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► **B** REGULATION (EU) 2017/352 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 15 February 2017

establishing a framework for the provision of port services and common rules on the financial transparency of ports

(Text with EEA relevance)

(OJ L 57, 3.3.2017, p. 1)

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**REGULATION (EU) 2017/352 OF THE
EUROPEAN PARLIAMENT AND OF THE COUNCIL**

of 15 February 2017

**establishing a framework for the provision of port services and
common rules on the financial transparency of ports**

(Text with EEA relevance)

CHAPTER I

SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1

Subject matter and scope

1. This Regulation establishes:
 - (a) a framework for the provision of port services;
 - (b) common rules on financial transparency and on port service and port infrastructure charges.
2. This Regulation applies to the provision of the following categories of port services ('port services'), either inside the port area or on the waterway access to the port:
 - (a) bunkering;
 - (b) cargo-handling;
 - (c) mooring;
 - (d) passenger services;
 - (e) collection of ship-generated waste and cargo residues;
 - (f) pilotage; and
 - (g) towage.
3. Article 11(2) also applies to dredging.
4. This Regulation applies to all maritime ports of the trans-European transport network, as listed in Annex II to Regulation (EU) No 1315/2013.
5. Member States may decide not to apply this Regulation to maritime ports of the comprehensive network located in the outermost regions referred to in Article 349 of the Treaty on the Functioning of the European Union. Where Member States decide not to apply this Regulation to such maritime ports, they shall notify such decision to the Commission.
6. Member States may also apply this Regulation to other maritime ports. Where Member States decide to apply this Regulation to other maritime ports, they shall notify their decision to the Commission.

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7. This Regulation is without prejudice to Directives 2014/23/EU ⁽¹⁾ and 2014/24/EU ⁽²⁾ of the European Parliament and of the Council and Directive 2014/25/EU.

*Article 2***Definitions**

For the purposes of this Regulation:

- (1) ‘bunkering’ means the provision of solid, liquid or gaseous fuel or of any other energy source used for the propulsion of the waterborne vessel as well as for general and specific energy provision on board of the waterborne vessel whilst at berth;
- (2) ‘cargo-handling’ means the organisation and handling of cargo between the carrying waterborne vessel and the shore, whether it be for import, export or transit of the cargo, including the processing, lashing, unlashng, stowing, transporting and temporary storage of the cargo on the relevant cargo-handling terminal and directly related to the transporting of the cargo, but excluding, unless the Member State determines otherwise, warehousing, stripping, repackaging or any other value added services related to the cargo;
- (3) ‘competent authority’ means any public or private body which, on behalf of a local, regional or national level, is entitled to carry out, under national law or instruments, activities related to the organisation and administration of port activities, in conjunction with or instead of the managing body of the port;
- (4) ‘dredging’ means the removal of sand, sediment or other substances from the bottom of the waterway access to the port, or within the port area that falls within the competence of the managing body of the port, including the disposal of the removed materials, in order to allow waterborne vessels to have access to the port; it comprises both the initial removal (capital dredging) and the maintenance dredging carried out in order to keep the waterway accessible, whilst not being a port service offered to the user;
- (5) ‘managing body of the port’ means any public or private body which, under national law or instruments, has the objective of carrying out, or is empowered to carry out, at a local level, whether in conjunction with other activities or not, the administration and management of the port infrastructure and one or more of the following tasks in the port concerned: the coordination of port traffic, the management of port traffic, the coordination of the activities of the operators present in the port concerned, and the control of the activities of the operators present in the port concerned;

⁽¹⁾ Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).

⁽²⁾ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

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- (6) ‘mooring’ means the berthing and unberthing services, including shifting along the quayside, that are required for the safe operation of a waterborne vessel in the port or in the waterway access to the port;
- (7) ‘passenger services’ means the organisation and handling of passengers, their luggage and their vehicles between the carrying waterborne vessel and the shore, and also includes the processing of personal data and the transport of passengers inside the relevant passenger terminal;
- (8) ‘pilotage’ means the guidance service of a waterborne vessel by a pilot or a pilotage station in order to allow for safe entry or exit of the waterborne vessel in the waterway access to the port or safe navigation within the port;
- (9) ‘port infrastructure charge’ means a charge levied, for the direct or indirect benefit of the managing body of the port or of the competent authority, for the use of infrastructure, facilities and services, including the waterway access to the port concerned, as well as access to the processing of passengers and cargo, but excluding land lease rates and charges having equivalent effect;
- (10) ‘collection of ship-generated waste and cargo residues’ means the reception of ship-generated waste and cargo residues by any facility, which is fixed, floating or mobile and capable of receiving ship-generated waste or cargo residues as defined in Directive 2000/59/EC of the European Parliament and of the Council ⁽¹⁾;
- (11) ‘port service charge’ means a charge levied for the benefit of the provider of port services and paid by the users of the relevant service;
- (12) ‘port service contract’ means a formal and legally binding agreement or an act of equivalent legal effect between a provider of port services and a managing body of the port, or a competent authority, having as its subject-matter the provision of one or more port services, without prejudice to the form of designating providers of port services;
- (13) ‘provider of port services’ means any natural or legal person providing, or wishing to provide, for remuneration one or more categories of port services;
- (14) ‘public service obligation’ means a requirement defined or determined in order to ensure the provision of those port services or activities of general interest that an operator, if it were considering its own commercial interests, would not assume or would not assume to the same extent or under the same conditions;

⁽¹⁾ Directive 2000/59/EC of the European Parliament and of the Council of 27 November 2000 on port reception facilities for ship-generated waste and cargo residues (OJ L 332, 28.12.2000, p. 81).

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- (15) ‘short sea shipping’ means the movement of cargo and passengers by sea between ports situated in geographical Europe or between those ports and ports situated in non-European countries having a coastline on the enclosed seas bordering Europe;
- (16) ‘maritime port’ means an area of land and water made up of such infrastructure and equipment so as to permit, principally, the reception of waterborne vessels, their loading and unloading, the storage of goods, the receipt and delivery of those goods and the embarkation and disembarkation of passengers, crew and other persons and any other infrastructure necessary for transport operators within the port area;
- (17) ‘towage’ means the assistance given to a waterborne vessel by means of a tug in order to allow for a safe entry or exit of the port or safe navigation within the port by providing assistance to the manoeuvring of the waterborne vessel;
- (18) ‘waterway access’ means water access to the port from the open sea, such as port approaches, fairways, rivers, sea canals and fjords, provided that such waterway falls within the competence of the managing body of the port.

CHAPTER II

PROVISION OF PORT SERVICES

*Article 3***Organisation of port services**

1. Access to the market for the provision of port services in maritime ports may, in accordance with this Regulation, be subject to:

- (a) minimum requirements for the provision of port services;
- (b) limitations on the number of providers;
- (c) public service obligations;
- (d) restrictions related to internal operators.

2. Member States may decide by national law not to impose any of the conditions referred to in paragraph 1 on one or more categories of port services.

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

▼B*Article 4***Minimum requirements for the provision of port services**

1. The managing body of the port, or the competent authority, may require providers of port services, including subcontractors, to comply with minimum requirements for the performance of the corresponding port service.

2. The minimum requirements provided for in paragraph 1 may only relate to:

- (a) the professional qualifications of the provider of port services, its personnel or the natural persons who actually and continuously manage the activities of the provider of port services;
- (b) the financial capacity of the provider of port services;
- (c) the equipment needed to provide the relevant port service in normal and safe conditions and the capacity to maintain this equipment at the required level;
- (d) the availability of the relevant port service to all users, at all berths and without interruptions, day and night, throughout the year;
- (e) 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;
- (f) compliance with local, national, Union and international environmental requirements;
- (g) 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;
- (h) the good repute of the port service provider, as determined in accordance with any applicable national law on good repute, taking into consideration any compelling grounds to doubt the reliability of the provider of port services.

3. Without prejudice to paragraph 4, where a Member State deems that it is necessary to impose a flag requirement in order to ensure full compliance with point (g) of paragraph 2 for waterborne vessels predominantly used for towage or mooring operations in ports located on its territory, it shall inform the Commission of its decision prior to the publication of the contract notice or, in the absence of a contract notice, prior to imposing a flag requirement.

4. The minimum requirements shall:

- (a) be transparent, objective, non-discriminatory, proportionate, and relevant to the category and nature of the port service concerned;

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(b) be complied with until the right to provide a port service expires.

5. Where the minimum requirements include specific knowledge of local conditions, the managing body of the port, or the competent authority, shall ensure that there is adequate access to information, under transparent and non-discriminatory conditions.

6. In the cases provided for in paragraph 1, the managing body of the port, or the competent authority, shall publish the minimum requirements referred to in paragraph 2 and the procedure for the granting of the right to provide port services under those requirements by 24 March 2019 or, in the case of minimum requirements that are to apply after that date, at least three months before the date from which those requirements are to apply. The managing body of the port, or the competent authority, shall, in advance, inform providers of port services of any change in the criteria and of the procedure.

7. This Article applies without prejudice to Article 7.

*Article 5***Procedure to ensure compliance with the minimum requirements**

1. The managing body of the port, or the competent authority, shall treat providers of port services in a transparent, objective, non-discriminatory and proportionate manner.

2. 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 established in accordance with Article 4 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.

3. Any such refusal, by the managing body of the port, or by the competent authority, shall be duly justified on the basis of the minimum requirements set out in Article 4(2).

4. Any limitation or termination by the managing body of the port, or the competent authority, of the right to provide a port service shall be duly justified and shall be in accordance with paragraph 1.

*Article 6***Limitations on the number of providers of port services**

1. 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:

(a) the scarcity or reserved use of land or waterside space, provided that the limitation is in accordance with the decisions or plans agreed by the managing body of the port and, where appropriate, any other public authorities competent in accordance with the national law;

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- (b) the absence of such a limitation is obstructing the performance of public service obligations as provided for in Article 7, including when such absence leads to excessively high costs related to the performance of such obligations for the managing body of the port, the competent authority, or the port users;
- (c) the absence of such a limitation runs counter to the need to ensure safe, secure or environmentally sustainable port operations;
- (d) 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;
- (e) where it has been established pursuant to Article 35 of Directive 2014/25/EU that a port sector or subsector, together with its port services, within a Member State carries out an activity that is directly exposed to competition in accordance with Article 34 of that Directive. In such cases, paragraphs 2 and 3 of this Article shall not apply.

2. In order to give interested parties the opportunity to submit comments within a reasonable period, the managing body of the port, or the competent authority, shall publish any proposal to limit the number of providers of port services in accordance with paragraph 1 together with the grounds justifying it at least three months in advance of the adoption of the decision to limit the number of providers of port services.

3. The managing body of the port, or the competent authority, shall publish the adopted decision to limit the number of providers of port services.

4. Where the managing body of the port, or the competent authority, 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. The managing body of the port, or the competent authority, shall publish information on the port service to be provided and on the selection procedure, and shall ensure that all essential information that is necessary for the preparation of their applications is effectively accessible to all interested parties. Interested parties shall be given long enough to allow them to make a meaningful assessment and prepare their applications. In normal circumstances, the minimum such period shall be 30 days.

5. Paragraph 4 shall not apply in the cases referred to in point (e) of paragraph 1 and in paragraph 7 of this Article and in Article 8.

6. Where the managing body of a port, or the competent authority, provides port services either itself or through a legally distinct entity which it directly or indirectly controls, the Member State concerned shall take such measures as are necessary to avoid conflicts of interests. In the absence of such measures, the number of providers shall not be fewer than two, unless one or more of the reasons listed in paragraph 1 justifies a limitation on the number of providers of port services to a single provider.

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7. Member States may decide that their ports of the comprehensive network which do not meet the criteria in point (b) of Article 20(2) of Regulation (EU) No 1315/2013 may limit the number of service providers for a given port service. Member States shall inform the Commission of such a decision.

*Article 7***Public service obligations**

1. 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:

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

2. The public service obligations referred to in paragraph 1 shall be clearly defined, transparent, non-discriminatory and verifiable, and shall guarantee equality of access to all providers of port services established in the Union.

3. Where a Member State decides to impose public service obligations for the same service in all its maritime ports covered by this Regulation, it shall notify those obligations to the Commission.

4. In the event of a disruption of port services for which public service obligations are imposed or when an immediate risk of such a situation occurs, the managing body of the port, or the competent authority, may take an emergency measure. The emergency measure may take the form of a direct award so as to attribute the service to a different provider for a period of up to two years. During that period, the managing body of the port, or the competent authority, shall either launch a new procedure to select a provider of port services or shall apply Article 8. Collective industrial action that takes place in accordance with national law shall not be considered a disruption of port services for which an emergency measure may be taken.



Article 8

Internal operator

1. Without prejudice to Article 6(6), the managing body of the port, or the competent authority, may decide either to provide a port service itself or to do so through a legally distinct entity over which it exercises a degree of control similar to that which it has over its own departments, provided that Article 4 applies equally to all operators providing the port service concerned. In such a case, the provider of port services shall be considered to be an internal operator for the purpose of this Regulation.

2. The managing body of the port, or the competent authority, shall be considered to be exercising a degree of control over a legally distinct entity similar to that which it has over its own departments only if it has a decisive influence over both the strategic objectives and the significant decisions of the legal entity concerned.

3. In the cases provided for in points (a) to (d) of Article 6(1), the internal operator shall be limited to performing the assigned port service only in the port or ports attributed to it in the assignment to provide the port service.

Article 9

Safeguarding of employees' rights

1. This Regulation shall not affect the application of the social and labour rules of the Member States.

2. Without prejudice to Union and national law, including applicable collective agreements between social partners, 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.

3. In the case of a change of provider of port services that is due to the award of a concession or public contract, the managing body of the port, or the competent authority, may require that the rights and obligations of the outgoing provider of port services arising from a contract of employment, or from an employment relationship as defined in national law, and existing on the date of that change, be transferred to the newly appointed provider of port services. In such a case, the staff previously taken on by the outgoing provider of port services shall be granted the same rights as those to which they would have been entitled if there had been a transfer of undertaking within the meaning of Directive 2001/23/EC.

4. Where, in the context of the provision of port services, a transfer of staff occurs, tender documents and port service contracts shall list the staff concerned and give transparent details of their contractual rights and the conditions under which employees are deemed to be linked to the port services.

▼B*Article 10***Exemptions**

1. This Chapter and Article 21 shall not apply to cargo-handling, passenger services or pilotage.
2. Member States may decide to apply this Chapter and Article 21 to pilotage. Member States shall inform the Commission of such a decision.

CHAPTER III

FINANCIAL TRANSPARENCY AND AUTONOMY*Article 11***Transparency of financial relations**

1. The financial relations between public authorities and a managing body of a port, or other entity that provides port services on its behalf, in receipt of public funds shall be reflected in a transparent way in the accounting system in order to clearly show the following:
 - (a) public funds made available directly by public authorities to the managing bodies of the port concerned;
 - (b) public funds made available by public authorities through the intermediary of public undertakings or public financial institutions; and
 - (c) the use for which those public funds have been attributed.
2. 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 in such a way that:
 - (a) all costs and revenues are correctly assigned or allocated on the basis of consistently applied and objectively justifiable cost accounting principles; and
 - (b) the cost accounting principles according to which separate accounts are maintained are clearly established.
3. The public funds referred to in paragraph 1 shall include share capital and quasi-capital funds, non-refundable grants, grants only refundable in certain circumstances, loans including overdrafts and advances on capital injections, guarantees given to the managing body of the port by public authorities and any other form of public financial support.
4. The managing body of the port, or other entity that provides port services on its behalf, shall keep the information concerning the financial relations as referred to in paragraphs 1 and 2 for five years from the end of the fiscal year to which the information refers.

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5. The managing body of the port, or other entity that provides port services on its behalf, shall, in the event of a formal complaint and upon request, make available to the relevant authority in the Member State concerned the information referred to in paragraphs 1 and 2 and any additional information that it deems necessary in order to complete a thorough appraisal of the data submitted and to assess compliance with this Regulation in accordance with competition rules. Such information shall be made available to the Commission by the relevant authority upon request. The information shall be transmitted within three months from the date of the request.

6. Where the managing body of the port, or other entity that provides port services on its behalf, has not received public funds in previous accounting years but starts benefitting from public funds, it shall apply paragraphs 1 and 2 from the accounting year following the transfer of the public funds.

7. Where public funds are paid as compensation for a public service obligation, they shall be shown separately in the relevant accounts and may not be transferred to any other service or business activity.

8. Member States may decide that paragraph 2 of this Article shall not apply to those of their ports of the comprehensive network which do not meet the criteria set out in point (b) of Article 20(2) of Regulation (EU) No 1315/2013 where this results in disproportionate administrative burdens, provided that any public funds received, and their use for providing port services, remain fully transparent in the accounting system. Member States shall inform the Commission in advance of such a decision.

*Article 12***Port service charges**

1. The charges for the services provided by an internal operator under a public service obligation, the charges for pilotage services that are not exposed to effective competition and the charges levied by providers of port services, referred to in point (b) of Article 6(1), shall be set in a transparent, objective and non-discriminatory way, and shall be proportionate to the cost of the service provided.

2. The payment of the port service charges may be integrated into other payments, such as the payment of the port infrastructure charges. In such a case, the provider of port services and, where appropriate, the managing body of the port shall make sure that the amount of the port service charge remains easily identifiable by the user of the port service.

3. The provider of port services shall, in the event of a formal complaint and upon request, make available to the relevant authority in the Member State concerned any relevant information on the elements that serve as the basis for determining the structure and the level of the port service charges that fall under paragraph 1.

*Article 13***Port infrastructure charges**

1. Member States shall ensure that a port infrastructure charge is levied. This shall not prevent providers of port services which are using the port infrastructure from levying port service charges.

2. The payment of the port infrastructure charges may be integrated into other payments, such as the payment of the port service charges. In such a case, the managing body of the port shall make sure that the amount of the port infrastructure charge remains easily identifiable by the user of the port infrastructure.

3. In order to contribute to an efficient infrastructure charging system, the structure and the level of port infrastructure charges shall be determined according to the port's own commercial strategy and investment plans, and shall comply with competition rules. Where relevant, such charges shall also respect the general requirements set within the framework of the general ports policy of the Member State concerned.

4. Without prejudice to paragraph 3, 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, 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. 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. Port infrastructure charges may take into account external costs and may vary depending on commercial practices.

5. The managing body of the port, or the competent authority, shall ensure that port users and the representatives or associations of port users are informed about the nature and level of the port infrastructure charges. The managing body of the port, or the competent authority, shall ensure that users of the port infrastructure are informed of any changes in the nature or level of the port infrastructure charges at least two months in advance of the date on which those changes come into effect. The managing body of the port, or the competent authority, shall not be required to disclose differentiations in the charges that are the result of individual negotiations.

6. The managing body of the port shall, in the event of a formal complaint and upon request, make available to the relevant authority of the Member State concerned the information referred to in paragraphs 4 and 5, and any relevant information on the elements that serve as a basis for determining the structure and the level of the port infrastructure charges. That authority shall make the information available to the Commission upon request.



CHAPTER IV
GENERAL AND FINAL PROVISIONS

Article 14

Training of staff

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.

Article 15

Consultation of port users and other stakeholders

1. The managing body of the port shall, in accordance with applicable national law, consult port users on its charging policy, including in cases covered by Article 8. 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.

2. 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:

- (a) the coordination of port services within the port area;
- (b) measures to improve connections with the hinterland, including measures to develop and improve the efficiency of rail and inland waterways transport;
- (c) the efficiency of administrative procedures in the port and measures to simplify them;
- (d) environmental matters;
- (e) spatial planning; and
- (f) measures to ensure safety in the port area, including, where appropriate, health and safety of port workers.

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

4. The managing body of the port and providers of port services shall respect the confidentiality of commercially sensitive information when carrying out their obligations under this Article.



Article 16

Handling of complaints

1. 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.
2. The handling of complaints shall be carried out in a manner which avoids conflicts of interest and which is functionally independent of any managing body of the port or providers of port services. 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. The handling of complaints shall be impartial and transparent, and shall duly respect the right to freely conduct business.
3. Complaints shall be filed in the Member State of the port where the dispute is presumed to have its origin. Member States shall ensure that port users and other relevant stakeholders are informed of where and how to lodge a complaint and which authorities are responsible for handling complaints.
4. The authorities responsible for handling complaints shall, where appropriate, cooperate for the purposes of mutual assistance in disputes involving parties established in different Member States.
5. The authorities responsible for the handling of complaints shall, in accordance with national law, have the power to require managing bodies of the ports, providers of port services and port users to provide them with information relevant to a complaint.
6. The authorities responsible for the handling of complaints shall, in accordance with national law, have the power to take decisions that have binding effect, subject to judicial review, where applicable.
7. Member States shall inform the Commission of the procedure for the handling of complaints and of the authorities referred to in paragraph 3 by 24 March 2019 and, subsequently, of any changes to that information. The Commission shall publish and regularly update such information on its website.
8. Member States shall, where appropriate, exchange general information about the application of this Article. The Commission shall support such cooperation.

Article 17

Relevant authorities

Member States shall ensure that port users and other relevant stakeholders are informed of the relevant authorities referred to in Articles 11(5), 12(3) and 13(6). Member States shall also inform the Commission of those authorities by 24 March 2019 and, subsequently, of any changes to that information. The Commission shall publish and regularly update such information on its website.

▼B*Article 18***Appeals**

1. Any party with a legitimate interest shall have the right to appeal against the decisions or individual measures taken under this Regulation by the managing body of the port, the competent authority, or any other relevant national authority. Appeal bodies shall be independent of the parties involved and may be courts.
2. Where the appeal body referred in paragraph 1 is not judicial in character, it shall give reasons in writing for its decisions. Its decisions shall also be subject to review by a national court.

*Article 19***Penalties**

Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify those measures to the Commission by 24 March 2019 and shall without delay notify it of any subsequent amendment affecting them.

*Article 20***Report**

The Commission shall, no later than 24 March 2023, submit a report to the European Parliament and the Council on the functioning and effect of this Regulation.

That report shall take into account any progress made in the framework of the EU Sectoral Social Dialogue Committee in the Port Sector.

*Article 21***Transitional measures**

1. This Regulation shall not apply to port service contracts which were concluded before 15 February 2017 and are limited in time.
2. Port service contracts concluded before 15 February 2017 which are not limited in time, or have similar effects, shall be amended in order to comply with this Regulation by 1 July 2025.

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3. Notwithstanding Article 13(1), (3) and (4), the managing body of the port or the competent authority may decide to waive, to suspend, to reduce or to defer the payment of port infrastructure charges due for the period from 1 March 2020 to 31 October 2020. Member States may

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decide that such decisions shall respect the requirements set to that end in national law. The waiver, suspension, reduction or deferral of the payment of port infrastructure charges shall be granted in a transparent, objective and non-discriminatory way.

The managing body of the port or the competent authority shall ensure that port users and the representatives or associations of port users are informed accordingly. The time limit of two months referred to in Article 13(5) shall not apply.

▼ B*Article 22***Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 24 March 2019.

This Regulation shall be binding in its entirety and directly applicable in all Member States.