

Provision of port services and financial transparency of ports

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The Committee on Transport and Tourism adopted the report by Knut FLECKENSTEIN (S&D, DE) on the proposal for a regulation of the European Parliament and of the Council establishing a framework on market access to port services and financial transparency of ports.

The committee recommended that the position adopted by the European Parliament at first reading under the ordinary legislative procedure should amend the Commission proposal as follows.

Subject matter and scope: this Regulation shall establish a **clear framework for the organisation of port services** and shall apply to all maritime ports of the trans-European transport network, listed in Annex II of Regulation (EU) No 1315/2013 of the European Parliament and the Council. **Dredging** is excluded from the list of services.

Member States may: (i) decide not to apply this Regulation to maritime ports of the comprehensive trans-European transport network located in the outermost regions; (ii) **introduce derogations in order to avoid disproportionate administrative burdens** for those maritime ports of the comprehensive trans-European transport network the annual traffic of which does not justify the full application of this Regulation.

Organisation of port services: Members noted that the Union's port system is highly diverse and includes many different models for the organisation of port services. Accordingly, a single system would not be appropriate.

Therefore, **Chapter II of the Commission proposal (market access) as amended, now relates to the organisation of port services** with provisions on minimum requirements, limitation of the number of providers, services under public service obligation and social safeguards.

This Chapter, with the exception of provisions on training and labour protection and certain transitional provisions shall not apply to cargo handling services, passenger services and **pilotage**.

- **Minimum requirements:** these requirements shall relate to:

- the **availability** of the port service to all users, at all berths and without interruptions day and night, throughout the year;
- the **compliance with national social and labour legislation of the Member State of the port concerned**, including the terms of collective bargaining agreements
- the **good repute** of the port service provider, as determined by the Member State.

- **Limit the number of providers of port service:** without prejudice to the existing different models for the organisation of port services, the managing body of the port or the competent authority may limit the number of providers of port service for a given port service for one or several of the following reasons:

- **the scarcity of waterside space**, where this constitutes an essential element of the ability to provide the port service concerned in a safe and efficient way;
- the inability of the characteristics of the port traffic;
- the need to ensure the provision of **safe, secure or environmentally sustainable port operations**.

Any limitation of providers for a port service shall follow a selection procedure, which shall be open to all interested parties, **non-discriminatory and transparent**.

When a managing body of a port provides port services itself or through a legally distinct entity which it directly or indirectly controls, the Member State shall take necessary measures to **avoid conflicts of interest**.

- **Public service obligations**: Member States shall designate the **competent authority** within their territory, which may be the managing body of the port, entitled to implement public service obligations related to port services on providers in order to ensure at least one of the following:

- the safety, security or environmental sustainability of ports operations;
- the provision of adequate transport services to the public and territorial cohesion.

- **Workers' rights**: the report stipulated that the competent authority shall require the designated provider of port services to **grant staff working conditions on the basis of binding national, regional or local social standards**. Furthermore, the Member States should ensure the employees' rights in the case of a transfer of undertakings or businesses.

Members introduced a new article obliging the employer to ensure that its employees receive the necessary **training** to acquire a sound knowledge of the conditions in which their work is conducted and that they are properly trained to tackle the hazards which the work may entail.

In full respect of the autonomy of social partners, the **EU-level Sectoral Social Dialogue Committee for Ports** is invited to develop guidelines for the establishment of training requirements to prevent accidents and ensure the highest level of safety and health for workers.

Port charging: the amended text stipulated that the port infrastructure charges may **vary in accordance with the port's economic strategy** and the port's spatial planning policy related, inter alia, to certain categories of users. The criteria used for such a variation shall be fair, non-discriminatory as to nationality and shall comply with State aid and competition rules.

The managing body of the port may set the charges autonomously according to their business strategy. To that end, Members **restricted the Commission's power for delegated acts** to the classifications of vessels and fuels and types of operations according to which the infrastructure charges can vary and common charging principles for port infrastructure charges.

Consultation of port users and stakeholders: the managing body of the port shall ensure that adequate mechanisms for the consultation of port users, including relevant interconnected transport operators, are in place. It shall consult port users in the event of substantial changes to port infrastructure charges.

The managing body of the port shall regularly consult the relevant stakeholders operating in the port area, where appropriate on the following: (i) the consequences of planning and of spatial planning decisions in terms of environmental performance; (ii) measures to ensure and improve safety in the port area, including health and safety of port workers and information on access to training of port workers.

Independent controls: the amended text stipulates that Member States shall ensure that **effective mechanisms are in place to handle complaints** for all the maritime ports covered by this Regulation on the territory of each Member State. To that end, the Member States shall designate one or more bodies and ensure that port users and other relevant stakeholders are informed of where and how to lodge a complaint.

Entry into force: Members proposed that the Regulation shall apply two years after the date of entry into force of the Regulation (rather than from 1 July 2015).