Basic information

2013/0157(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Provision of port services and financial transparency of ports Amended by 2020/0067(COD) **Subject** 2.40 Free movement of services, freedom to provide 2.40.02 Public services, of general interest, universal service 2.80 Cooperation between administrations 3.20.03 Maritime transport: passengers and freight 3.20.09 Ports policy	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
TRAN Transport and Tourism	FLECKENSTEIN Knut (S&D)	16/07/2014
	Shadow rapporteur VOZEMBERG-VRIONIDI Elissavet (PPE) VAN DALEN Peter (ECR) MEISSNER Gesine (ALDE) KOULOGLOU Stelios (GUE/NGL) TAYLOR Keith (Verts/ALE) D'AMATO Rosa (EFDD)	

Former committee responsible	Former rapporteur	Appointed
TRAN Transport and Tourism		

Committee for opinion	Rapporteur for opinion	Appointed
ECON Economic and Monetary Affairs	The committee decided not to give an opinion.	
EMPL Employment and Social Affairs	KARI Rina Ronja (GUE/NGL)	20/04/2015

IMCO Internal Market and Consumer Protection	The committee decided not to give an opinion.	
REGI Regional Development	The committee decided not to give an opinion.	

Former committee for opinion	Former rapporteur for opinion	Appointed
ECON Economic and Monetary Affairs		
EMPL Employment and Social Affairs		
IMCO Internal Market and Consumer Protection		
REGI Regional Development		

Council of the European Union

Council configuration	Meetings	Date
Transport, Telecommunications and Energy	3318	2014-06-05
Transport, Telecommunications and Energy	3335	2014-10-08
Agriculture and Fisheries	3514	2017-01-23

European Commission

Commission DG	Commissioner
Mobility and Transport	KALLAS Siim

European Economic and Social Committee

European Committee of the Regions

Key events

Date	Event	Reference	Summary
23/05/2013	Legislative proposal published	COM(2013)0296	Summary
10/06/2013	Committee referral announced in Parliament, 1st reading		
05/06/2014	Debate in Council		Summary
08/10/2014	Debate in Council		
20/10/2014	Resumption of business from the previous parliamentary term		
25/01/2016	Vote in committee, 1st reading		
17/02/2016	Committee report tabled for plenary, 1st reading	A8-0023/2016	Summary

07/03/2016	Debate in Parliament		
08/03/2016	Decision by Parliament, 1st reading	T8-0069/2016	Summary
08/03/2016	Results of vote in Parliament		
08/03/2016	Matter referred back to the committee responsible		
11/10/2016	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	GEDA/A/(2016)010793 PE610.787	
12/12/2016	Debate in Parliament		
14/12/2016	Decision by Parliament, 1st reading	T8-0499/2016	Summary
14/12/2016	Results of vote in Parliament		
23/01/2017	Act adopted by Council after Parliament's 1st reading		
23/01/2017	End of procedure in Parliament		
15/02/2017	Final act signed		
03/03/2017	Final act published in Official Journal		

Technical information

Procedure reference	2013/0157(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amended by 2020/0067(COD)
Legal basis	Rules of Procedure EP 61 Treaty on the Functioning of the European Union TFEU 100-p2
Mandatory consultation of other institutions	European Economic and Social Committee European Committee of the Regions
Stage reached in procedure	Procedure completed
Committee dossier	TRAN/8/00167

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE521.596	05/11/2013	
Amendments tabled in committee		PE523.043	04/12/2013	
Committee opinion	EMPL	PE521.839	18/12/2013	
Committee draft report		PE557.153	13/05/2015	
Amendments tabled in committee		PE557.328	02/07/2015	
Amendments tabled in committee		PE560.894	10/07/2015	

Committee report tabled for plenary, 1st reading/single reading		A8-0023/2016	17/02/2016	Summary
Text adopted by Parliament, partial vote at 1st reading /single reading		T8-0069/2016	08/03/2016	Summary
Text agreed during interinstitutional negotiations		PE610.787	05/10/2016	
Text adopted by Parliament, 1st reading/single reading		T8-0499/2016	14/12/2016	Summary

Council of the EU

Document type	Reference	Date	Summary
Coreper letter confirming interinstitutional agreement	GEDA/A/(2016)010793	05/10/2016	
Draft final act	00041/2016/LEX	15/02/2017	

European Commission

Document type	Reference	Date	Summary
Document attached to the procedure	COM(2013)0295	23/05/2013	Summary
Legislative proposal	COM(2013)0296	23/05/2013	Summary
Document attached to the procedure	SWD(2013)0181	23/05/2013	
Document attached to the procedure	SWD(2013)0182	23/05/2013	
Document attached to the procedure	SWD(2013)0183	23/05/2013	
Commission response to text adopted in plenary	SP(2017)131	08/03/2017	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PL_SENATE	COM(2013)0296	24/07/2013	
Contribution	PT_PARLIAMENT	COM(2013)0296	25/07/2013	
Contribution	DE_BUNDESRAT	COM(2013)0296	30/09/2013	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES4030/2013	11/07/2013	
CofR	Committee of the Regions: opinion	CDR3610/2013	28/11/2013	

Additional information		
Source	**Document**	**Date**
European Parliament	Briefing	
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act	
Regulation 2017/0352 OJ L 057 03.03.2017, p. 0001	Summary

Provision of port services and financial transparency of ports

2013/0157(COD) - 05/06/2014

The Council took note of the **state of play** regarding proposed new rules for market access to port services and financial transparency of ports, based on a progress report drawn up by the Presidency.

To recall, the examination by the Shipping Working Party began in October 2013, during the Lithuanian Presidency and continued under the Lithuanian Presidency.

The **Committee on Transport and Tourism (TRAN),** the responsible committee of the European Parliament, has appointed Mr Knut Fleckenstein (S&D-Germany) as rapporteur for the proposal. The rapporteur submitted his draft report on 11 November 2013. However, due to lack of time and to the fact that several key questions remained open, TRAN decided not to vote on the report before the elections to the European Parliament.

It should be noted that **seven national parliaments** submitted a reasoned opinion on the proposal (Belgium, Spain, France, Latvia, Malta, Poland and Sweden).

The majority of Member States **supports the general objectives** of the proposal. However, they express concerns with regard to both the substance of the Directive and the choice of legal instrument, the majority of delegations prefer a Directive, considering that "soft law", e.g. guidelines, would suffice, in place of a Regulation.

The concerns expressed by delegations relate to, among other things, the scope of the Regulation, so far as it concerns both the services and the ports subject to the Regulation.

Scope for the provision of services: many Member States have proposed additional exclusions of port services, first and foremost of services related to safety aspects (pilotage) and to port infrastructure (dredging). It has been suggested that either only seaports which are part of the core network (i.e. mostly larger ports) be included in the scope or any TEN

-T seaport that receive public funds.

Procedures: most Member States would like to see simpler, more coherent and less cumbersome procedures throughout the proposal. Many delegations have called for:

- more flexibility as regards the procedural framework when ensuring compliance with the minimum requirements for the provision of port services;
- more flexibility with regard to limiting the number of service providers. For the limitation of the number of port services it has been asked to add considerations for safety, security and environmental sustainability.

Consulting the port users and supervision: Member States support the principle of consulting the port users and relevant stakeholders, but they believe it should be left to the ports or to the Member States to decide on the nature and timing of this consultation.

With regard to the national independent supervisory bodies, the majority of Member States expressed concerns about the risk of creating additional administrative burdens and about the functioning of the supervision mechanism.

Port infrastructure charges: several Member States expressed concerns as regards the impact of the proposed regulation on the autonomy and commercial freedom of ports. A broad majority of Member States is against the proposed right of the Commission to harmonise port infrastructure charges through delegated acts.

State aid: some Member States have pointed out that it is important to clarify the State aid regime in ports. Furthermore, the proposal should be read and re-evaluated in conjunction with the new concessions Directive

Finally, it should be noted that several Member States have referred to the draft report by the EP rapporteur as containing improvements of several aspects of the proposal.

Provision of port services and financial transparency of ports

2013/0157(COD) - 14/12/2016 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 546 votes to 140, with 22 abstentions, a legislative resolution 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 issue had been sent back to the committee for review at its 8 March 2016 plenary session.

Parliament's position adopted at first reading following the ordinary legislative procedure amended the Commission proposal as follows:

Subject matter and scope: this Regulation establishes a framework for the provision of port services and common rules on financial transparency and on port service and port infrastructure charges.

This Regulation should give Member States the possibility to decide whether or not to apply this Regulation to maritime ports of the comprehensive network located in the outermost regions.

Parliament noted that the Regulation should:

- **in no way prejudice the rules in Member States** governing the system of property ownership applicable to maritime ports, and should allow for different port structures in Member States;
- **not impose a specific model for the management** of maritime ports and does not affect in any way the competence of Member States to provide, in conformity with Union law, non-economic services of general interest.

Different port management models are possible, provided that the framework for the provision of port services and the common rules on financial transparency set out in this Regulation are respected.

Organisation of port services: access to the market for the provision of port services in maritime ports may, in accordance with this Regulation, be subject to: (i) minimum requirements for the provision of port services; (ii) limitations on the number of providers; (iii) public service obligations; (iv) restrictions related to internal operators.

Member States may decide by national law not to impose any of the conditions on one or more categories of port services.

The terms of access to the facilities, installations and equipment of the port shall be fair, reasonable and non-discriminatory.

The Chapter on the organisation of port services **should not apply to the provision of cargo-handling, passenger services or pilotage**.

Minimum requirements for the provision of port services: these requirements concern:

- the **availability of the relevant port service** to all users, at all berths and without interruptions, day and night, throughout the year;
- **compliance with requirements on maritime safety** or the safety and security of the port or access to it, its installations, equipment and workers and other persons;
- **compliance with obligations in the field of social and labour law** that apply in the Member State of the port concerned, including the terms of applicable collective agreements, manning requirements and requirements relating to hours of work and hours of rest for seafarers, and with applicable rules on labour inspections;
- the **good repute** of the port service provider.

The minimum requirements shall be: (i) **transparent, objective, non-discriminatory, proportionate, and relevant** to the category and nature of the port service concerned; (ii) complied with until the right to provide a port service expires.

Procedure to ensure compliance with the minimum requirements: the managing body of the port, or the competent authority, shall grant or refuse the right to provide port services on the basis of the minimum requirements within a **reasonable period**, which in any event shall **not exceed four months**, from receiving a request for the granting of such a right and the necessary documents. Any such refusal shall be duly justified.

Limitations on the number of providers of port services: the managing body of the port, or the competent authority, may limit the number of providers of port services for a given port service for one or more of the following reasons:

- the scarcity or reserved use of land or waterside space;
- the absence of such a limitation is obstructing the performance of **public service obligations** as well as the need to ensure safe, secure or environmentally sustainable port operations;
- **the characteristics of the port infrastructure** or the nature of the port traffic are such that the operations of multiple providers of port services in the port would not be possible;
- where it has been established that a port sector or sub-sector, together with its port services, within a Member State carries out an activity that is directly exposed to competition.

The procedure for choosing providers of port services and its result should be made public and should be **non-discriminatory, transparent** and open to all interested parties.

If the managing body of a port, or the competent authority, provides port services itself or through a legally distinct entity which it directly or indirectly controls, measures should be taken to avoid conflicts of interests and to ensure fair and transparent market access to port services when the number of providers of port services is limited.

Public service obligations: Member States may decide to impose public service obligations related to port services on providers of port services and may entrust the right to impose such obligations to the managing body of the port, or to the competent authority, in order to ensure at least one of the following:

- the availability of the port service to all port users, at all berths, without interruption, day and night, throughout the year;
- the availability of the service to all users on equal terms;
- the affordability of the service for certain categories of users;
- the safety, security or environmental sustainability of port operations;
- the provision of adequate transport services to the public; and
- territorial cohesion.

Employees' rights: Parliament stated that the managing body of the port, or the competent authority, shall require the designated provider of port services to grant staff working conditions in accordance with applicable obligations in the field of **social and labour law** and to comply with social standards as set out in Union law, national law or collective agreements.

Parliament introduced a new Article stipulating that providers of port services shall ensure that employees receive the **necessary training** to acquire the knowledge which is essential for their work, with particular emphasis on health and safety aspects, and that training requirements are regularly updated to meet the challenges of technological innovation.

Financial transparency: Parliament specified where the managing body of a port in receipt of public funds provides port services or dredging itself, or another entity provides such services on its behalf, it shall **keep the accounts** for that publicly funded port service or dredging **separate** from those for its other activities.

Port infrastructure charges: the amended text stipulates **port infrastructure charges may vary, in accordance with the port's own economic strategy** and its spatial planning policy, in relation to, inter alia, certain categories of users. The criteria for such a variation shall be transparent, objective and non-discriminatory, and shall be consistent with competition law, including rules on State aid.

Consultation of port users and other stakeholders: the managing body of the port shall, in accordance with applicable national law, consult port users on its charging policy. Such consultation shall include any substantial changes to the port infrastructure charges and port service charges in cases where internal operators provide port services under public service obligations.

The providers of port services shall make available to port users **adequate information** about the nature and level of the port service charges.

The managing body of the port shall, in accordance with applicable national law, consult port users and other relevant stakeholders on essential matters within its competence regarding: (i) environmental matters; (ii) spatial planning; and (iii) measures to ensure safety in the port area, including, where appropriate, health and safety of port workers.

Handling of complaints: each Member State shall ensure that an effective procedure is in place to handle complaints arising from the application of this Regulation for its maritime ports covered by this Regulation. Member States shall ensure that there is effective **functional separation** between the handling of complaints, on the one hand, and the ownership and management of ports, provision of port services and port use, on the other hand.

Transitional measures: port service contracts concluded before the date of adoption of this Regulation which are not limited in time, or have similar effects, shall be amended in order to comply with this Regulation by 1 July 2025.

Provision of port services and financial transparency of ports

2013/0157(COD) - 15/02/2017 - Final act

PURPOSE: to establish a framework on market access to port services and financial transparency of ports.

LEGISLATIVE ACT: Regulation (EU) 2017/352 of the European Parliament and of the Council establishing a framework for the provision of port services and common rules on the financial transparency of ports.

CONTENT: this Regulation establishes a **framework for the provision of port services** and common rules on **financial transparency** and on port service and port infrastructure charges.

Scope: this Regulation applies to **all maritime ports of the trans-European transport network** (as listed in Regulation (EU) No 1315/2013 of the European Parliament and of the Council) through which the overwhelming majority of Union maritime traffic transits.

Member States are given the possibility to decide whether or not to apply this Regulation to maritime ports of the comprehensive network located in the outermost regions.

As regards the different categories of port services, **cargo-handling and passenger services** will be subject to the rules of financial transparency, but shall be are excluded from the provisions on the provision of port services.

Member States may also decide to apply the rules for access to **pilotage** services. In such cases, they shall inform the Commission accordingly. The accounts for **dredging** should be kept separate from those for other activities.

Access to port services: the Regulation will create a more level playing field by establishing clear and fair conditions for access to the port services market throughout Europe.

In order to take account of the diversity of the port sector in Europe and the particular circumstances of the Member States, Member States and port management bodies may: (i) impose certain minimum requirements for the provision of port services, (ii) limit the number of service providers in a limited number of cases, or (iii) impose public service obligations.

Minimum requirements concern:

- the professional qualifications of the provider of port services and their good repute;
- compliance with requirements on maritime safety or the safety and security of the port or access to it, its installations, equipment and workers and other persons;
- compliance with environmental requirements;
- compliance with obligations in the field of social and labour law that apply in the Member State of the port concerned.

The reasons to limit the number of providers of port services include:

- the scarcity or reserved use of land or waterside space;
- the characteristics of the port infrastructure or the nature of the port traffic are such that the operations of multiple providers of port services in the port would not be possible.

Public service obligations may concern, for instance:

- the safety, security or environmental sustainability;
- the provision of adequate transport services to the public.

Where the managing body of the port decides to limit the number of providers of a port service, it shall follow a selection procedure which shall be open to all interested parties, **non-discriminatory and transparent**.

Employees' rights: the managing body of the port shall require the designated provider of port services to grant staff working conditions **in accordance with applicable obligations in the field of social and labour law** and to comply with social standards as set out in Union law, national law or collective agreements.

Financial transparency: the Regulation ensures transparency of port services and port infrastructure charges. Financial relations between maritime ports in receipt of public funds and providers of port services, on the one hand, and public authorities, on the other hand, shall be made transparent.

When the managing body of a port receives public funds, it shall keep the accounts **separate** from those for its other activities.

Member States shall ensure that a **port infrastructure charge is levied**. The Regulation stipulates that port infrastructure charges may vary, in accordance with the port's own economic strategy and its spatial planning policy, in relation to, *inter alia*, certain categories of users.

The criteria for such a variation shall be **transparent, objective and non-discriminatory**, and shall be consistent with competition law, including rules on State aid.

Handling of complaints: each Member State shall ensure that an effective procedure is in place to handle complaints from its maritime ports covered by this Regulation.

ENTRY INTO FORCE: 23.3.2017.

The Regulation shall apply from 24.3.2019.

Provision of port services and financial transparency of ports

2013/0157(COD) - 23/05/2013 - Legislative proposal

PURPOSE: to establish a framework on market access to port services and financial transparency of ports.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: there are more **1200 sea ports** in Europe. Port activities represent up to 3 million (direct and indirect) jobs in the 22 maritime Member States. 96% of all freight and 93% of all passengers through the EU ports transit through the **319 seaports** identified in the Commission's proposal for Guidelines on the trans-European transport network (TEN-T).

While the need to develop hinterland connections is well identified as a key challenge and already addressed through the TEN-T policy, other key challenges for TEN-T ports remain unresolved. First, there is the fact that today not all TEN-T ports are offering the same high-level service. Second, the current port governance framework is not in all cases attractive enough for investors.

The objective is to **contribute to the goal of a more efficient, interconnected and sustainable functioning of the TEN-T** by creating a framework which improves the performance of all ports and helps them to cope with changes in transport and logistics requirements. The proposal fits within the policy announced by the Commission in the White Paper on Transport (2011). It complements other initiatives, such as the proposal for a Directive on the awards of concession contracts which applies to concession contracts in ports.

In the Communication on the "Single Market Act II: Together for new growth", the Commission recalled that the attractiveness of maritime transport is dependent on the availability, efficiency and reliability of port services and the necessity of addressing questions regarding the transparency of public funding and port charges, administrative simplification efforts in ports and reviewing restrictions on the provision of services at ports.

IMPACT ASSESSMENT: the impact assessment identified **five operational objectives related to the two main challenges**:

1. Modernise port services and operations: (i) clarify and facilitate access to the port services market; (ii) prevent market abuse by designated port service providers; and (iii) improve coordination mechanisms within ports.

2. Create framework conditions to attract investments in ports: (i) make the financial relations between public authorities, port authorities and providers of port services transparent; and (ii) ensure autonomously set and transparent port infrastructure charges.

The preferred option is that of regulated competition and port autonomy.

The impact assessment highlights the potential benefits in terms of costs savings (EUR 10 billion up to 2030), the development of short sea shipping and reduction of road congestion and creation of jobs.

LEGAL BASIS: Article 100 (2) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the proposed Regulation seeks to establish: (a) a clear a clear framework for access to the market of port services; and (b) common rules on the financial transparency and charges to be applied by managing bodies or providers of port services.

Scope: the Regulation shall apply to all seaports listed in the Commission's proposal for a Regulation on the trans-European Transport Network Guidelines.

Freedom to provide services: the freedom to provide services will be applicable to port services. However, managing bodies of a port may impose **minimum requirements** on the providers of specific port services. When imposed, these requirements shall only relate to professional qualifications, the necessary equipment or maritime safety, general safety and security in the port and relevant environmental requirements.

These requirements should not be used as a way of implicitly introducing market barriers and therefore **the criteria should be objective and proportionate** ensuring a fair treatment of all operators, existing and potential ones. Potential operators should have access to training to acquire relevant specific local knowledge.

The above mentioned provision will not be imposed to **cargo handling services and passengers terminals**. These services are often organised by means of concession contracts falling in the scope of the future Directive on the award of concession contracts proposed by the Commission.

Limitation on the number of service providers: where relevant, the stated freedom to provide services could be subjected to a limitation of the number of service providers. This restriction should be based on two elements: (i) either in the case of space constraints or reservation which, if clearly documented in a formal port development plan, can justify limiting the number of operators active in the port perimeter or (ii) in the case of a public service obligation imposed on an operator and for which the intention should be clear and publicly available.

Public service obligations: a Member State should have the possibility to designate authorities competent to impose public service obligation, in line with the applicable State aid rules. The obligations of public services must be **clearly defined transparent, non-discriminatory and verifiable** and must relate to the availability (no-interruption), the accessibility (to all users) or the affordability (of certain categories of users) of the port service.

In the case of public service obligations being imposed by a competent authority in a port or in several ports such an authority will have the opportunity to organise and commercially exploit specific port services itself under the condition that its activity remains confined to the port or ports where it imposes public service obligations.

Employees' rights: employees' rights should be safeguarded and the Member States should have the option to further strengthen these rights in the event of a transfer of undertakings and the relevant staff working for the old undertaking.

Regulated competition: where managing bodies of the port benefit from public funds, there shall be a **transparent accounting** in order to show the effective and appropriate use of these public funds.

Where designated port service providers **have not been subject to an open public tendering procedure** and in the case of internal operators, it should be ensured that the price for the service is transparent, non-discriminatory and that it is set according to normal market conditions, in particular in such way that the total charges do not exceed the total incurred costs and a reasonable profit.

Transparent port infrastructure charges: managing bodies of the port shall define the port infrastructure charges **in an autonomous way** and according to its own commercial and investment strategy.

The port infrastructure charges may be varied in accordance to commercial practices related to the frequent use of the port or in order to promote a more efficient use of the port infrastructure, short sea shipping or a high environmental performance, energy efficiency or carbon efficiency of transport operations.

Advisory committee: a port users' advisory committee should be set up in every port. This committee would bring together representatives of operators of waterborne vessels, cargo owners or other port users which are requested to pay a port infrastructure charge or port service charge. This committee should be consulted on the structure and the level of the port infrastructure charges and, in certain cases, the port service charges.

Consultation of stakeholders: the managing body of the port shall consult stakeholders such as undertakings established in the ports, providers of port services, and port users on issues like the coordination of port services, hinterland connections or administrative procedures.

Monitoring and supervision: Member States shall ensure that an independent supervisory body monitors and supervises the application of this Regulation. It can be an existing body. The different national independent supervisory bodies shall exchange information about their work and decision-making principles and shall cooperate closely for the purpose of mutual assistance in their tasks.

BUDGETARY IMPACT: the proposal has no impact on the budget of the European Union.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.

Provision of port services and financial transparency of ports

2013/0157(COD) - 23/05/2013 - Document attached to the procedure

This communication reviews **European Ports Policy** and builds on the progress achieved. It accompanies and supplements a 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. This revised European Ports Policy covers the trans-European transport network seaports, which account for 96% of freight and 93% of passengers transiting through ports in the Union.

According to the Commission, ports **can contribute significantly to the economic recovery** and long term competitiveness of European industries in world markets while adding value and jobs in all EU coastal regions. Ports will have a key role to play in the development of an efficient and sustainable trans-European network by diversifying transport choices and contributing to multimodal transport.

Nevertheless, today, **European Ports Policy finds itself at a crossroads.** While some European ports perform well, structural problems regarding the insufficient connectivity to the hinterland, the lack of transparency in the use of public funds, market entry barriers, outdated governance models and excessive bureaucracy affect the performance of many other ports.

With a view to addressing these long-standing problems, the communication identifies **a set of EU actions** needed to further unlock the potential of ports.

1. Connect ports to the trans-European network:

- in the governance of corridors which will be set-up in the framework of guidelines for the development of the TEN-T, ports will be encouraged to act as enablers of inter-modality;
- in partnership with the Member States, the Commission will strengthen the alignment of transport projects funded under the Structural and Cohesion Funds with the TEN-T, promoting priority to projects concerning port access and hinterland connections.

2. Modernise port services:

- for cargo-handling and passenger terminal concessions, the Commission will ensure that the horizontal Directives on Concessions (soon to be adopted) and Public Contracts are effectively applied;
- the future Regulation on the access of third-country goods and services to the Union’s internal market in public procurement proposed by the Commission in 2012 will be used as a lever to facilitate the negotiation of reciprocal access to non-EU markets for EU-based global players;
- the Regulation proposed in parallel to this Communication introduces common rules to ensure supervision by an independent authority of the port service charges levied by operators which have exclusive rights and which have not been designated through a procedure which is transparent and non-discriminatory;
- the Commission will present new initiatives aiming to further simplify administrative procedures in ports, in particular customs procedures; initiatives such as the “Blue Belt”, the “e-maritime” initiative and “e-freight” should be further developed or complemented.

3. Attract investment to ports:

- action will focus on the transparency of public funding in ports, the clarification of state aid rules, and the increase efficiency of port infrastructure charges,
- it is also necessary to enhance cooperation with neighbouring countries, in order to achieve a sustainable transport system benefiting all EU partners based on the core principles of fair competition, transparent use of public funds and fiscal instruments and respect of social and environmental standards.

4. Promote Social Dialogue:

- the Commission will facilitate the Social Dialogue at Union level by providing technical and administrative support, and a review will be carried out in 2016 that will assess the functioning and progress of the European Social Dialogue for the ports sector ;
- under the 7th RTD framework programme for transport, the Commission will launch before the end of 2013 a concerted action project to examine health and safety, training and qualification challenges in EU ports.

5. Raise the environmental profile of ports:

- to encourage a more consistent application of environmentally differentiated port infrastructure charges, the Commission will propose principles for environmental charging and promote the exchange of good practices by 2015;
- the Commission is planning a review of the Directive on port reception facilities in 2013/2014 with the view to further improving the effectiveness and efficiency of the system.

6. Encourage innovation: the competitiveness of European ports will depend on their ability to innovate in terms of technology, organisation and management. Their critical roles as multi-modal hubs require innovative and efficient ways of cross-modal connections and use of management tools in order to further increase their attractiveness. In the context of the implementation of the Horizon 2020 programme to support research, development and innovation from 2014 to 2020, the Commission will propose priority tasks where EU support could be envisaged.

Follow-up: the Commission will check progress against delivery of the policy objectives defined in this Communication, notably progress in developing multimodal connections to the port hinterland, modernising port services and attracting investments.

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).

Provision of port services and financial transparency of ports

2013/0157(COD) - 17/02/2016 - Committee report tabled for plenary, 1st reading/single reading

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).