

# Provision of port services and financial transparency of ports

2013/0157(COD) - 08/03/2016 - Text adopted by Parliament, partial vote at 1st reading/single reading

The European Parliament adopted (by 451 votes to 243, with 18 abstentions) **amendments** to 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 matter has been referred back to the committee. The vote has been postponed to a subsequent sitting.

The main elements adopted in plenary are as follows:

**Subject matter and scope:** although the Commission proposal sought to establish a framework on market access to port services, Parliament proposed that the Regulation shall establish a **clear framework for the organisation of port services** which 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.

Parliament stated that this Regulation **shall not impose a specific port management model to the managing bodies of ports**. Provided that rules relating to market access and financial transparency are respected, existing port management models established at national level in the Member States **can be maintained**.

**Organisation of port services: Chapter II of the Commission proposal (market access) as amended, now relates to the organisation of port services** which may be subject to: (a) minimum requirements to port service providers; (b) limitations of the number of providers; (c) public service obligations; (d) internal operators; (e) free open access to the market of port services.

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:** the list of reasons limiting the number of providers of port services shall include:

- 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 availability of the service to all users, where appropriate on equal terms ;
- the safety, security or environmental sustainability of ports operations;
- the provision of adequate transport services to the public and territorial cohesion.

- **Workers' rights:** Parliament 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. The managing bodies of the port or the competent authority shall require all providers of port services to comply with all social and labour standards as set out in Union and/or national law, as well as applicable collective agreements in accordance with national customs and traditions. Furthermore, the Member States shall 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.

**Financial transparency:** Parliament noted that where the managing body of the port that receives public funds provides port services or dredging itself, it shall keep the **accounts** of that publicly funded activity or investment **separate** from the accounts of its other activities.

**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 providers of port services shall provide port users with adequate information about the structure of port service charges and the criteria used to determine them.

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).