



## **ECN Working Group on Cooperation Issues**

### **Results of the questionnaire on the reform of Member States (MS) national competition laws after EC Regulation No. 1/2003**

**(22 May 2013)**

**"DISCLAIMER:**

The present table is based on information provided on a voluntary basis by the ECN National Competition Authorities (hereinafter, NCAs) and reflects their replies to a questionnaire.

For the purpose of this table, the term "convergence" should be construed as referring to a voluntary process of approximation of national antitrust legislation to EC Regulation No 1/2003 (hereinafter, Reg. 1/2003), and does not imply that such approximation is mandatory in respect of all the provisions of the Regulation referred to in the table.

The table is not meant to express or reflect any view as to the compliance of national antitrust legislation with certain mandatory provisions of the Reg. 1/2003 and, more generally, may not be regarded as reflecting or stating an

Answers received from all the 27 Member States: AUSTRIA AT, BELGIUM BE, BULGARIA BG, CYPRUS CY, CZECH REP. CZ, DENMARK DK, ESTONIA EE, FINLAND FI, FRANCE FR, GERMANY DE, GREECE GR, HUNGARY HU, IRELAND IE, ITALY IT, LATVIA LV, LITHUANIA LT, LUXEMBOURG LU, MALTA MT, NETHERLANDS NL, POLAND PL, PORTUGAL PT, ROMANIA, RO, SLOVAK REP. SK, SLOVENIA SI, SPAIN ES, SWEDEN SV, UNITED KINGDOM UK, CROATIA HR and NO<sup>1</sup> have also provided answers.

---

<sup>1</sup> Norway is not a member of the European Union, but the Norwegian Competition Authority does participate in the ECN on the basis of the EEA-agreement.

<b>RESULTS OF QUESTIONNAIRE ON CONVERGENCE OF NATIONAL COMPETITION LAWS, BASED ON THE ANSWERS RECEIVED FROM THE NCAS</b>				
<b>MAJOR CHANGES INTRODUCED BY EC REG. 1/2003 OR ORIGINATING FROM EC PRACTICE</b>	<b>CORRESPONDING NATIONAL PROVISIONS</b>			
	<i>Fully convergent</i>	<i>Partially convergent</i>	<i>Amendments proposed (or still under consideration)</i>	<i>No Convergence</i>
1) <b>Abolition of notification system for agreements and introduction of a legal exception system (Art. 1)</b>	AT <sup>AT1</sup> , BE <sup>BE1</sup> , BG <sup>BG1</sup> , CY, CZ, DE <sup>DE1</sup> , EE <sup>EE1</sup> , ES, FI, FR, GR <sup>GR1</sup> , HR <sup>HR1</sup> , HU, IE, NL, LT, LU, MT, PL, PT, RO <sup>RO1</sup> , SV, SI, SK, UK, NO			DK <sup>DK1</sup> , IT <sup>IT1</sup> , LV <sup>LV1</sup>
2) <b>Parallel application of Community and national antitrust rules (Art. 3.2)</b>	AT, BE, BG, CY, CZ, DE, DK, EE, ES, FI, FR, GR, HU, IE, LT, LU, LV, MT, NL, PL, PT, RO, SV, SI, SK, UK, NO <sup>NO1</sup>			IT

<sup>AT1</sup> The positions indicated in this table for Austria take into account the new provisions published in the official journal on July 5, 2005 (the Competition Act, BGBl I no. 62/2002 as amended by BGBl I no. 62/2005), and the Cartel Act (BGBl I no. 61/2005). The amendments of the Competition and the Cartel Act came into force on January 1, 2006.

<sup>BE1</sup> The law of 10 June 2006 (published 29 June 2006), entered into force on Oct. 1, 2006, introduced a legal exception system.

<sup>BG1</sup> The positions indicated in this table for Bulgaria take into account the provisions of the new Law on Protection of Competition, promulgated in the State Gazette, Issue 102 of 28.11.2008, entered into force on 02.12.2008

<sup>DE1</sup> The positions indicated in this table for Germany take into account the new provisions of the Act against Restraints of Competition, as amended on July 7, 2005 (BGBl. I S. 1954), entered into force with retroactive effect on July 1, 2005.

<sup>EE1</sup> The amendments of the Competition Act came into force on July 1, 2006.

<sup>GR1</sup> The positions indicated in this table for Greece reflect the new law no. 3959/2011 "Protection of competition", which entered into force on 20<sup>th</sup> April 2011. The above law repealed/abolished the previous law no. 703/1977 "on the control of monopolies and oligopolies and the protection of competition" as well as any other provision contrary to the said law.

<sup>HR1</sup> The system of obligatory notification of agreements was already abolished with the previous Competition Act from 2003 and with the adoption of current Competition Act in 2009, the system of individual exemption was also abolished. However, the block exemption of agreements is still in place.

<sup>DK1</sup> According to the Danish Consolidated Competition Act no. 1027 of August 21, 2007, the notification system for non-art. 81 agreements has been upheld. However, this notification system is non-compulsory. If a notified agreement has an impact on trade between member states the NCA can abstain from making a decision.

<sup>IT1</sup> The notification system for non-art. 81 agreements still exists (Art. 4 of the Antitrust Law n. 287/90) in the framework of a "single-barrier" legal system (Art. 1 of the Antitrust Law n. 287/90). However, as the notion of effect on EU trade is currently interpreted by the ICA in very wide terms, the exemption system is de facto disappplied.

<sup>LV1</sup> The notification system for non-art. 81 agreements has been upheld. However, this notification system is non-compulsory.

<sup>NO1</sup> Parallel application of the EEA Agreement Article 53 and Article 54.

<b>3) Power to impose structural remedies (Art. 7)</b>	AT, BE <sup>BE2</sup> , BG, CY, CZ, DE, ES, GR, HR <sup>HR2</sup> , IE <sup>IE1</sup> , LV, MT, NL, PT, RO, SI, UK, NO	FR <sup>FR1</sup> , HU <sup>HU1</sup> , IT <sup>IT2</sup> , LU <sup>LU1</sup> ,		DK, EE, FI, LT, PL, SK, SV
<b>4) Power to order interim measures (Art. 8)</b>	AT, BE, BG, CY, CZ, DE, DK <sup>DK2</sup> , ES, FI, FR <sup>FR2</sup> , GR, HR <sup>HR3</sup> , HU <sup>HU2</sup> , IE <sup>IE2</sup> , IT, LT, MT, NL, PL, PT, RO, SV, SI, SK, UK, NO	LU	EE	LV <sup>LV2</sup>

<sup>BE2</sup> Article 53 § 1, WBEM.

<sup>ES2</sup> The Competition Act no.15/2007 introduces the power to impose structural remedies.

<sup>HR2</sup> Article 14 of the Competition Act (decision on the abuse of dominant position), the CCA may impose structural remedies or behavioural remedies. Structural remedies are only imposed 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. Also, Article 22, para. 4 to 6 (decision on concentration) envisage that the parties may propose adequate behavioural and/or structural measures and other conditions in order to remove the negative effects of the concentration when the CCA finds that the concentration in question may be declared compatible only after necessary obligations and conditions are fulfilled, In the event that the CCA does not accept or just partly accepts the said remedies proposed by the parties to the concentration, it is authorised to define and impose other behavioural and/or structural measures, conditions, obligations and deadlines for the restoration of effective competition in the market.

<sup>IE1</sup> The Irish Competition Authority is not a decision maker with reference to Arts. 81 and 82 EC or the corresponding domestic rules (Sections 4 & 5 of the Competition Act 2002). However, all National Courts were declared Competition Authorities for the purpose of Reg. 1/2003. As a result, while the actual Competition Authority does not have the power to impose structural remedies under Art. 7, the National Courts do have this power when acting in their capacity as a Competition Authority for the purpose of Reg. 1/2003.

<sup>FR1</sup> The Autorité may impose structural remedies in specific cases of abuses of dominance: (1) in the retail sector to remedy exclusionary abuses at the national or local level (Art L. 752-26 of the Code of Commercial Law) and (2) if the abuse committed by an undertaking stems from a merger (Art. L 430-9 of the Code of Commercial Law).

<sup>HU1</sup> The imposition of structural remedy does not explicitly foreseen in the Hungarian law, but the possibility exists.

<sup>IT2</sup> The power to impose structural remedies is not explicitly provided by the Italian competition law. However, the Italian administrative judge considers that this power can be derived from the general power to bring the infringement to an end and impose sanctions pursuant to art. 15 of the Italian competition law No. 287/90.

<sup>LU1</sup> Article 11 of the new Competition Act of 23 october 2011 does not explicitly cover structural remedies but only coercitive measures. Nonetheless, the Council considers structural and behavioural remedies as coercitive measures.

<sup>DK2</sup> As of 1 March 2013, the Danish Competition Council can adopt interim measures, cf. Article 18 b. of the Danish Competition Act (Consolidated Act No. 23 of 17 January 2013). Interim measures decisions can be adopted in cases where an agreement or conduct after a preliminary assessment is deemed to be an infringement and where it is deemed that there is the risk of serious damage to competition, unless quick action is taken. The Competition Council shall refer the interim measures decision to the Danish Competition Appeals Tribunal within 10 working days for confirmation of the decision.

<sup>FR2</sup> The Autorité can only act upon complaint, but it can impose not only the injunctions requested by the complainant, but also any injunction it deems fit to the case.

<sup>HR3</sup> Article 51 of the Competition Act (Interim measures), the CCA may initiate the proceedings against an undertaking and make a decision adopting interim measures in cases of urgency due to the risk of serious and irreparable damage to competition and on the basis of a prima facie finding of infringement of the provisions of Competition Act. Maximum time to which the interim measures are adopted should not exceed 6 months.

<sup>HU2</sup> Also upon complaint.

<sup>IE2</sup> The Competition Authority cannot make a decision regarding interim measures but the National Courts acting in their capacity as Competition Authorities for the purpose of Reg. 1/2003 can order interim measures.

<sup>LV2</sup> The Competition Authority can impose interim measures only in cases involving Art. 81 or 82.

5) <b>Power to adopt commitment decisions (Art. 9)</b>	AT, BE <sup>BE3</sup> , BG, CY, CZ, DE, DK, ES, FI, FR <sup>FR3</sup> , GR, HR <sup>HR4</sup> , HU, IE <sup>IE3</sup> , IT, LT, LU, MT <sup>MT1</sup> , NL, PL, PT, RO, SV, SI, SK, UK	LV <sup>LV3</sup>	EE, NO <sup>NO2</sup>	
6) <b>Power to seal business premises, books and records (Art. 20)</b>	BE, BG, CY, CZ, DE, DK, EE <sup>EE2</sup> , ES, FI, FR <sup>FR4</sup> , GR, HR <sup>HR5</sup> , HU, IT <sup>IT3</sup> , LT, LU, LV, MT, NL, PL, PT, RO, SV, SI, SK, UK, NO		AT,	IE,
7) <b>Power to inspect non-business premises (Art. 21)</b>	AT, BE, CY <sup>CY1</sup> , CZ, EE <sup>EE3</sup> , ES, FI, FR, GR, HR, HU, IE, LT, LU, LV, MT, NL, PL <sup>PL1</sup> , PT, RO, SV, SI, SK, UK <sup>UK1</sup> , NO <sup>NO3</sup>	DE <sup>DE2</sup>		BG, DK, IT,

<sup>BE3</sup> The law of 10 June 2006, entered into force on Oct. 1, 2006 allows the adoption of commitment decisions.

<sup>FR3</sup> Art. L.464-2-I of the Code of Commercial Law.

<sup>HR4</sup> Possibility of commitment decisions was introduced by the latest Competition Act from 2009. Article 49 (Commitments) establishes that parties may offer commitments to the CCA before the Statement of Objections has been notified. The commitments undertaken shall mean meeting certain conditions and obligations within a set time periods, in order to eliminate the negative effects on competition due to its actions or a failure to act. The CCA adopts decision and makes the commitments binding upon the parties and sets the time period in which the parties must comply with the commitments.

<sup>IE3</sup> The Competition Authority is not a decision maker with reference to Arts. 81 and 82 EC (or Sections 4 & 5 of the Competition Act 2002) and cannot adopt commitment decisions. The National Courts, acting in their capacity as Competition Authorities for the purposes of Reg. 1/2003, can adopt commitment decisions.

<sup>MT1</sup> The amendments to the Competition Act that entered into force on 23 May 2011 allow the adoption of commitment decisions.

<sup>LV3</sup> According with the amendments introduced in the Competition Law 2008, the Competition Authority is entitled to accept commitments during administrative procedure as well as to conclude administrative agreement during judicial proceeding.

<sup>NO2</sup> Introduction of commitment decisions has been proposed as an amendment to the Competition Act by an official committee assessing the need for revision of the current legislation.

<sup>EE2</sup> Only in criminal and misdemeanor proceedings.

<sup>FR4</sup> Art. L.450-4, alinea 1, of the Code of Commercial Law.

<sup>HR5</sup> This new power of the CCA was also introduced by the Competition Act 2009. Article 42 (Surprise inspection of business premises, other premises, land and means of transport affixation of seals and temporary seizure of objects). The premises can only be searched based on the warrant from the Administrative Court. The assistance in this power should be offered to the CCA by Corporate Crime Department of the Ministry of the Interior as the law enforcement authority.

<sup>IT3</sup> Through the assistance of Tax Police.

<sup>CY1</sup> Upon obtaining a duly reasoned judicial warrant.

<sup>EE3</sup> Only in criminal and misdemeanor proceedings.

<sup>PL1</sup> Pursuant to art. 91 of the Act of 16 February 2007 on Competition and Consumer Protection, upon request of the President of UOKiK, the court of competition and consumer protection issues a consent to inspect non business premises. However, such inspection is performed by the Police with the participation of the employees of the Polish Competition Authority.

<sup>UK1</sup> Upon production of a warrant granted by the High Court (or the Court of Session in Scotland)

<sup>NO3</sup> There must be special reasons to assume that evidence may be kept at the premises.

<sup>DE2</sup> Provisions of German law wider than Art. 21, Reg. 1/2003.

<p>8) <b>Fines on associations of undertakings (Arts. 23.2 and 23.4)</b></p>	<p>BE<sup>BE4</sup>, BG, CY, CZ<sup>CZ1</sup>, ES, FI, GR<sup>GR2</sup>, HR, HU, LT, LU, MT<sup>MT2</sup>, NL</p>	<p>AT<sup>AT2</sup>, DE<sup>DE3</sup>, DK<sup>DK2</sup>, EE<sup>EE4</sup>, FR<sup>FR5</sup>, IE<sup>IE4</sup>, IT<sup>IT4</sup>, LV<sup>LV4</sup>, PL<sup>PL2</sup>, PT, RO<sup>RO2</sup>, SV<sup>SV1</sup>, SI<sup>SI1</sup>, SK, UK<sup>UK21</sup>, NO<sup>NO4</sup></p>		
<p>9) <b>Informal guidance (Recital 38)</b></p>	<p>AT, BG<sup>BG2</sup>, BE, DK, DE, EE<sup>EE5</sup>, FR<sup>FR6</sup>, ES, HR<sup>HR6</sup>, IE, MT<sup>MT3</sup>, NL, PL<sup>PL3</sup>, PT, RO, SV, SI, UK, NO</p>	<p>CY<sup>CY2</sup>, CZ<sup>CZ2</sup>, FI<sup>FI2</sup>, GR<sup>GR3</sup>, HU<sup>HU3</sup>, LT, LV<sup>LV5</sup>, SK</p>		<p>IT, LU,</p>

<sup>BE4</sup> Introduced by the law of 10 June 2006 entered into force on October 1, 2006.

<sup>CZ1</sup> As from September 2009 a new Act on Competition enters into force which enables the Office to impose fines to association of undertakings in compliance with Regulation 1/2003, i.e. for association of undertakings participating in the infringement, the fine shall not exceed 10% of the sum of the total turnover of each member active on the market affected by the infringement of the association. Each member of the association is responsible for paying off the imposed fines up to amount of 10% of its net turnover reached in last finished accounting period. So the point 8 is “Fully convergent” for CZ from September 2009.

<sup>GR2</sup> Under the new law no. 3959/2011 “Protection of competition”, which entered into force on 20<sup>th</sup> April 2011, full convergence to Art. 23.2 and 23.4, Reg. 1/2003 has been achieved.

<sup>MT2</sup> The amendments to the Competition Act that entered into force 23 May 2011 allow for the imposition of fines.

<sup>AT2</sup> The Cartel Court can impose fines on associations of undertakings to the same extent as it can do on undertakings upon request of the Federal Competition Authority or/and the Federal Cartel Prosecutor. Fines imposed on an association of undertakings may not be enforced against its members.

<sup>DE3</sup> Associations of undertakings can be fined, but responsibility does not automatically extend to the member undertakings as is the case under Community law.

<sup>DK2</sup> Associations of undertakings can be imposed criminal sanctions (only by national courts) in the form of fines but there is no convergence to Arts. 23.2 and 23.4, Reg. 1/2003.

<sup>EE4</sup> Associations of undertakings can be fined but there is no convergence with Art. 23.4, Reg. 1/2003.

<sup>FR5</sup> Convergence to Art. 23.2, not to Art. 23.4, Reg. 1/2003.

<sup>IE4</sup> The National Courts acting as a competition authorities can impose fines for breach of Arts. 81 and 82 EC, but not for contravening an order on interim measures, or failure to comply with commitments.

<sup>IT4</sup> Associations of undertakings can be fined but there is no convergence with Art. 23.4, Reg. 1/2003.

<sup>LV4</sup> Associations of undertakings can be fined but there is no convergence with Art. 23.2. or 23.4, Reg. 1/2003.

<sup>PL2</sup> Associations of undertakings can be fined but there is no convergence with Art. 23.4, Reg. 1/2003.

<sup>RO2</sup> Associations of undertakings can be fined under the Romanian competition law, but the responsibility does not extend to the member undertakings.

<sup>SV1</sup> The association and individual undertakings which take active part in the infringement can be fined, but the method is not convergent to Arts. 23.2 and 23.4, Reg. 1/2003.

<sup>SI1</sup> Associations of undertakings can be fined but there is no convergence to Arts. 23.2 and 23.4, Reg. 1/2003.

<sup>UK2</sup> Convergence to Art. 23.2, not to Art. 23.4, Reg. 1/2003.

<sup>NO4</sup> Associations of undertakings may be fined, but there is no convergence with Art. 23.4, Reg. 1/2003.

<sup>BG2</sup> No rules for informal guidance in the national competition law. However, in the practice, such guidance may be given by the Competition Authority.

<sup>EE5</sup> Informal guidance is given according to the Response to Memoranda and Requests for Explanations Act.

<sup>FR6</sup> No specific rule for informal guidance in national competition law. However, such guidance may be given by the Autorité, either informally or through its general power to give guidance through public opinions.

<sup>HR6</sup> There is no provision in the Competition Act for the informal guidance, just provisions related to expert opinions formally issued by the CCA upon the request of the Government, Parliament and other state bodies. However, in practice informal guidance can be given by the CCA.

<sup>MT3</sup> The amendments to the Competition Act that entered into force on 23 May 2011 provide for guidance letters.

<sup>PL3</sup> No rules for informal guidance in the national competition law. However, in the practice, such guidance (opinions on interpretation of competition rules) is issued by Polish Competition Authority.

<sup>CY2</sup> The NCA has a general power to give opinions only to other governmental bodies.

<sup>CZ2</sup> The NCA provides undertakings with informal opinions in practice.

<sup>FI2</sup> The NCA may issue guidelines.

<b>10) Treatment of individual exemptions granted before May 1, 2004 (Art. 43.1)</b>	BE, CY <sup>CY3</sup> , CZ, DK, EE <sup>EE6</sup> , FI, FR <sup>FR7</sup> , GR, HR <sup>HR7</sup> , HU, IE, ES, LT, LV, MT, NL <sup>NL1</sup> , PL, PT, SV, SI, SK, UK, NO	AT <sup>AT3</sup> , DE <sup>DE5</sup> ,		BG, IT, LU, RO <sup>RO3</sup>
<b>11) Investigations into sectors of the economy and into types of agreements (Art. 17)</b>	BE, BG, CZ <sup>CZ3</sup> , DE, DK <sup>DK4</sup> , EE, ES, FI, FR <sup>FR8</sup> , GR, HR <sup>HR8</sup> , IE, IT, LT, LU, MT <sup>MT4</sup> , NL, PL, PT, SV, SI, SK <sup>SK1</sup>	AT <sup>AT4</sup> , HU <sup>HU4</sup> , LV <sup>LV6</sup> , RO <sup>RO4</sup> , UK <sup>UK3</sup> , NO <sup>NO5</sup>		CY,

<sup>GR3</sup> No specific rule for informal guidance in national competition law. However, such guidance may be given by the Hellenic Competition Authority through public opinions.

<sup>HU3</sup> The Hungarian competition law does not contain specific rule on informal guidance. However, the Hungarian Competition Authority has already published its standpoints on a few specific issues (like on the regulation of the compulsory originality control of motor vehicles).

<sup>LV5</sup> Competition law does not contain explicit provisions for informal guidance, guidance or interpretation of competition rules upon request by undertaking is provided on basis of general administrative principles.

<sup>CY3</sup> Exemptions granted before May 2004 are valid until the date of expiration.

<sup>EE6</sup> Exemptions granted before May 1, 2004 are valid until the date of expiration.

<sup>FR7</sup> No exemption ever granted

<sup>HR7</sup> Individual exemptions of agreements were applied until the adoption of the latest Competition Act in 2009.

<sup>NL1</sup> Exemptions granted before 1 August 2004 will be valid until at the latest 1 August 2009. As of 1 August 2009 fully convergent; since in Dutch law it is determined that from 1 August 2004 no more individual exemptions will be granted. Exemptions granted before 1 August 2004 will be valid until at the latest 1 August 2009. The maximum duration of these exemptions is 5 years.

<sup>AT3</sup> Exemptions granted before May 1, 2004 will be valid until December 31, 2006; in any case the exemptions shall not be valid once expired the time period granted in the approval.

<sup>DE5</sup> Exemptions granted before July 1, 2005 will be valid until December 31, 2007.

<sup>RO3</sup> No specific provision on the treatment of the individual exemptions granted before accession date.

<sup>CZ3</sup> From September 2009 the new Competition Act contains explicit provision concerning sector inquiries.

<sup>DK4</sup> The NCA may request any information (including accounts, records, other business records and electronic data) which are considered necessary for its activities.

<sup>FR8</sup> Art. L.462-4 of the Code of Commercial Law entrusts the Autorité with the power to deliver ex officio opinions and make recommendations, including under the form of sector enquiries, upon any matter related to competition. The Autorité can use its powers of compulsion in such cases.

<sup>HR8</sup> The CCA conducts sector inquiries and market studies (for example, each year CCA investigates retail sector of goods) and it publishes non-confidential results on its website.

<sup>MT4</sup> The amendments to the Competition Act that entered into force on 23 May 2011 allow inquiries into sectors of the economy and into types of agreements.

<sup>AT4</sup> No explicit rule in Austrian law to carry out inquiries into a particular type of agreements across various sectors.

<sup>HU4</sup> The Hungarian Competition Authority cannot use all the investigative powers available in normal investigations.

<sup>LV6</sup> The Competition law provides rights to carry out sector inquiries (with limited investigation powers and right to impose fine for incorrect or misleading information).

<sup>RO4</sup> The Competition Council has not the same investigative powers as in regular investigation proceedings.

<sup>UK3</sup> The Enterprise Act 2002 provides powers to carry out market studies and to refer markets to the Competition Commission for further investigation, where the OFT has reasonable grounds for suspecting that any feature, or combination of features, of a market is preventing, restricting or distorting competition.

<sup>NO5</sup> No explicit regulation in Norwegian law to carry out inquiries into a particular type of agreements across various sectors, but the NCA may request any information which is considered necessary for its activities.

<p><b>12) Do you have (or intend to have) specialised national courts for dealing with competition issues in the context of civil proceedings? If so, which court(s)? Does that court also deal with cases where competition issues are only ancillary?</b></p>	<p>AT (No), BE<sup>BE5</sup> (Yes), BG (No), CY (No), CZ (No), DE (Yes)<sup>DE4</sup>, DK<sup>DK5</sup> (Yes), EE (No), ES (Yes), FI (No), FR<sup>FR9</sup> (Yes), GR<sup>GR4</sup> (No), HR (No), HU (No), IE (No)<sup>IE4</sup>, IT<sup>IT5</sup> (Yes), LT (No), LU (No), LV (No), MT (No), NL (No), PL (No), PT (No), RO (No)<sup>RO5</sup>, SV (No), SI (No), SK<sup>SK1</sup>, UK (Yes)<sup>UK4</sup>, NO (No)</p>
<p><b>13) Does (or will) your national law include provisions to facilitate the use of Art. 15.3, Reg. (amicus curiae)?</b></p>	<p>AT<sup>AT5</sup>, BE (No), BG (No), CY<sup>CY4</sup>, CZ<sup>CZ3</sup>, DE (Yes), DK<sup>DK6</sup> (Yes), EE<sup>EE7</sup>, ES (Yes), FI<sup>FI3</sup>, GR (Yes), FR (Yes), HR (No), HU (Yes), IE (Yes), IT(No), LT (Yes), LU (No), LV (No), MT<sup>MT5</sup>, NL (Yes), PL<sup>PL4</sup> (Yes), PT (No), RO<sup>RO6</sup> (Yes), SV (Yes), SI (No, amendments under consideration), SK (Yes), UK (Yes), NO<sup>NO6</sup> (Yes).</p>

<sup>BE5</sup> Commercial Courts; preliminary ruling system.

<sup>DE4</sup> Regional Courts, Courts of Appeal; Federal Supreme Court.

<sup>DK5</sup> A specialized court - the Copenhagen Maritime and Commercial Court - is dealing with civil proceedings when competition issues are essential for a case.

<sup>FR9</sup> The specialized courts have been designated by the decree n°. 2005-1756 of Dec. 30, 2005. First instance courts: 8 civil courts and 8 commercial courts ; and one Court of Appeal: Paris Court of Appeal.

<sup>GR4</sup> The new law no. 3959/2011 “Protection of competition” (article 33) provides for the creation (via Presidential Decree) of specialist chambers in the Athens Administrative Court of Appeal for the review of competition cases. Such a presidential decree has not yet been issued.

<sup>IE4</sup> However, special judges are appointed in each court, District, Circuit, High, to take the decisions in competition matters.

<sup>IT5</sup> The commercial courts - called “Tribunale delle Imprese”, previously specialized in intellectual property rights - are also competent for civil damage actions in case of breach of competition law (Art. 2(1)(d) of Law n° 27/2012).

<sup>RO5</sup> All competition cases are dealt with in first instance by the Bucharest Court of Appeal-Administrative Section; however, the Court does not exclusively deal with competition cases.

<sup>SK1</sup> Since October 2004, Regional court in Bratislava is dealing in first instance as the general court for competition issues for the whole territory of the Slovak Republic, Supreme Court of the Slovak Republic is the second instance body. These courts are not specialised for competition issues only . District Court in Bratislava II is the court relevant for civil damages actions (of consumers) for breach of antitrust rules.

<sup>UK4</sup> A specialist judicial body whose function is to hear appeals against certain decisions of the OFT and of sectoral regulatory authorities made under the Competition Act 1998, the Enterprise Act 2002 and the Communications Act 2003. The Competition Appeal Tribunal (CAT) can also hear action for damages following on from findings of infringement of competition law.

<sup>AT5</sup> Present rules deemed sufficient.

<sup>CY4</sup> No specific rules adopted; the Supreme Court will issue a Procedural Order.

<sup>CZ3</sup> No specific provisions, but it is made possible by the Czech code of civil procedure.

<sup>DK6</sup> No specific rule concerning the application of Art. 15.3 Reg. 1/2003, but no specific legal problem for its application.

<sup>EE7</sup> When hearing a case connected with the application of Article 101 or Article 102 TFEU, national court shall involve the Competition Authority in the proceedings to provide an opinion.

<sup>FI3</sup> No special provisions on amicus curiae. Most Article 101/102 cases are dealt with by administrative courts where NCA is usually party to the case or otherwise is always heard. In civil proceedings, courts usually ask statement of the NCA if Article 101/102 is to applied, although not obliged to do it. De facto no legal problems exist.

<sup>MT5</sup> According to the rules of procedure relative to the Competition and Consumer Appeals Tribunal, 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 Appeals Tribunal. The NCA is a party to the proceedings before the Appeals Tribunal. The Competition Act provides that where before any court of civil jurisdiction it is alleged that any agreement or decision is null and unenforceable in accordance with Article 101 of the TFEU, or where it is alleged that there is an abuse of a dominant position in accordance with Article 102 of the TFEU, that court shall stay the proceedings and request the Director General of the NCA to submit a report on the competition questions raised before it and the court shall take into consideration such report, and any submissions thereon made by the parties and the Director General, before deciding the case. The Competition Act also provides that the Minister after consultation with the Board of the NCA may make regulations prescribing the procedure for co-operation between the Appeals Tribunal, the European Commission, the national courts and national competition authorities.

<sup>PL4</sup> No specific rules on application of Article 15.3 Reg. 1/2003

<sup>RO6</sup> The Competition Council may submit observations to the national courts on competition issues, related to the application of Articles 5 and 6 of the Competition Law no.21/1996, as amended and Articles 101 and 102 TFEU in conditions provided for the civil procedural law.

\* \* \*

---

<sup>NO6</sup> The EFTA Surveillance Authority may submit observations on issues relating to the application of Articles 53 and 54 of the EEA-Agreement.