



Draft EU Ports Regulation is in breach of fundamental principles of EU law

The European Tugowners Association has long been clearly stating its position on the Draft Regulation on Market Access to Port Services and Financial Transparency of Ports (“Draft EU Ports Regulation”). During this last year, the ETA has been calling on the rejection of the Draft EU Ports Regulation whereby not all port services are being treated on equal footing. Thus making this regulation one that only partially covers Port Services.

The ETA has, once again, through its legal counsel, laid out its arguments to the European Council and the European Parliament, reiterating that the current Draft EU Port Regulation must be rejected as such or towage must be excluded from Chapter 2.

The current Draft EU Ports Regulation does not comply with fundamental principles of EU law such as the principle of equal treatment and non-discrimination, on the basis that some services are excluded arbitrarily from the current Draft EU Ports Regulation. Furthermore, services such as pilotage have been excluded on the basis of their role in port safety, a role that is equally attributed to towage; however, the latter has not been excluded.

In addition, the Draft EU Ports Regulation does not comply with the principle of proportionality, since it was originally intended to establish a common framework for port services. However, the result is one where there is a patchwork of services whereby some are regulated while others are not. This would imply a selective, unfair and limited application that would be inconsistent with the objectives of the regulation itself. Furthermore, services that are covered by the current Draft EU Ports Regulation are the ones which contribute least to port charges.

The ETA, through its legal counsel, has given the co-legislators all the arguments in relation to its position of rejection of the draft or, alternatively, exclusion of towage.

In the event that the Draft EU Ports Regulation would be adopted in its current drafting, the ETA reserves the right to take further legal action, moving towards the annulment of the said regulation.