer Affairs, as substituted by the Director General (Competition) and the Director General (Consumer Affairs);

(b) proceedings pending before the Commission for Fair Trading and the Consumer Affairs Appeals Board, as substituted by the Competition and Consumer Appeals Tribunal and further substituted by the Civil Court; the Consumer Claims Tribunal and the courts; and

(c) decisions and judgments which are not yet *res judicata*.

Cap. 379.  
Cap. 378.

(2) The provisions of the Competition Act and of the Consumer Affairs Act, existing after the 23rd May 2011, but prior to the coming into force of the Competition Act and Consumer Affairs Act and other Laws (Amendment) Act, 2019 shall also continue to apply, as the case may be, to all:

Cap. 379.  
Cap. 378.

(a) proceedings which started after the date mentioned in sub-article (2), and which are still pending at the time of the coming into force of the Competition Act and Consumer Affairs Act and other Laws (Amendment) Act, 2019, before the Competition and Consumer Appeals Tribunal substituted by the Civil Court; the Consumer Claims Tribunal and the courts; and

(b) decisions and judgments which have been delivered after the 23rd May 2011 and which were not yet *res judicata* at the time of the coming into force of the Competition Act and Consumer Affairs Act and other Laws (Amendment) Act, 2019:

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Cap. 378.

Provided that the provisions of the Competition Act and of the Consumer Affairs Act existing after the coming into force of the Competition Act and Consumer Affairs Act and other Laws (Amendment) Act, 2019, shall apply to investigations which commenced after the 23rd May 2011 and which are still pending before the Director General (Competition) and before the Director General (Consumer Affairs):

Provided further that with regard to appeals from any decision of the Competition and Consumer Appeals Tribunal, the Commission for Fair Trading or the Consumer Affairs Appeals Board which are still pending before the Court of Appeal after the coming into force of the Competition Act and Consumer Affairs Act and other Laws (Amendment) Act, 2019, the appellant shall have twenty days from the above-mentioned date, or twenty days from the first hearing of

such appeals, whichever is later, to file any further grounds of appeal on points of fact.

(3) For the purposes of sub-article (1):

Cap. 379. (a) the Director General (Competition) shall be vested with the powers of the Director of the Office for Fair Competition as provided for in the Competition Act; and

Cap. 378. (b) the Director General (Consumer Affairs) shall be vested with the powers of the Director of Consumer Affairs as provided for in the Consumer Affairs Act,

prior to the 23rd May 2011.

(4) For the purposes of sub-article (1)(b), the Civil Court shall be vested with the powers of:

Cap. 379. (a) the Commission for Fair Trading as provided for in the Competition Act; and

Cap. 378. (b) the Consumer Affairs Appeals Board as provided for in the Consumer Affairs Act,

prior to the 23rd May 2011.

(5) For the purposes of sub-article (2):

Cap. 378. (a) the Director General (Consumer Affairs) shall be vested with the powers of the Director General (Consumer Affairs) as provided for in the provisions of the Consumer Affairs Act; and

Cap. 379. (b) the Director General (Competition) shall be vested with the powers of the Director General (Competition) as provided for in the provisions of the Competition Act,

existing after the coming into force of the Competition Act and Consumer Affairs Act and other Laws (Amendment) Act, 2019.

Cap. 379.  
Cap. 378.  
Cap. 510.

(6) For the purposes of sub-article (2)(a) the Civil Court shall be vested with the powers of the Competition and Consumer Appeals Tribunal as provided for in the provisions of the Competition Act, in the Consumer Affairs Act, and in the Malta Competition and Consumer Affairs Authority Act, existing prior to the coming into force of the Competition Act and Consumer Affairs Act and other Laws (Amendment) Act, 2019."

**68.** The Second Schedule to the principal Act shall be deleted.

Deletion of the Second Schedule to the principal Act.

**69.** The Third Schedule to the principal Act shall be substituted by the following:

Substitution of the Third Schedule to the principal Act.

"THIRD SCHEDULE  
(ARTICLE 18)

LIST OF EU LEGISLATIVE ACTS FOR THE PURPOSES OF WHICH THE OFFICE FOR CONSUMER AFFAIRS IS THE NATIONAL COMPETENT AUTHORITY

1. Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts.
2. Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers.
3. Council Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees.
4. Regulation (EC) No. 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91.
5. Directive 2005/29/EC of the European Parliament and of the

Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No. 2006/2004 of the European Parliament and of the Council (Unfair Commercial Practices Directive).

6. Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC.
7. Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council.
8. Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising (only with regard to Articles 1, 2c, 4 to 8 thereof).
9. Regulation (EU) No. 181/2011 of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No. 2006/2004.
10. Regulation (EU) No. 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) 2006/2004."

#### Part VI

#### Amendments to the Collective Proceedings Act

Amendments to the Collective Proceedings Act.  
Cap. 520.

**70.** This Part amends the Collective Proceedings Act and it shall be read and construed as one with the Collective Proceedings Act, hereinafter in this Part referred to as "the principal Act".

Amendment of Schedule A to the principal Act.

**71.** In paragraph II of Schedule A of the principal Act the words "and those Acts mentioned in article 111 of the Consumer Affairs Act" shall be deleted.

Part VII  
Consequential Amendments

72. (1) Article 5A of the Civil Court (Establishment of Sections) Order shall be substituted by the following: Consequential amendments to S.L. 12.19.

"Assignment of cases to the Civil Court (Commercial Section).  
Cap. 386.  
Cap. 379.  
Cap. 378.  
Cap. 510.

5A. To the Civil Court (Commercial Section) shall be assigned applications falling within the competence of the Civil Court and which relate to matters regulated by the Companies Act, the Competition Act and any regulations made thereunder, by the Consumer Affairs Act and any regulations made thereunder, and by the Malta Competition and Consumer Affairs Authority Act."

(2) Regulation 5A of the Civil Court (Family Section), the First Hall of the Civil Court, the First Hall of the Civil Court (Gozo) and the Civil Court (Family Section) (Gozo) Regulations shall be substituted by the following: Consequential amendments to S.L. 12.20.

"Assignment of cases to the Civil Court (Commercial Section).  
Cap. 386.  
Cap. 379.  
Cap. 378.  
Cap. 510.

5A. To the Civil Court (Commercial Section) shall be assigned applications falling within the competence of the Civil Court and which relate to matters regulated by the Companies Act, the Competition Act and any regulations made thereunder, by the Consumer Affairs Act and any regulations made thereunder, and by the Malta Competition and Consumer Affairs Authority Act."

(3) The Consumer Claims Tribunal Rules shall be amended as follows: Consequential amendments to S.L. 378.01.

(a) in rule 2 thereof, the definition "Director" shall be substituted by the following:

" "the Director General" means the Director General (Consumer Affairs) as defined in the Act;" and

(b) the words "Director" and "Director of Consumer Affairs" shall be substituted by the words "Director General" wherever they occur in all the rules.

(4) In the Consumer Affairs Act (Price Indications) Regulations, the word "Director" shall be substituted by the words "Director General" wherever it occurs. Consequential amendments to S.L. 378.09.

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Consequential  
amendments to  
S.L. 378.10.

(5) The Credit Agreements for Consumers relating to Residential Immovable Property Regulations shall be amended as follows:

(a) in regulation 2 thereof:

(i) immediately after the definition "bundling practice" there shall be added the following new definition:

S.L. 12.19. "Civil Court" means the Civil Court (Commercial Section) established by article 3 of the Civil Court (Establishment of Sections) Order;"

(ii) the definition "the Director General" shall be substituted by the following:

"the Director General" means the Director General (Consumer Affairs) as defined in the Act;"

(b) in regulation 3A thereof, in sub-regulation (2)(b) the words "respective duties effectively." shall be substituted by the words "respective duties effectively:" and immediately thereafter there shall be added the following proviso:

"Provided that with regard to this sub-regulation and to any other reference in these regulations to the application and enforcement of these regulations by the Director General, this shall be without prejudice to the competences assigned to the Civil Court by the Act and by the Malta Competition and Consumer Affairs Authority Act, and to the judicial proceedings established in the Act.";

(c) regulation 23 thereof shall be substituted by the following:

"Investigations, judicial proceedings, penalties and the right of appeal. 23. (1) Without prejudice to the provisions of regulation 23A, the Director General shall proceed according to article 12 of the Act and where, upon the conclusion of an investigation, it appears *prima facie* to the Director General, that an infringement of these regulations has occurred, the Director General shall institute judicial proceedings against the person concerned before the Civil Court by means of a sworn application and the provisions of Part IIA of the Act shall apply to these judicial proceedings.

(2) Subject to the provisions of Part IIA of the Act, the Civil Court, in its judgement, shall impose a penalty and issue such order, or take such measure as it may deem appropriate in terms of the Act, upon any person who contravenes or fails to comply with any of the provisions of these regulations:

Provided that the MFSA shall not, through these judicial proceedings or through any other procedures, request the imposition of a penalty in respect of the same infringement.

(3) Any person who contravenes any provision of these regulations shall be guilty of an infringement punishable by a penalty of not less than one thousand euro (€1,000) and not exceeding forty-five thousand euro (€45,000).

(4) In the case of non-compliance with a compliance order, the Civil Court shall also impose a daily penalty of not less than one hundred and thirty euro (€130) and not more than two hundred and thirty euro (€230) for each day of non-compliance.

(5) In determining the amount of the penalty specified in this regulation, the Civil Court shall be guided by the following considerations:

(a) for infringements under these regulations, the basic amount of the penalty shall be twenty thousand euro (€20,000):

Provided that the Civil Court may, in setting the penalty, take into account circumstances that may lead to an increase or decrease in the basic amount:

Provided further that the Civil Court shall do so on the basis of an overall assessment which takes into account all the relevant circumstances, including the value of the credit under the credit agreement and the turnover of the creditor;

(b) the Civil Court may impose a higher penalty than the basic amount where there are aggravating circumstances, having regard, in particular, to the gravity and duration of the infringement and, or to the amount of gains improperly made as a result of the infringement;

(c) without prejudice to the generality of paragraph (b), the following shall in all cases be deemed as aggravating circumstances:

(i) a second or subsequent infringement;

(ii) where the infringement constitutes an unfair commercial practice in terms of the Act; and

(d) the basic amount may be decreased where the Civil Court finds that there are mitigating circumstances in particular:

(i) where the creditor or the credit intermediary, as the case may be, provides evidence that he terminated the infringement concerned prior to or as soon as the Director General commenced an investigation;

(ii) where the creditor or the credit intermediary, as the case may be, provides evidence that he has taken adequate steps to reduce the negative effects of the infringement.

(6) In discharging his functions under these regulations, the Director General shall have the same powers as prescribed under the Act except where competences are assigned to the Civil Court by the Act and by the Malta Competition and Consumer Affairs Authority Act.

(7) Any person who feels aggrieved by a judgement, order, penalty or measure issued by the Civil Court, may appeal before the Court of Appeal, on any point of law and, or of fact, by means of an application filed in the registry of the Court of Appeal within twenty days from the date of the judgment of the Civil Court:

Provided that the Court of Appeal shall appoint the case for hearing by not later than six months from the judgement of the Civil Court."; and

(d) the second proviso to regulation 23A(1) thereof shall be substituted by the following:

"Provided that the Director General shall not in any manner request the imposition of a penalty in respect of the same act or omission."

(6) The Order for the purposes of articles 94, 100 and 101 of the Consumer Affairs Act shall be repealed.

Consequential amendments to S.L. 378.11.

(7) The Consumer Credit Regulations shall be amended as follows:

Consequential amendments to S.L. 378.12.

(a) in regulation 3 thereof:

(i) immediately after the definition "borrowing rate" there shall be added the following new definition:

S.L. 12.19. " "Civil Court" means the Civil Court (Commercial Section) established by article 3 of the Civil Court (Establishment of Sections) Order;"; and

(ii) the definition "the Director" shall be substituted by the following new definition:

" "the Director General" means the Director General (Consumer Affairs) as defined in the Act;";

(b) regulation 22 thereof shall be amended as follows:

(i) the marginal note thereof shall be substituted by "Monitoring and investigations."; and

(ii) immediately after paragraph (c) thereof there

shall be added the following new paragraph:

"(d) investigate any alleged infringements and, as may be necessary, institute judicial proceedings before the Civil Court according to the Act.";

(c) regulation 23 thereof shall be substituted by the following:

"Investigations, judicial proceedings, penalties and the right of appeal.

23. (1) The Director General shall proceed according to article 12, and where, upon the conclusion of an investigation, it appears *prima facie* to the Director General, that an infringement of these regulations has occurred, the Director General shall institute judicial proceedings against the person concerned before the Civil Court by means of a sworn application and the provisions of Part IIA shall apply to these judicial proceedings.

(2) Subject to the provisions of Part IIA, the Civil Court, in its judgement, shall impose a penalty and issue such order, or take such measure as it may deem appropriate in terms of the Act, upon any person who contravenes or fails to comply with any of the provisions of these regulations.

(3) Any person who contravenes any provision of these regulations shall be guilty of an infringement punishable by a penalty of not less than one thousand euro (€1,000) and not exceeding forty-five thousand euro (€45,000).

(4) In the case of non-compliance with a compliance order, the Civil Court shall also impose a daily penalty of not less than one hundred and thirty euro (€130) and not more than two hundred and thirty euro (€230) for each day of non-compliance.

(5) In determining the amount of the penalty specified in this regulation, the Civil Court shall be guided by the following considerations:

(a) for infringements under these regulations, the basic amount of the penalty shall be twenty thousand euro (€20,000):

Provided that the Civil Court may, in setting the penalty, take into account circumstances that may lead to an increase or decrease in the basic amount:

Provided further that the Civil Court shall do so on the basis of an overall assessment which takes into account all the relevant circumstances, including the value of the credit under the credit agreement and the turnover of the creditor;

(b) the Civil Court may impose a higher penalty than the basic amount where there are aggravating circumstances, having regard, in particular, to the gravity and duration of the infringement and, or to the amount of gains improperly made as a result of the infringement;

(c) without prejudice to the generality of paragraph (b), the following shall in all cases be deemed as aggravating circumstances:

(i) a second or subsequent infringement;

(ii) where the infringement constitutes an unfair commercial practice in terms of the Act; and

(d) the basic amount may be decreased where the Civil Court finds that there are mitigating circumstances in particular:

(i) where the creditor or the credit intermediary, as the case may be, provides evidence that he terminated the infringement concerned prior to or as soon as the Director General commenced an investigation;

(ii) where the creditor or the credit intermediary, as the case may be, provides evidence that he has taken adequate steps to reduce the negative effects of the infringement.

(6) In discharging his functions under these regulations, the Director General shall have the same powers as prescribed under the Act except where competences are assigned to the Civil Court by the Act and by the Malta Competition and Consumer Affairs Authority Act.

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(7) Any person who feels aggrieved by a judgement, order, penalty or measure issued by the Civil Court, may appeal before the Court of Appeal, on any point of law and, or of fact, by means of an application filed in the registry of the Court of Appeal within twenty days from the date of the judgment of the Civil Court:

Provided that the Court of Appeal shall appoint the case for hearing by not later than six months from the judgement of the Civil Court."; and

(d) the word "Director" shall be substituted by the words "Director General" wherever it occurs in all the regulations.

Consequential  
amendments to  
S.L. 378.13.

(8) The Pricing of Air Services Regulations shall be amended as follows:

(a) in regulation 2 thereof:

(i) immediately after the definition "the Act" there

shall be added the following new definition:

S.L. 12.19. " "Civil Court" means the Civil Court (Commercial Section) established by article 3 of the Civil Court (Establishment of Sections) Order;" and

(ii) the definition "the Director" shall be substituted by the following:

" "the Director General" means the Director General (Consumer Affairs) as defined in the Act;"

(b) regulation 3 thereof shall be substituted by the following:

"Designated person. 3. (1) The Director General shall be responsible for the monitoring and the investigations with regard to the compliance with the provisions of Article 23 of the Regulation, according to the Act.";

(c) regulation 4 thereof shall be substituted by the following:

"Investigations and judicial proceedings. Cap. 510. 4. Except where competences are assigned to the Civil Court by the Act or by the Malta Competition and Consumer Affairs Authority Act, in discharging his functions under these regulations, the Director General shall have the same powers as prescribed under the Act, including the power to investigate and to institute judicial proceedings, as established by the Act, before the Civil Court.";

(d) regulation 5 thereof shall be substituted by the following:

"Right of Appeal. 5. Any person who feels aggrieved by a judgement, order, penalty or measure issued by the Civil Court, may appeal before the Court of Appeal, on any point of law and, or of fact, by means of an application filed in the registry of the Court of Appeal within twenty days from the date of the judgment of the Civil Court:

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Provided that the Court of Appeal shall appoint the case for hearing by not later than six months from the judgement of the Civil Court."; and

(e) the word "Director" shall be substituted by the words "Director General" wherever it occurs in all the regulations.

Consequential amendments to S.L. 378.14.

(9) The Denied Boarding (Compensation and Assistance to Air Passengers) Regulations shall be amended as follows:

(a) in regulation 2 thereof immediately after the definition "the Act" there shall be added the following new definition:

S.L. 12.19. " "Civil Court" means the Civil Court (Commercial Section) established by article 3 of the Civil Court (Establishment of Sections) Order;"

(b) regulation 4 thereof shall be substituted by the following:

"Designated person, investigations and judicial proceedings.

4. (1) For the purpose of Article 16 of Regulation 261/ 2004, the Director General is the designated person responsible for the monitoring and the investigations concerning the compliance with the provisions of Regulation 261/2004 with regard to flights from airports situated in Malta and flights from a third country to airports situated in Malta.

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(2) Except where competences are assigned to the Civil Court by the Act or by the Malta Competition and Consumer Affairs Authority Act, in discharging his functions under these regulations, the Director General shall have the same powers as prescribed under the Act, including the power to investigate and to institute judicial proceedings, as established by the Act, before the Civil Court.";

(c) regulation 5 thereof shall be substituted by the

following:

"Penalties. 5. An operating air carrier that fails to comply with an obligation imposed on it by Articles 4 to 6, 10, 11 or 14 of Regulation 261/2004 shall be guilty of an infringement punishable by a penalty of not less than four hundred and seventy euro (€470) and not exceeding five thousand euro (€5,000):

Provided that in the case of non-compliance with a compliance order, the Civil Court shall impose a daily penalty of not less than one hundred and twenty euro (€120) and not more than two hundred and thirty euro (€230) for each day of non-compliance."; and

(d) regulation 7 thereof shall be substituted by the following:

"Right of appeal. 7. Any person who feels aggrieved by a judgement, order, penalty or measure issued by the Civil Court, may appeal before the Court of Appeal, on any point of law and, or of fact, by means of an application filed in the registry of the Court of Appeal within twenty days from the date of the judgment of the Civil Court:

Provided that the Court of Appeal shall appoint the case for hearing by not later than six months from the judgement of the Civil Court."

(10) The Rights of Passengers in Bus and Coach Transport Regulations shall be amended as follows:

Consequential amendments to S.L. 378.15.

(a) in regulation 2(1) thereof:

(i) immediately after the definition "the Act" there shall be added the following new definition:

S.L.12.19. " "Civil Court" means the Civil Court (Commercial Section) established by article 3 of the Civil Court (Establishment of Sections) Order;";

(ii) the definition "the Competition and Consumer Appeals Tribunal" shall be deleted;

(b) regulation 3 thereof shall be substituted by the

following:

"Designated person, investigations and judicial proceedings.

3. (1) For the purposes of Regulation (EU) No. 181/2011, the Director General is the designated person responsible for the monitoring and the investigations with regard to the compliance with the provisions of Regulation (EU) No. 181/2011.

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(2) Except where competences are assigned to the Civil Court by the Act or by the Malta Competition and Consumer Affairs Authority Act, in discharging his functions under these regulations, the Director General shall have the same powers as prescribed under the Act, including the power to investigate and to institute judicial proceedings, as established by the Act, before the Civil Court.";

(c) regulation 5 thereof shall be substituted by the following:

"Penalties.

5. Any person who fails to comply with the obligations established in Regulation (EU) No. 181/2011 shall be guilty of an infringement punishable by a penalty of not less than four hundred and seventy euro (€470) and not exceeding forty-seven thousand euro (€47,000):

Provided that in the case of non-compliance with a compliance order issued in terms of the Act, the Civil Court shall impose a daily penalty of not less than one hundred and twenty euro (€120) and not more than two hundred and thirty euro (€230) for each day of non-compliance.";

(d) regulation 6 of the principal regulations shall be substituted by the following:

"Right of appeal.

6. Any person who feels aggrieved by a judgement, order, penalty or measure issued by the Civil Court, may appeal before the Court of Appeal, on any point of law and, or of fact, by means of an application filed in the registry of the Court of Appeal within twenty days from the date of the judgment of the Civil Court:

Provided that the Court of Appeal shall appoint the case for hearing by not later than six months from the judgement of the Civil Court."; and

(e) regulation 7 thereof shall be deleted.

(11) The Rights of Passengers when travelling by Sea and Inland Waterway Regulations shall be amended as follows:

Consequential amendments to S.L. 378.16.

(a) in regulation 2(1) thereof:

(i) immediately after the definition "the Act" there shall be added the following new definition:

S.L. 12.19. " "Civil Court" means the Civil Court (Commercial Section) established by article 3 of the Civil Court (Establishment of Sections) Order."; and

(ii) the definition "the Competition and Consumer Appeals Tribunal" shall be deleted;

(b) regulation 3 thereof shall be substituted by the following:

"Designated person, investigations and judicial proceedings. 3. (1) For the purposes of Regulation (EU) No. 1177/2010, the Director General is the designated person responsible for the monitoring and the investigations with regard to the compliance with the provisions of Regulation (EU) No. 1177/2010.

Cap. 510. (2) Except where competences are assigned to the Civil Court by the Act or by the Malta Competition and Consumer Affairs Authority Act, in discharging his functions under these regulations, the Director General shall have the same powers as prescribed under the Act, including the power to investigate and to institute judicial proceedings, as established by the Act, before the Civil Court.";

(c) regulation 5 thereof shall be substituted by the

following:

"Penalties.

5. Any person who fails to comply with the obligations established in Regulation (EU) No. 181/2011 shall be guilty of an infringement punishable by a penalty of not less than four hundred and seventy euro (€470) and not exceeding forty-seven thousand euro (€47,000):

Provided that in the case of non-compliance with a compliance order issued in terms of the Act, the Civil Court shall impose a daily penalty of not less than one hundred and twenty euro (€120) and not more than two hundred and thirty euro (€230) for each day of non-compliance.";

(d) regulation 6 thereof shall be substituted by the following:

"Right of appeal.

6. Any person who feels aggrieved by a judgement, order, penalty or measure issued by the Civil Court, may appeal before the Court of Appeal, on any point of law and, or of fact, by means of an application filed in the registry of the Court of Appeal within twenty days from the date of the judgment of the Civil Court:

Provided that the Court of Appeal shall appoint the case for hearing by not later than six months from the judgement of the Civil Court."; and

(e) regulation 7 thereof shall be deleted.

Consequential amendments to S.L. 378.17.

(12) The Consumer Rights Regulations shall be amended as follows:

(a) in regulation 2(1) thereof immediately after the definition "business premises" there shall be added the following new definition:

S.L. 12.19. " "Civil Court" means the Civil Court (Commercial Section) established by article 3 of the Civil Court (Establishment of Sections) Order;" and

(b) regulation 27 thereof shall be substituted by the

following:

"Penalties and right to appeal.

27. (1) Subject to the provisions of the Act regarding judicial proceedings instituted by the Director General following his *prima facie* finding of infringements, the Civil Court shall impose penalties of not less than five hundred euro (€500) and not more than forty-seven thousand euro (€47,000) on any person who fails to comply with any of the provisions of these regulations.

(2) Any person who feels aggrieved by a judgement, order, penalty or measure issued by the Civil Court, may appeal before the Court of Appeal, on any point of law and, or of fact, by means of an application filed in the registry of the Court of Appeal within twenty days from the date of the judgment of the Civil Court:

Provided that the Court of Appeal shall appoint the case for hearing by not later than six months from the judgement of the Civil Court."

(13) The Consumer Alternative Dispute Resolution (ADR) (General) Regulations shall be amended as follows:

Consequential amendments to S.L. 378.18.

(a) in regulation 2(2) thereof immediately after the definition "the Act" there shall be added the following new definition:

S.L. 12.19. " "Civil Court" means the Civil Court (Commercial Section) established by article 3 of the Civil Court (Establishment of Sections) Order;"

(b) Part IV thereof shall be deleted; and

(c) immediately after regulation 20 thereof there shall be

added the following new regulations:

"Application of certain provisions of the Act with regard to investigations and judicial proceedings.

21. Articles 43D, 43E and 43F of the Act and Part IIA of the Act shall apply to investigations by the Council with regard to compliance with the provisions of these regulations, and to any subsequent judicial proceedings instituted by the Council before the Civil Court.

Penalties and right of appeal.

22. (1) Subject to the provisions of the Act regarding judicial proceedings instituted by the Council following its *prima facie* finding of infringements, the Civil Court shall impose penalties of not less than five hundred euro (€500) and not more than ten thousand euro (€10,000) on any person who fails to comply with any of the provisions of these regulations:

Provided that, the Civil Court may also impose penalties of not less than twenty euro (€20) but not more than one hundred euro (€100) for each day of non-compliance on any person who fails to abide with any requirements under these regulations or with any orders or measures issued by the Civil Court.

(2) Any person who feels aggrieved by a judgement, order, penalty or measure issued by the Civil Court, may appeal before the Court of Appeal, on any point of law and, or of fact, by means of an application filed in the registry of the Court of Appeal within twenty days from the date of the judgment of the Civil Court:

Provided that the Court of Appeal shall appoint the case for hearing by not later than six months from the judgement of the Civil Court."

Consequential amendments to S.L. 379.08.

(14) The Control of Concentrations Regulations shall be amended as follows:

(a) regulation 2 thereof shall be amended as follows:

(i) the definition "Appeals Tribunal" shall be deleted;

(ii) in the definition "concentration" the words "combined aggregate turnover of the undertakings concerned" shall be substituted by the words "combined aggregate turnover in Malta of the undertakings concerned";

(iii) immediately after the definition "control" there shall be added the following new definition:

S.L. 12.19. " "Court" means the Civil Court (Commercial Section) established by article 3 of the Civil Courts (Establishment of Sections) Order;"

(b) sub-regulation (6) of regulation 9 thereof shall be substituted by the following:

"(6) Where the Court in a judgement annuls the whole or part of a decision adopted under these regulations by the Director General, the periods laid down in these regulations shall start again from the date of the judgment of the Court, or if an appeal from the judgment of the Court has been filed, from the date of the judgment of the Court of Appeal.";

(c) regulation 10 thereof shall be amended as follows:

(i) in sub-regulation (2), immediately after the words "purpose of the request" there shall be added the words "specify what information is required and fix a time limit within which the information is to be provided"; and

(ii) sub-regulation (3) shall be deleted;

(d) regulation 11 thereof shall be amended as follows:

(i) in sub-regulation (1) immediately after the word "power" there shall be added the words "to conduct an inspection and"; and

(ii) sub-regulation (2) shall be deleted;

(e) immediately after regulation 12 thereof there shall be

added the following new regulation:

"Contents of  
the sworn  
application.

12A. The provisions of article 12A of the Act shall, *mutatis mutandis*, apply when the Director General requests the imposition of a penalty on a person, undertaking, and, or association of undertakings pursuant to regulations 13 and 14.";

(f) sub-regulation (1) of regulation 13 thereof shall be substituted by the following:

"(1) The Court shall impose a penalty of not less than one thousand euro (€1,000) and not more than ten thousand euro (€10,000) on any person, undertaking and, or association of undertakings that intentionally or negligently:

(i) fails to notify a concentration in accordance with regulation 5 before implementation;

(ii) supplies incorrect or misleading information in a notification pursuant to regulation 5;

(iii) supplies incorrect information in response to a request made pursuant to regulation 10 or fails to supply information within the period fixed by the Director General pursuant to regulation 10;

(iv) produces the required books or other business records in incomplete form during investigations under regulation 11 or refuse to submit to an investigation or inspection pursuant to regulation 11.";

(g) regulation 14 thereof shall be amended as follows:

(i) regulation 14 shall be renumbered as regulation 14(1);

(ii) the words "article 21(4) and (6)" in sub-regulation (1) as renumbered shall be substituted by the words "article 21(7)";

(iii) in paragraph (i) the words "to supply complete and correct information requested by decision pursuant to regulation 10" shall be substituted by the words " to supply complete and correct information pursuant to regulation 10";

(iv) in paragraph (ii) the words "to submit to an investigation ordered by decision pursuant to regulation 11" shall be substituted by the words "to submit to an investigation pursuant to regulation 11"; and

(v) immediately after sub-regulation (1) thereof as renumbered there shall be added the following new sub-regulation:

"(2) Where a person, being a director, manager, secretary or other similar officer of an undertaking or association of undertakings fails without reasonable cause to supply information requested within the time given, the Court may impose a penalty of up to two thousand and four hundred euro (€2,400) for each day in default.";

(h) regulation 14A thereof shall be substituted by the following;

"Application  
of article 13B  
of the Act.

14A. The provisions of article 13B of the Act shall, *mutatis mutandis*, apply to judgements delivered by the Court pursuant to regulations 13 and 14.";

(i) sub-regulation (1) of regulation 16 thereof shall be amended as follows:

(i) in paragraph (a), the words "the proviso to regulation 8(2), regulation 8(3) to (5), regulation 13 and 14" shall be substituted by the words "the proviso to regulation 8(2) and regulation 8(3) to (5)";

(ii) in paragraph (b), the words "the proviso to regulation 8(2), regulation 8(3) to (5), regulation 13 and regulation 14" shall be substituted by the words, "the proviso to regulation 8(2) and regulation 8(3) to (5)";

(iii) in paragraph (c), the words "the proviso to regulation 8(2), regulation 8(3) to (5), regulation 13 and regulation 14" there shall be substituted the words "the proviso to regulation 8(2) and regulation 8(3) to (5)";

(j) regulation 18 thereof shall be substituted by the

following:

"Right to request an appeal before the Civil Court (Commercial Section) and to appeal to the Court of Appeal.

18. (1) The persons, undertakings or association of undertakings concerned and any third party entitled to a hearing under regulation 16(5) may, within twenty days of the notification of the final decision of the Director General, pursuant to regulations 6, 7 and 8 or in the case of third parties within twenty days of its publication, file an application before the Court on points of law and, or of fact, requesting an appeal from the decision of the Director General.

(2) The application shall be notified to the Director General and the Director General shall file his reply thereto within twenty days from the date of notification of the application.

(3) An application filed before the Court in accordance with sub-regulation (1) shall not have the effect of suspending the decision unless the Court, upon a reasoned claim raised by the party concerned in the proceedings, and after considering the submissions of all parties to the proceedings, suspends the decision under such conditions as it may deem fit, stating its reasons therefore, pending the final determination of the appeal.

(4) The Court shall have the power to substitute its discretion for that of the Director General including the power to either confirm or modify or quash in whole or in part, the decision of the Director General:

Provided that where the Court quashes the whole or part of the decision of the Director General, it may refer the matter back to the Director General to take a new decision.

(5) The Director General and any party to the proceedings before the Court who feels aggrieved by the judgment delivered by the said Court may appeal on points of law and, or of fact before the Court of Appeal, by means of an application filed in the registry of that court within twenty days from the date of the judgment of the Court.

(6) The undertakings concerned, the Director General and any third parties may request the Court to be heard behind closed doors where the submissions to be made or evidence to be produced is of a confidential nature or contains business secrets.

(7) (a) A confidential and a non-confidential version shall be produced of any written observations and documentary evidence submitted before the Court; and

(b) The Court shall verify the confidentiality or otherwise of the information submitted.

(8) In the interpretation of these regulations the Court may have recourse to the judgments of the Court of Justice of the European Union, and to relevant decisions and statements of the European Commission including interpretative notices on the relevant provisions of the TFEU and secondary legislation relative to competition and may also refer to its decisions and those of the Competition and Consumer Appeals Tribunal.

Cap. 12. (9) Subject to the provisions under these regulations, the provisions of the Code of Organization and Civil Procedure shall, *mutatis mutandis*, apply to proceedings before the Court.";

(k) immediately after regulation 18 thereof there shall be added the following new regulation:

"Prescription concerning the imposition of penalties.

18A. Article 26A of the Act shall, *mutatis mutandis*, apply in relation to the prescription period for the imposition of penalties.";

(l) regulation 20 thereof shall be substituted by the following:

"20. In the interpretation of regulation 4(4) and of regulation 4(2)(b), the Director General shall have recourse to –

(a) the judgements of the Court and his own previous decisions;

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(b) judgements of the Court of Justice of the European Union;

(c) relevant decisions of the European Commission;

(d) interpretative Notices and Guidelines of the European Commission on the relevant provisions of the TFEU and secondary legislation relative to competition; and

(e) other pertinent foreign jurisprudence."; and

(m) the Schedule thereof shall be amended as follows:

(a) in section B(e) thereof, the words "an administrative fine" shall be substituted by the word "penalty" and the words ", as imposed by the Director General" shall be deleted; and

(b) in section E thereof, the words "Malta Competition and Consumer Affairs Authority Office for Fair Trading Cannon Road Sta. Venera SVR 1411 Malta"; shall be substituted by the words "Malta Competition and Consumer Affairs Authority Office for Competition Mizzi House National Road Blata l-Bajda HMR 9010 Malta".

Consequential  
amendments to  
S.L. 500.02.

(15) The Establishment of Sanctions and Penalties Regulations shall be amended as follows:

(a) in regulation 2(1) thereof:

(i) the definition "Appeals Board" shall be deleted; and

(ii) immediately after the definition "the body responsible for consumer protection" there shall be added the following new definition:

S.L. 12.19. " "Civil Court" means the Civil Court (Commercial Section) established by article 3 of the Civil Court (Establishment of Sections) Order;"

(b) regulation 3 thereof shall be substituted by the

following:

"Investigations,  
judicial  
proceedings and  
penalties.  
S.L. 500.01

3. In the carrying out of its functions under article 10(2) of the Act and under regulation 7 of the Designation of Various Entities Regulations, the body responsible for consumer protection shall, as it deems fit and as far as applicable, with regard to investigations, judicial proceedings and requests for the imposition of penalties, follow the procedure established in articles 12 and 12A of the Consumer Affairs Act and in Parts IIA, IIB, XII and XIIA of the Consumer Affairs Act:

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Provided that subject to the provisions of the Consumer Affairs Act, the Civil Court shall impose penalties of not less than four hundred seventy euro (€470) and not more than forty-seven thousand euro (€47,000) on any person who fails to comply with any of the provisions of these regulations."; and

(c) regulation 4 thereof shall be substituted by the following:

"Right of  
appeal.

4. Any person who feels aggrieved by a judgement, order, penalty or measure issued by the Civil Court, may appeal before the Court of Appeal, on any point of law and, or of fact, by means of an application filed in the registry of the Court of Appeal within twenty days from the date of the judgment of the Civil Court:

Provided that the Court of Appeal shall appoint the case for hearing by not later than six months from the judgement of the Civil Court."

(16) The Appointment of the President of the Competition and Consumer Appeals Tribunal Regulations shall be repealed.

Repeal of  
S.L. 510.01.

(17) Immediately after sub-paragraph (5) of item 4 of Tariff A in Schedule A of the Code of Organization and Civil Procedure there

Consequential  
amendments to  
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shall be added the following new sub-paragraph:

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S.L. 379.08.

"(6) (a) Notwithstanding the provisions of paragraphs 3 and 4 and in addition to the fees mentioned in paragraph 2, for the cases instituted pursuant to the Competition Act and the Control of Concentrations Regulations, the taxed fee shall be that of six-hundred and fifty euro (€650).

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S.L. 379.08.

(b) In the case of appeals from judgements delivered according to the Competition Act and the Control of Concentrations Regulations, sub-paragraph (7) of paragraph 3 shall apply *mutatis mutandis*."

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Passed by the House of Representatives at Sitting No. 229 of the 29th May, 2019.

ANĠLU FARRUGIA  
*Speaker*

RAYMOND SCICLUNA  
*Clerk of the House of Representatives*



# VERŻJONI ELETTRONIKA