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Danube Transnational Programme DAPhNE

D 3.2.2 National legal framework report **BULGARIA**

Work Package 3

Activity 3.2 Improve & harmonize port legislation

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Contributing Authors

Name	Organisation	Email

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1 Scope of the document

The project DAPhNE – Danube Ports Network – is funded in the framework of the Danube Transnational Program (DTP). The overall aim of DAPhNE is to facilitate Danube ports to become key-elements of a more efficient and sustainable transport network in the Danube region. The project consists of different work packages dealing with various topics in line with the main objectives of DAPhNE.

The activities included in work package 3 of the DAPhNE project are linked to the regulatory framework of Danube ports. The legal conditions in force as well as the financing and funding possibilities available for Danube ports are investigated and measures are suggested to improve the current situation. An improved regulatory framework will help eliminate the quality gaps in terms of infra- and superstructure which exist between Upper and Middle & Lower Danube sections. One important objective of the work package is to provide inputs for a more harmonized approach in regards to legal port issues. When tackling the legal framework it is important to start from the national level and then move up to identify solutions applicable at regional level.

Six DAPhNE consortium members have overtaken the obligation to coordinate the elaboration of national reports covering the port legal aspects applicable in Austria, Hungary, Croatia, Slovakia, Bulgaria and Romania. The homogenous structure of these reports will allow an easier comparison between the Danube riparian countries and will facilitate the elaboration of a set of recommendations connected to port legislation (output 3.2).

The legal topics chosen to be investigated under the current report contribute to disclose information that will enable the Danube Ports to reach in the long run the following objectives:

- Untap the potential of Danube ports as centres for economic development that are desirable business locations
- Put in place high-quality infra- & super-structure in place all along the Danube ports
- Facilitate cost-effective and easy-to-use port services
- Ensure lowest possible eco-footprint in the construction and operation of Danube ports

Although the consortium members are aware of the variety of functions that ports have (passenger, military, fishing, leisure activities, etc.) the scope of the current report is to focus on those legal aspects that are relevant for transport, logistics and cargo-handling. The legal background for other types of businesses using ports as business locations will also be investigated.

1.1 General terms

For the purpose of the current report the definition of a port as included in the Commission Regulation (EU) 2017/1084 of 14 June 2017 shall be considered as starting point. Each of the partners in charge of writing the national reports will further explain how ports are defined based on the legal framework in place in their jurisdiction.



Due to the overlap of the function of inland and maritime waterway the legislation applicable to both inland and maritime ports will be considered for analysis for those countries where this is relevant (e.g. Romania).

(154) **"port"** means an area of land and water made up of such infrastructure and equipment, so as to permit 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 in the port;

(155) **"maritime port"** means a port for, principally, the reception of sea-going vessels;

(156) **"inland port"** means a port other than a maritime port, for the reception of inland waterway vessels

1.2 Definitions according to the national legal framework

A legal definition of a port in the Bulgarian legislation is given by Art. 92 para. (1) of the **Maritime Spaces, Inland Waterways and Ports in the Republic of Bulgaria Act (MSIWPRBA)**, according to which **"the port is an area that includes the aquatory, territory and infrastructure on the Black Sea, Danube, islands and canals, situated on the territory of one or more municipalities and unites natural, artificially created and organizational conditions for safe berthing, stay and servicing of ships "**.

Paragraph 2 point 29 of the Additional Provisions of the MSIWPRBA provides a legal definition of a **"port aquatory"** defined as the water surface adjacent to the port territory with natural or as a result of human activity conditions of protection against waves and straining, which has the required area and depth to safely approach, maneuver and berthing of the largest estimated ship to the port or port terminal concerned.

The aquatory of a port includes: an approach area, a ship maneuvering area and an operational aquatory. These terms are defined as follows:

- **"Approach area"** - the outermost part of the port aquatory connecting the approach channel or the fairway to the maneuvering area of the vessels;
- **"Ship maneuvering area"** - a part of the port aquatory connecting the approach area and the operational aquatory and serving for safe maneuvers (including passing each other) from ships as they move to the operational aquatory and exit from it;
- **"Operational aquatory"** - a part of the port area adjacent to the quay wall or other hydrotechnical facility for berthing ships and having the required area and depth for safe maneuvering and berthing of the largest estimated vessel.

Pursuant to Art. 363a of the **Merchant Shipping Code (MSC)**, the Executive Agency Maritime Administration (EAMA) has issued "Mandatory Rules for the Bulgarian Danube Ports", in force since 25.07.2008. In these mandatory rules, a definition has been given of **an**



aquatory of a port, "The water area with a length declared for each particular port with initial and final kilometer and a width limited by the river bank and the state border of the Republic of Bulgaria; the aquatory includes the adjacent water areas along the river bank of registered ports, raids, approach channels, recreation areas, educational and sports grounds."

"Anchorage" is a fixed area of the Danube river in or out of the port aquatory where ships can stay at anchor for waiting, entering port, hiding from bad weather, carrying out loading and unloading activities. In Art. 2, para. 2 of the Mandatory Rules, it is stipulated that the aquatories of the Bulgarian ports on the Bulgarian Danube River Basin shall be determined by an order of the Director of the Maritime Administration - Lom Directorate for the area from km 645,000 to km 845,650 and by an order of the Director of Maritime Administration - Ruse "for the region from km 374,100 to km 645,000.

In fact, the two definitions approach in different ways for defining river ports by determining their aquatory.

In addition to the general definition of a port, the legislator has introduced a division of ports into ones for public transport under Chapter IV, Section II of the MSIWPRBA and other ports and specialized port facilities under Chapter IV, Section III, of the MSIWPRBA. On the other hand, the ports for public transport in Art. 103a, para. 1 of the MSIWPRBA are divided into ports for public transport of **national** and of **regional** importance. Territory and port infrastructure of ports for public transport of national importance are public state property, with the exception of cargo storage areas that may be owned by both natural and legal persons. The territory and infrastructure of ports for public transport of regional importance may be owned by the State, municipalities, natural and legal persons. When owned by municipalities, they are public municipal property.

2 Description of the current port governance models

2.1 Regulatory framework

The legal regime of the ports in the Republic of Bulgaria is based primarily on MSIWPRBA and MSC, in compliance with the international conventions and normative acts in force. In addition, a number of mandatory rules and customs of the riparian state are also in place, some of which are incorporated in domestic legislation, in some international conventions and other multilateral and bilateral agreements between countries.

The existing legislation applies to all entities in the ports, whether private or public.

There are also secondary regulations - ordinances, regulations and instructions governing the relations in the ports of the Republic of Bulgaria as well as mandatory orders issued by the competent state authorities.



Commercial rules and customs as a source of law are applied in the commercial relationships between the port operator and all port service users.

The specific national rules and regulations applicable to ports in Bulgaria are:

- Merchant shipping code;
- Maritime spaces, inland waterways and ports in the Republic of Bulgaria Act;
- Ordinance No. 5 of 01.09.2004 on Ship Documents;
- Ordinance No. 7 of 23.05.2001 on the procedure for visiting, maneuvering and stay of ships in ports and raids, for loading and unloading, embarking and disembarking of crew, passengers or other persons, as well as for connection of the ship with the shore;
- Ordinance No. 9 of 17.10.2013 on the requirements for exploitation suitability of ports and specialized port facilities;
- Ordinance No. 10 of 31 March 2014 for the scope and content, the elaboration, approval and amendment of the master plans for port fort public transport;
- Ordinance No 15 of 28 September 2004 on the submission and reception of waste - result of shipping activity and of cargo residues;
- Ordinance No 18 on the Registration of Port Operators in the Republic of Bulgaria;
- Ordinance No. 19 of 09.12.2004 on registration of the ports in the Republic of Bulgaria;
- Ordinance on the conditions and procedures for achieving the security of ships, ports and port areas;
- Ordinance No 919 of 08.12.2000 for the collection of statistical information on the activity of the port operators and the owners of ports and port facilities in the Republic of Bulgaria;
- Ordinance on the organization of carrying out border passport, customs, health, veterinary and phytosanitary control, as well as control of the means of transport in the ports of the Republic of Bulgaria serving ships of international voyage;
- Ordinance for the provision of river information services on inland waterways of the Republic of Bulgaria from 28.12.2007
- Ordinance on the terms and conditions for the security of ships, ports and port areas
- Statutes of the Executive Agency "Maritime Administration";
- Regulations for the structure, functions and activities of BPICo.;
- Tariff for port charges collected by the Bulgarian Ports Infrastructure Company
- Tariff No 5 for the fees collected in the system of the Ministry of Transport, Information Technology and Communications



- Decree 82 of 5 April 2013 on the adoption of the rules for river surveillance on the Danube
- Mandatory rules for Bulgarian ports on the Danube river, in force since 25.07.2008, issued by EAMA

Direct application on port activity is characteristic for normative acts, which are valid for all industrial spheres, like:

- State property Act and its Administration rules;
- Spatial planning Act
- Concessions Act
- Commercial Act
- Environment protection Act
- Waste management Act;
- Public procurement Act and its Administration rules
- Cadaster and Land Register Act;

National legislation is in line with the priorities set out in nationally significant documents, defining the direction of economic development and upgrading of the transport system. Some key strategic documents are:

- National Development Program "Bulgaria 2020"
- Integrated Transport Strategy of the Republic of Bulgaria until 2030
- General Master Plan on the transport of the Republic of Bulgaria
- Operational Program "Transport and Transport Infrastructure 2014-2020"
- European Union Strategy for the Development of the Danube Region and Priority Projects for the Republic of Bulgaria

European Union port legislation has been implemented in the country through direct application of a number of regulations and the introduction of the requirements of the directives. The specific Bulgarian legislative acts listed above transpose European law taking into account national specificities.

Given that much of EU legislation applies mainly to seaports, not all rules and regulations can and should be transferred to the activities of Bulgarian inland Danube ports!

Example: 1. *The Ordinance on the Provision of River Information Services on Inland Waterways of the Republic of Bulgaria (as amended in 2014) transposes into Bulgarian legislation the requirements of Directive 2005/44 / EC of the European Parliament and of the Council of 7 September 2005 on the harmonization of River Information Services (RIS) on*

*the Inland Waterways of the Community. **Bulgaria is the first Danube country to have an administrative and operational centre for the monitoring of ship traffic.***¹

2. By Ordinance No. 186 of the Council of Ministers of the Republic of Bulgaria of 23 August 2012, the Ordinance has been adopted on the organization of the implementation of border passport, customs, health, veterinary and phytosanitary control and control of the means of transport in the ports of the Republic of Bulgaria, servicing ships of international voyage, which is published in State Gazette no. 67 of 31.08.2012 **The document introduces the requirements of Directive 2010/65 / EU on reporting formalities for ships arriving in and / or departing from ports of the Member States of the European Union and repealing Directive 2002/6 / EC.**

Of course, many other examples of compliance with European legislation can be given, aiming to demonstrate that Bulgaria consistently applies and respects the Union's legislative framework. The Maritime Spaces, Inland Waterways and Ports in the Republic Bulgaria Act has recently also been amended with a view to transposing into Bulgarian legislation the requirements of Directive 2014/89 / EU of the European Parliament and of the Council of 23 July 2014 establishing a framework for Maritime Spatial Planning (OJ L 257 of 2014). A change was proposed to be added to the Bulgarian legislation by introducing the requirements of Art. 4 (6) and point 1.7 of Annex II of Directive 2014/94 / EC of the European Parliament and of the Council of 22 October 2014 on the deployment of alternative fuel infrastructure (OJ L 307 of 28 October 2014), hereinafter referred to as "Directive 2014/94 / EC".

Projects have been implemented in the country and applications for future ones are being submitted in accordance with the applicable rules for funding from the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund.

Issuing and updating of port legislation

The port legislation in the Republic of Bulgaria shall be established, amended and repealed in accordance with the applicable regulations. Pursuant to the Law on Normative Acts, only the bodies provided for in the Constitution of the Republic of Bulgaria or by another law may issue regulations.

The National Assembly adopts, amends, supplements and repeals codes and laws. According to the Constitution of the Republic of Bulgaria, every member of parliament and the Council of Ministers have the right to legislative initiative. **As a rule, draft Codes or laws in the field of port legislation are proposed by the Minister of Transport, Information Technology and Communications to the Council of Ministers.** In the elaboration of

¹ Source: <http://www.bulris.bg/project-bulris/system-bulris>



these documents, the Minister of Transport, Information Technologies and Communications is assisted by the other entities in the system of the Ministry (Executive Agency "Maritime Administration", Bulgarian Ports Infrastructure Company, etc.), taking into account opinions from other persons carrying out activities in the port sector. Prior to their voting and adoption, the drafts of normative acts are subject to public discussion.

The Council of Ministers issues the secondary legislation – decrees, ordinances, and decisions, and by decrees also adopts regulations and ordinances. The Council of Ministers, as a body implementing the foreign and domestic policy of the Republic of Bulgaria, adopts strategic documents, which in the port sphere are: the ***Integrated Transport Strategy for the period until 2030*** (a comprehensive plan for sustainable development of the transport system of the Republic of Bulgaria and an investment framework for transport, this document was adopted by Decision No. 336 of the Council of Ministers of 23.06.2017); ***Strategy for Development of the Transport System of the Republic of Bulgaria for the Period until 2020***. The document was adopted by Protocol No. 13.13 of the Council of Ministers of 07.04.2010.

The Minister of Transport, Information Technologies and Communications, within the framework of his powers issues regulations, ordinances, instructions and orders.

Competent port authorities:

A characteristic feature of the port system in Bulgaria is that **there is no single port authority responsible for the management, operation and control of the ports**. Moreover, the legislation lacks a precise definition describing the term "port authority". Responsibilities and obligations in this area are shared between different legal entities.

The Ministry of Transport, Information Technologies and Communications, as the respective ministry responsible for port policy implementation, develops legislation in the area, finances port development, approves high-value projects and concession granting. The Minister of Transport is responsible for the regulation and control of the port activities through the Executive Agency Maritime Administration (EAMA) and the Bulgarian Ports Infrastructure Company (BPICo.). Through EAMA according to Art. 115k of the MSIWPRBA, the Minister controls the port activities in the Republic of Bulgaria. According to Art. 115k, para. 2 of the MSIWPRBA, EAMA performs the regulatory and control functions of the state in the field of ports. BPICo. administers the port infrastructure and other long-term assets of ports for public transport of national importance. With Art. 115m, para. 1, item 9 of the MSIWPRBA BPICo. was assigned to assist the Minister of Transport, Information Technologies and Communications in carrying out the control over the implementation of the concession contracts and the contracts with the sole commercial companies for carrying out port services and accompanying activities. BPICo. is a legal entity within the meaning of Art. 62, para. 3 of the Commerce Act, so-called "Statutory corporation". Currently, BPICo. performs many of the



functions and duties that are part of those performed by the port authority in most European countries and covers the definition under Regulation (EU) 2017/352 for a "managing body of the port". BPICo. also provides traffic management services, navigation provision and maintenance of service systems.

At the same time, the **Ministry of Regional Development and Public Works** has the competence to control procedures for the elaboration and approval of master plans of ports, and the **Ministry of Finance** is the recipient of the concession fees and the body that plans and distributes the state budget.

In accordance with Art. 54 of the Administration Act, **The Executive Agency for Exploration and Maintenance of the Danube River** (EAEMDR) is an administration to the Minister of Transport, Information Technologies and Communications. It provides administrative services to natural and legal persons, also performs activities and services related to the support of the activities of the state authorities for safe navigation in accordance with domestic and international legislation, with regard to the maintenance of the conditions and security of the shipping on the river Danube.

2.2 Port owner

The regime of ownership in the ports of the Republic of Bulgaria is determined by the MSIWPRBA.

The territory and the port infrastructure of the ports for public transport of national importance are **declared public state property** with Art. 106, para. 1 of the Law. This means that other entities except the State cannot own a port of public transport of national importance. There is an exception for cargo storage areas, which may also be owned by individuals and legal entities.

According to Art. 106, para. 2 of the MSIWPRBA ports for **public transport of regional importance may be owned by the state, the municipalities, natural and legal persons**. An exception to this principle exists, according to which the territory and infrastructure of ports for public transport of regional importance, owned by the municipalities, are declared public municipal property with Art. 106, para. 3 of the MSIWPRBA.

In Art. 92a, para. 1 the aquatory of the ports is defined as exclusive state property and as such cannot be owned by other entities.

Art. 92a, para. 2 of the MSIWPRBA stipulates that the territory and the infrastructure of the ports may be owned by the state, the municipalities, natural and legal persons.

For the ports of public transport of regional importance, declared public municipal property with Art. 106, para. 3 of the MSIWPRBA, there are also restrictions on the management and disposal of their territory and infrastructure, provided for in the Municipal Property Act and its



implementing regulations. Ownership of land and infrastructure of ports for public transport of regional importance owned by municipalities cannot be transferred to third parties, can only be leased for a period of up to 10 years or concessions are granted for them.

All ports for public transport owned by the State or municipalities shall provide all port services by entities with granted access to the port services market and which are entered in the register of port operators. Port operators should meet certain requirements to be entered in this register, they can be private individuals, state or municipal port operators.

Ports for public transport of regional importance, as well as other ports and specialized port facilities, may be owned by the state, municipalities, natural and legal persons.

Ports and specialized port facilities owned by natural or legal persons are not subject to restrictions on management and disposal of their territory and infrastructure. They can be leased or be a subject to other transactions. For these ports and specialized port facilities, owners are required to submit an application for their rights on ports and specialized port facilities. With Art. 112 Article 5 of the MSIWPRBA, a ban was imposed on them to carry out activities or services other than those specified in the registration of the port or the specialized port facility.

In Art. 16 of the State Property Act (SPA) there are restrictions on the state-owned property, it cannot be used for other purposes and provided to third parties except in cases expressly stipulated in the SPA and in compliance with a certain order provided by the same law.

Parts of ports for public transport of national importance may only be rented for up to 10 years period, provided they are used as intended. Ports for public transport of national importance may be granted to third parties under the procedure of the Concessions Act with a concession for a service or concession for construction, according to the provision of Art. 117c of the MSIWPRBA. By granting a concession for a service for which the use of port territory and / or port facilities is needed under Art. 117c, para. 1 of the MSIWPRBA, the concessionaire shall be granted access to the market of port services under Art. 117a of the same law. In Art. 117c, para. 3 of the MSIWPRBA is stipulated that if the concession is awarded to a construction, the concession is defined as such for construction. For both types of concessions envisaged, the port territory and infrastructure remain state-owned.

2.3 Types of ports

In the Bulgarian legislation, the MSIWPRBA in Chapter IV "Ports" introduces a differentiation of the ports in several categories - the first of which is **ports for public transport**, followed by other four types of ports and specialized port facilities.

Ports for public transport are divided into:



Figure 1. Types of ports

Art. 103 of the MSIWPRBA provides a legal definition of ports for public transport, stating that it shall be considered any port in which, against corresponding payment, port services and other related port activities are performed from / to ships and land vehicles, and which is accessible without limitation to all ships and cargoes.

Chapter IV, Section III of the MSIWPRBA provides for other types of port and specialized port facilities.

Ports for public transport

- with national importance;
- with regional importance;

Other ports

- fishing ports;
- yacht ports;
- special purpose ports;
- military, including border line police ports.

Figure 2: Other ports and specialized facilities

Article 99 of the MSIWPRBA explicitly provides that open ports, with the exception of military ones, are accessible to the public and, in accordance with their purpose, provide equal conditions for all ships, in other words, all ports other than military, which are governed by special regulations, offer all port services they perform under the same conditions for all ships irrespective of the ownership of their territory and infrastructure.

In the ports for public transport of national importance, declared as public state property, all port services under Art. 116 of the MSIWPRBA are provided. The fact that they are declared public state property leads only to restrictions related to the management of their territory and infrastructure. All these activities are carried out with mandatory observance of the provisions of the State Property Act (SPA) and the rules for its implementation.

Access to the market for port services in ports for public transport of national importance is granted by awarding a concession under Art. 117c of the MSIWPRBA or by a contract under § 74, para. 3 of the Transitional and Final Provisions of the MSIWPRBA, concluded between the Minister of Transport and a private liability company with state ownership in the capital.

Port operators with the right to provide port services in ports for public transport of regional importance are the port owners or persons having concluded a contract with them in accordance with Art. 117a, para. 3 of the MSIWPRBA. In the Bulgarian section of the Danube river there are ports for public transport of national importance - public state property, ports for public transport of regional importance - public municipal property, ports for public transport of regional importance - private property, other ports and specialized port facilities - private property.

3 Investing in ports, construction and permitting



The goal of this chapter is to clarify which legal entity has responsibilities for developing ports and carrying out port investments. In this respect it is also important to find out which permits are required for the construction of new ports as well as for the amendment of existing ports.

In line with Commission Regulation (EU) 2017/1084 of 14 June 2017, the consortium will consider the following definitions as starting points:

(157) **“port infrastructure”** means infrastructure and facilities for the provision of transport related port services, for example berths used for the mooring of ships, quay walls, jetties and floating pontoon ramps in tidal areas, internal basins, backfills and land reclamation, alternative fuel infrastructure and infrastructure for the collection of ship-generated waste and cargo residues;

(158) **“port superstructure”** means surface arrangements (such as for storage), fixed equipment (such as warehouses and terminal buildings) as well as mobile equipment (such as cranes) located in a port for the provision of transport related port services;

(160) **“dredging”** means the removal of sediments from the bottom of the waterway access to a port, or in a port.



Concerning the dredging in general, a difference exists between “capital dredging” and “maintenance dredging”. “Capital dredging” is the activity of creating new civil engineering works by means of dredging, such as harbour basins, canals, etc., and the deepening of existing waterways, approach channels. “Maintenance dredging” is the activity of keeping existing watercourses, harbour basins, etc., at the required nautical and / or hydrological depth by removing siltation.

3.1 Port infrastructure in line with the national legal framework in force

Port infrastructure

In § 2, item 18 of the Supplementary Provisions of the Spatial Planning Act (SPA), is given a legal definition of port infrastructure - **the technical infrastructure of the port within the meaning of § 5, item 31 of the Additional Provisions of the SPA, as well as the other buildings and facilities within the port** related to the activities and services performed on its territory.

The technical infrastructure within the meaning of § 5, point 31 of the SPA is **a system of buildings, facilities and linear engineering networks of transport, water supply and sewerage, electricity supply, district heating, gas supply, electronic communications, irrigation, waste treatment and geo-protection activities.**

The management of the port infrastructure and the other fixed assets of the Bulgarian ports of national importance has been granted to the Bulgarian Ports Infrastructure Company under the law and with decisions of the Council of Ministers.

In line with the contracts concluded between the Minister of Transport, Information Technologies and Communications and Port Operators, the port infrastructure is designed for provision of port services within the meaning of Art. 116 of the MSIWPRBA and includes the following main types:

- ✓ Quay walls;
- ✓ Basins;
- ✓ Ro-ro ramps;
- ✓ Administrative and technical buildings;
- ✓ Open and covered warehouses/ storages;
- ✓ Parking areas;
- ✓ Internal port road network;
- ✓ Railway sliding;
- ✓ Crane railways;
- ✓ Water supply and sewage network;



- ✓ Electricity transformers, power cable network, lightning network;
- ✓ Automobile weigh scales;

3.1.1 Responsibilities for infrastructure investments in ports

Since 2005 the **Bulgarian Ports Infrastructure Company** (BPICo.) has been established, which is a legal person under Art. 62, para. 3 of the Commerce Act². For implementation of its subject of activity the State grants to BPICo. property with public and private state ownership. With Art. 115l, para. 3 of the MSIWPRBA BPICo. is entrusted with the management of the port infrastructure and other long-term assets of the ports for public transport of national importance.

The subject of activity of the BPICo. under Art. 115m of the MSIWPRBA includes activities for construction, reconstruction, rehabilitation and maintenance of the ports for public transport of national importance, except when this is assigned to a concessionaire or to a sole-owned commercial company with state ownership of the capital.

The general principle in the MSIWPRBA is that the BPICo. has an obligation to make investments in the infrastructure of ports for public transport of national importance.

In case a concession is awarded, this obligation is entrusted to the concessionaire for the infrastructure granted to him by the concession contract. State-owned companies with state participation in the capital, which have concluded contracts under § 74, para. 3 of the Transitional and Final Provisions of the MSIWPRBA are entrusted with the maintenance of the infrastructure granted to them by these contracts. In such cases, the obligation to invest in the infrastructure not included in the subject of a concession contract or a contract under § 74, par. 3 of the Transitional and Final Provisions of the MSIWPRBA, is obligation of the BPICo. As noted above, BPICo. assists the Minister of Transport, Information Technologies and Communications in exercising control over the implementation of concession contracts and contracts with the port services companies, although the BPICo. is not directly involved in the concession process. Often the investment initiative belongs to BPICo., the investment implemented is used by and generating revenues for the respective port operator, while the fee that the concessionaires pay for the use of the port infrastructure is not revenue of the BPICo., but of the republican budget.

Investments in ports for public transport of regional importance, and in the other ports under Art. 107-109 of the MSIWPRBA and in the specialized port facilities are a commitment of their owners and there is no legal obligation to make investments.

² *State enterprises which are not commercial companies can be established by the force of a law.*

3.2 Port superstructure in line with the national legal framework in force

Port superstructure

The concept of "port superstructure" **has not been introduced in Bulgarian legislation**. The definition of "port superstructure" is given in Regulation (EU) 2017/1084, as described above in this document.

As seen by the definition for "port infrastructure" introduced by § 2 (18) of the additional provision of the MSIWPRBA, the port infrastructure is a system of buildings, facilities and linear engineering networks of transport, water and sewage, electricity, heat, gas, electronic communications, irrigation, waste treatment and geo-protection activities, as well as other buildings and facilities in the port area related to the services performed on its territory. **It also covers the elements of the definition of "port superstructure"**.

Mobile equipment, such as cranes and other facilities, which are not permanently attached to the ground, are movables within the meaning of Bulgarian law and **are not included in the "port infrastructure"**. There is no legally binding requirement these elements to be owned the port operator or the port owner.

3.2.1 Responsibilities for superstructure investments in ports

As in the Bulgarian legislation the meaning of the terms "port infrastructure" and "port superstructure" overlap, investments in the port superstructure in ports for public transport of national importance are the legal obligation of BPICo., unless it is entrusted to a concessionaire or to a sole-owned commercial company with state participation in the capital.

The investments in the port superstructure in the ports for public transport of regional significance, or in the other ports under Art. 107-109 of the MSIWPRBA and in the specialized port facilities are a commitment of their owners and there is no legally obliged entity to make investments.

3.3 Port dredging in line with the national legal framework in force

3.3.1 Responsibilities for dredging

In the Bulgarian legislation, the term "dredging" used in the MSIWPRBA until 2012, with the Law for amendment and supplementation of the MSIWPRBA, has been replaced by "maintenance of project depths in aquatories of the ports for public transport of national importance to the border of the operational aquatory".

With this amendment to the MSIWPRBA, it is foreseen that the BPICo. will spend the collected canal charges, tonnage dues, wharf dues and light fees to ensure access to ports for public transport of national importance, including covering the costs of building and maintaining seaports channels, external protective dikes, buoys, lighthouses, port infrastructure,



maintenance of design depths in the ports of public transport ports of national importance to the border of the operational aquatory.

According to Art. 103c, para. 5 of the MSIWPRBA, the BPICo. collects channel fees, tonnage dues and light fees for ships visiting ports for public transport of regional importance and ports under Art. 107 - 109 of the MSIWPRBA and provides access to these ports by maintaining navigational aids, canals and port aquatory up to its operational boundary.

The MSIWPRBA has defined the subject of activity of the BPICo., and according to Art. 115m, para. 1, point 4, it is foreseen that the Company maintains the existing and builds new approach channels, port aquatories, sea and river depots for discharging dredging mass, breakwaters, protective facilities and other, serving the ports for public transport with national importance, as well as maintains the existing and builds new approach channels, approach zones and maneuvering zones, serving ports for public transport with regional importance under art. 107-109 from the MSIWPRBA.

The owners of the ports for public transport of regional importance and of the ports under Art. 107 - 109 of the MSIWPRBA, pay aquatorial tax in the amount determined by the Council of Ministers for the right to use the operational waters of these ports. This right of use, according to Art. 103c, para. 6 (1) of the MSIWPRBA, includes the right to maintain design depths in the operational aquatory. A legal definition of an "operational aquatory" is contained in § 2 (46) of the MSIWPRBA and is part of the port aquatory adjacent to the quay wall or other hydrotechnical ship-berthing facility and having the required area and depth for safe maneuvering and berthing the largest estimated ship.

An analysis of the above provisions concludes that owners of ports for public transport of regional importance and of ports under Art. 107-109 of MSIWPRBA shall have the right to carry out dredging to maintain the design depths in the aquatory of the port owned by them, only to the adjacent quays or other hydrotechnical facilities for berthing.

3.4 Construction and Permitting of Ports

The construction of new ports and specialized port facilities, the expansion, reconstruction and rehabilitation of ports and specialized port facilities in the existing MSIWPRBA is contained in a separate section IV in Chapter Four.

Construction and expansion of a port for public transport shall be carried out on the basis of a master plan elaborated in accordance with the Integrated Transport Strategy approved by the Council of Ministers for the period up to 2030, the concepts and spatial development plans and the higher-level development plans.

The master plan of a port for public transport is based on a preliminary survey (pre-investment survey) on port development. The master plan of the port:

- determines the development of the existing and the necessity to reserve new territories, intended for carrying out port activities and services, zones them functionally according to the technological and organizational separation of the necessary territory of the port and plans the set-up of their spatial planning and the parameters of their construction;
- defines areas for terminals and areas for accompanying activities in ports;



- reflects the current situation, defines the overall technical infrastructure of the port and defines the development of the communication and transport network (railways and roads) and other technical infrastructure networks and facilities in the port area as well as other port infrastructure elements;

- provide reasoned solutions for the parameters (boundaries and design depths) and for the navigational provision of the port aquatory and each of its zones.

The application to authorize the drafting of a master plan of a port for public transport, accompanied by a design assignment, shall be submitted to EAMA by:

1. Bulgarian Ports Infrastructure Company;
2. a concessionaire of a port for public transport of national importance;
3. the owner of a port for public transport of regional importance;
4. natural or legal person registered as a commercial company which has an investment initiative for the construction of a new or an expansion of an existing port for public transport of regional importance.

Within 14 days of receiving an application for permission to prepare a draft master plan of a port for public transport, the Executive Director of EAMA shall submit to the Minister of Transport, Information Technologies and Communications and to the Minister of Regional Development and Public Works a reasoned opinion on compliance of the investment initiative with the Integrated Transport Strategy approved by the Council of Ministers for the period up to 2030, the concepts and spatial development plans and the development plan of higher degree.

Permission to draw up a master plan is given by the Minister of Transport and the Minister of Regional Development and Public Works at the request of any of the above mentioned persons. The ordinance for the issuance of a permit to prepare a draft master plan determines the scope, objectives and tasks of the project and approves the assignment for its elaboration, as this ordinance is published on the web site of the EAMA and is not subject to dispute. The refusal to authorize the elaboration of a draft master plan of a port for public transport shall be made by a motivated order of the Minister of Transport and the Minister of Regional Development and Public Works. The refusal may be contested in accordance with the Administrative Procedure Code.

The draft Master Plan of a port for public transport shall be submitted for examination, acceptance and approval to EAMA, with an application enclosing:

- documents certifying the implementation of the applicable procedures under the Environmental Protection Act, the Biological Diversity Act and the Cultural Heritage Act;
- written opinions on the coordination of the draft master plan by the operating companies to whose networks and facilities there is or is envisaged accession;
- other documents specified in the *Ordinance on the scope and content of the master plans of the ports for public transport*, as well as for their elaboration, approval and amendment according to the nature of the investment initiative.



Where an investment initiative is to build a new port for public transport or to expand an existing port for public transport, including through the construction of a new terminal, the following shall be additionally applied:

- documents for individualization of the territory affected by the investment initiative;
- a summary of the results of a pre-investment study on the availability of appropriate geographic, hydrological, hydrogeological and other conditions; the possibilities for connection with the road network and the railway infrastructure, the traffic of the respective type or types of freight, respectively passengers;
- technological and financial justification of the investment initiative, including justification of the necessity and amount of the investments for the expropriation of land properties, as well as for the construction of road and / or rail links, aquatory or its separate zones, in parts of the common technical infrastructure of the port, and in the cases where ships will be served on international voyages - a border crossing area, customs, medical, sanitary, veterinary and phytosanitary control as well as transport meanings control in accordance with the legislation in force.

Where deficiencies in the submitted documents are found, the Executive Director of EAMA shall notify the person who filed the application within 14 days of the submission of the application and shall set a time limit for the elimination of the incompleteness. If the applicant does not eliminate the deficiencies within the time limit, the Executive Director of EAMA shall make a proposal to the Minister of Transport and the Minister of Regional Development and Public Works to terminate the proceedings. The Minister of Transport and the Minister of Regional Development and Public Works shall terminate the proceedings with an order. The order for termination of proceedings is subject to appeal under the Administrative Procedure Code within 14 days from the notification of the applicant.

In case there is no incompleteness of the submitted documents, the Executive Director of EAMA shall submit to the Minister of Transport and to the Minister of Regional Development and Public Works, within two months of receiving the application or removing the incompleteness, a reasoned opinion on the submitted draft Master plan of a port for public transport, attaching to that opinion the entire administrative file.

For the consideration and adoption of the draft master plan of a port for public transport, the Minister of Transport and the Minister of Regional Development and Public Works shall appoint an interdepartmental expert council. The expert council includes authorized representatives of the municipalities and the districts where the port for public transport is located, as well as experts from the defense ministry, the interior ministry, the ministry of environment and water, the ministry of health and the Customs Agency, depending on the specificity of the envisaged port, representatives of other relevant departments and organizations may also be included.

Adopted by the interdepartmental expert council, a draft master plan of a port for public transport, is approved by the Minister of Transport and the Minister of Regional Development and Public Works.

In case the council decides to refuse to accept the draft Master Plan of a port for public transport, the Minister of Transport and the Minister of Regional Development and Public Works shall refuse to approve the project by an order. This order shall be promulgated in the



State Gazette and is subject to appeal under the procedure of the Administrative Procedure Code within 14 days of its promulgation.

A master plan of a port for public transport may be amended when:

- there are changes in the socio-economic or structural conditions under which the plan has been elaborated and approved;
- there is an investment initiative that concerns a territory reserved for future development of the port or is related to a change in the parameters of the port territory or aquatory, including the construction of a new terminal or a new cargo storage area, for carrying out ancillary activities, or a border inspection area, customs, sanitary, veterinary and phytosanitary control as well as control of means of transport in accordance with the applicable legislation or an area which corresponds with the characteristics of a port defined in art. 107-109 of the MSIWRBA;
- there is a clear factual error that influences the plan's forecasts;
- as a result of a change of a cadastral plan, approval or amendment of a cadastral map, the boundaries of the landed properties do not coincide with the external regulatory boundaries of the port territory.

The draft amendments to the master plan of a port for public transport shall be elaborated, considered, accepted and approved under the terms and conditions for the elaboration of a draft master plan of a port for public transport.

The Minister of Transport is obliged, within three months from the putting into operation of a new port or a new terminal from an existing port, to submit to the Council of Ministers a draft decision for supplementing the register of ports.

The investment design for the construction of a new or an expansion of an existing port for public transport **of national importance** is assigned by the BPICo. or the concessionaire - in cases where in accordance with the concession contract, construction is carried out with means of the concessionaire.

The investment design for the construction of a new port, or for the expansion of an existing port, or for the construction of individual sites and sub-sites in a port for public transport of **regional significance** shall be assigned by the applicant for the investment initiative either by the owner of the property or by a person having the right to construct in the property, or a person who is entitled to build in the property under a law. The elaborated investment projects shall be approved by the Minister of Transport and by the Minister of Regional Development and Public Works or by authorized officials who issue a building permit.

A decision on the reconstruction or rehabilitation of entire or part of an existing public transport port of national importance, except when a concession is granted for the port, is accepted by the Managing Board of BPICo.

The investment design for the reconstruction or rehabilitation of all or part of an existing port for public transport of national importance is assigned by BPICo. or by a concessionaire - in cases where, under the concession contract, reconstruction and rehabilitation are carried out with funds of the concessionaire. The elaborated investment projects shall be agreed by the Minister of Transport and approved by the Minister of Regional Development and Public Works or by authorized officials to issue a building permit.



The construction of new and the expansion of existing ports under Art. 107 - 109 of the MSIWPRBA (fishery, yachts etc.) and specialized port facilities shall be carried out on the basis of a specialized detailed development plan (DDP), which shall take into account the provisions of the Maritime Spatial Plan of the Republic of Bulgaria and the relevant concepts and schemes for spatial development and development plans of a higher degree.

The specialized DDP for construction of new or expansion of existing ports under Art. 107 - 109 of the MSIWPRBA (fishery, yachts, etc.) is elaborated and approved as a plan for regulation and construction for the port territory, accompanied by a communication-transport scheme and a parcel plan for the port aquatory. The parcel plan defines the location of the hydrotechnical port facilities - stationary and / or floating, the boundaries of the port area and its individual zones and the navigational provision of the port aquatory.

In order to determine the width of the operational aquatory, the length of the turning circle diameter in the maneuvering area (when its construction is necessary) and the total boundary of the operational aquatories of two adjacent ports with a common land border, the Ordinance on the scope and content of the master plans of ports for public transport, as well as for their elaboration, approval and amendment is applied.

Specialized DDP for the construction of a new or expansion of an existing specialized port site is elaborated and approved as a parcel plan for the aquatory, accompanied by a specialized scheme. The parcel plan defines the location of the specialized port site and the navigational provision of the aquatory. The specialized scheme is made on the basis of the detailed spatial development plan, the cadastral map and / or the specialized map, and the following: the location of the specialized port site towards the coast; the way the link between the specialized port facility and the shore takes place; access to the specialized port site from the land side.

Permission for elaboration of a draft of a specialized detailed development plan for construction of new or for extension of existing ports under Art. 107 - 109 of the MSIWPRBA (for fishing, yachts, etc.) or for the construction of a new or extension of an existing specialized port shall be given by the Minister of Regional Development and Public Works or an official authorized by him at the request of a natural or legal person, which has an investment initiative to build or expand the site. A design assignment is attached to the request. The permission shall specify the scope, objectives and tasks of the project and approve the assignment for elaboration of the plan. The order giving permission cannot be disputed. Refusal to grant permission shall be motivated and may be disputed in accordance with the Administrative Procedure Code within 14 days of its notification to the applicant.

The draft of the detailed specialized development plan is coordinated with the Minister of Transport and for the fishing ports and the specialized port facilities for servicing the fishing activities - and with the Minister of Agriculture, Food and Forests, before submitting it for acceptance and approval. The project is considered and adopted by the National Expert Council on Spatial Planning and Regional Policy and approved by the Minister of Regional Development and Public Works or an official authorized by him.

A specialized detailed development plan which has entered in force for construction of new or for extension of existing ports under Art. 107-109 of the MSIWPRBA or for the construction of a new or an extension of an existing specialized port facility may be amended when:



- there are changes in the socio-economic or spatial conditions under which the plan has been elaborated and approved;
- there is an investment initiative regarding a port under Art. 107-109, which is related to the change of the parameters of the port territory, the port aquatory or any of the zones in it, incl. extension of the port by building new stationary or positioning of new floating hydro-technical port facilities;
- there is an investment initiative to expand a specialized port facility by constructing new stationary or new floating hydro-technical facilities or is associated with changing the parameters of the aquatory of a specialized port site - a temporary stay or a winter shelter;
- there is a clear factual error that is relevant to the plan's forecasts;
- as a result of alteration of a cadastral plan, approval or alteration of a cadastral map the property boundaries of the landed properties do not coincide with the external regulatory boundaries of the port territory - for the ports under Art. 107 - 109 of the MSIWPRBA.

The drafts for amendment of a specialized detailed spatial plan for construction of new or for extension of existing ports under Art. 107 - 109 of the MSIWPRBA or for the construction of a new or expansion of existing specialized port site, shall be elaborated, coordinated, accepted and approved under the conditions and by the order of acceptance of new specialized DDP.

The right to build for expansion of an existing port for public transport of regional importance, or a port under Art. 107-109 of the MSIWPRBA or of a specialized port facility for fishing activities or a berthing area for seasonal passenger ships shall be established for the benefit of the owner of the existing port or of the existing specialized port facility. The volume of the right to build is determined in accordance with the approved master plan of the port for public transport of regional importance or the specialized DDP for the other sites.

MSIWPRBA includes the right for the Minister of Transport to make proposals to the Council of Ministers to free granting of the right to build to a Municipality for construction or expansion of a fishing port or specialized port facility for servicing fishing activities as well as related river bank protection facilities to prevent the harmful effects of water. The volume of the right to build is determined in accordance with an approved detailed development plan. The constructed sites under the MSIWPRBA are public municipal property, for which there is a prohibition in Art. 112g of the mentioned Law, to change into a private one, as well as a prohibition to change their purpose.

The Council of Ministers may, at the proposal of the Minister of Transport, establish a right to build on the seabed and the bottom of the Bulgarian section and the coastal line of the Danube river where this is necessary for:

- construction or extension of a national site within the meaning of the State Property Act - a port for public transport of regional importance or a port under Art. 107-109 of the MSIWPRBA, including the operational aquatory;
- the sustainable fulfillment of public needs - construction of a new or extension of an existing specialized site for fishing activities or a berthing facility for seasonal passenger ships.

Where this right to build is for the benefit of a municipality is free of charge, in all other cases such right to build shall be constituted against certain reward.



Right to construction for extension of an existing port for public transport of regional importance, of a port under Art. 107-109 of the MSIWPRBA or of a specialized port facility for fishing activities or a berthing place for seasonal passenger ships shall be established for the benefit of the owner of the existing port or of the existing specialized port facility. The volume of the right to build is determined in accordance with the approved master plan of the port for public transport of regional importance or the approved specialized detailed development plan in all other cases.

The right to build for the construction of a new or extension of an existing port for public transport of regional importance for the provision of passenger services or of a specialized port facility for fishing activities or a pier for seasonal passenger ships shall be established free of charge in favor of the municipality, and these sites are public municipal property under the MSIWPRBA.

The last amendment of MSIWPRBA included a possibility where on the territory of ports for public transport and ports under Art. 107 - 109 of the Act can be positioned:

- movable objects and information elements directly related to the process of providing port services or port security activities;
- movable amusement facilities and movable objects for commercial and other service activities, as well as advertising and monumental-decorative elements.

When necessary for their normal operation, these sites are linked to existing networks and facilities of the technical infrastructure temporarily. For the purpose of positioning such facilities, the port (or terminal) owner or port operator who carries out port services at a port (or terminal) for public transport submits an application. For movable facilities and information items directly related to the process of providing port services or port security, the application shall be submitted to the master of the port. For movable amusement facilities and movable objects for commercial and other servicing activities, as well as advertising and monumental-decorative elements - to the Minister of Transport.

When the application for permission is submitted by a port operator, it shall be accompanied by an explicit written consent of the port (or terminal) owner. For the installation of a monumental-decorative element, a permit for positioning is issued after a co-ordination according the Cultural Heritage Act. The MSIWPRBA provides for the possibility of removing movable objects under certain hypotheses:

- when placed without permission or in contradiction with a permit issued;
- when they do not meet the requirements of the SPA;
- as a result of circumstances arising after placing them pose a danger to the security of the port for the safe operation of port activities and services or for normal functioning of the aids to navigation security;
- when they are advertisement prohibited by law;
- when the term of the permit for placement has expired.

The findings of these circumstances are made by EAMA inspectors. A removal order is issued by the harbormaster, which sets a deadline for the removal of the facility.

Restrictions or limitations as to who can construct a new port or amend an existing port in Bulgaria

In practice, under the current Bulgarian legislation, any natural or legal person registered as a commercial entity may initiate the construction of a new port, for public transport both of national or regional importance as well as of a specialized port or port facility.

For the expansion of an existing port for public transport of national importance, the initiative belongs to the BPICo. or the concessionaire. For port for public transport of regional importance, other ports or port sites, the right of such initiative belongs to the owner of the port or of the port facility respectively.

Prohibition or limitation on the construction or amendment of ports in Bulgaria

For the construction of a port, apart from the special procedure regarding the initiation and permitting of the construction, provided for in the MSIWPRBA, being a construction on the territory of the Republic of Bulgaria, the general procedure for construction is applied for all matters not covered by the special MSIWPRBA. The construction of ports is defined as a first category construction in Art. 137, para. 1, item 1, p. "a" of the Spatial Development Act (SDA).

As a first-category, the construction of a port is carried out after the preparation of an investment project and the issuance of a building permit, the design and construction being in line with the provisions of the detailed development plans. In this connection, a port can be built only in a land property, defined in the detailed development plan as a territory for transport and planned for construction. This sense is put in the provision of Art. 78 of the SDA, which requires the construction of the ports according to the forecasts of the development plans and necessarily have to be connected with the primary road network, with the lines of the public passenger transport, respectively with the railway and the road network.

Ordinance No 16 / 20.06.2006 on handling and transport of dangerous and / or polluting goods by sea and dangerous goods on inland waterways has introduced requirements for handling and storing such cargoes in ports. Art. 3, para. 1 of this Ordinance stipulates that hazardous and / or polluting goods shall be handled in ports for public transport, on berths designated in advance by the port operator and in compliance with the exploitation suitability requirements. Art. (4) of the above-mentioned Ordinance introduces restrictions on the storage of dangerous goods, provided that for maritime ports only dangerous goods of classes 4, 5, 6, 8 and 9 of the International Maritime Dangerous Goods Code (IMDG Code) can be stored, and for river ports - cargoes of all classes except for radioactive substances are possible to be stored.

Requirements for a special construction permit with regard to the construction or the amendment of ports

All first-class constructions, such as the construction of a port in Art. 137, para. 1, item 1, p. "A" of the SDA shall be made on the basis of an approved investment project and a building permit issued on the basis thereof.



Art. 141, para. 6 of the SDA provides for the investment projects for sites of regional importance to be coordinated by the regional governor and for the sites of national importance by the Minister of Regional Development and Public Works, respectively in Art. 148, para. 3 of the Spatial Development Act stipulate that permits for construction of sites of regional importance are issued by the regional governor and for sites with a national importance by the Minister of Regional Development and Public Works.

Apart from these special requirements for sites of national and regional importance, the preliminary investment projects and building permits are issued by the Chief Architect of the municipality, i.e. in this way the construction of the ports under Art. 107 - 109 of the MSIWPRBA and the specialized port facilities is permitted.

Regulatory regime for construction permits

As a first-category, the construction of a port is subject to entering in operation according to Ordinance № 2 of 31.07.2003 for putting into operation of the constructions in the Republic of Bulgaria and minimum guarantee periods for completed works, equipment and buildings.

The use of first category constructions is permitted on the basis of a protocol prepared by the State Acceptance Commission appointed by the Head of the National Construction Control Directorate at the request of the contracting authority. The State Acceptance Commission is appointed within 14 days of receipt of the request from the assignor and the work period cannot be longer than 10 working days. Upon completion of its work, the Commission shall draw up and sign a protocol (model 16) with a proposal for the issuance of a permit for use of the construction or with a proposal for refusal to issue a permit for use.

Within 5 working days of submitting the protocol (model 16), the chairman of the National Construction Control Directorate shall issue a permit for use or refuse to issue a permit for use of the building with a motivated written refusal. The entering into exploitation shall be registered by the authority issuing the building permit by issuing a certificate of putting into exploitation.

First-category constructions, in particular port construction executed without a building permit issued, are illegal and are subject to removal under Art. 225 of the SDA.

Using first category constructions before they are put into exploitation is not allowed. In such cases, the Chief of the National Construction Control Directorate prohibits with a motivated order the use of the construction works and orders their release, disconnection of electricity and heating supply, water, gas, telephone and others.

For non-fulfilment of the regulations setting up the relations in the construction there is also provided administrative and penal liability.

Requirement for a special operating license/plant permit/business premises authorization with regard to ports

In addition to the provisions for the entering of the constructions in exploitation, requirements are introduced for:

- registration of the port or port terminal by EAMA,
- issuance of Certificate for exploitation suitability of the port/ terminal,



- registration as a port operator for port service providers.

Regulatory frame for permissions/ certificates for exploitation

With Art. 95 of the MSIWPRBA, the Minister of Transport has been assigned to determine the exploitation suitability requirements of the ports and specialized port facilities and to issue certificates for exploitation suitability. Pursuant to the legal provision, the Minister of Transport, with Ordinance No. 9 of 17.10.2013 on the requirements for exploitation suitability of ports and specialized port facilities (Ordinance No. 9), has determined these requirements as well as the procedure for issuance of a certificate for exploitation suitability.

The general requirements for exploitation suitability of ports and stationary specialized port facilities introduced by Ordinance No 9 are:

- to be constructed in accordance with the building and technical regulations and norms in force during their construction;
- to be provided with a document for putting into exploitation;

In addition to these general requirements, Ordinance No 9 introduces specific requirements that are differentiated with respect to ports for public transport, in relation to the ports under Art. 107 - 109 of the MSIWPRBA and on the stationary specialized port facilities.

Exploitation suitability certificates under Ordinance No 9 are divided into: **first** exploitation suitability certificate and **new** exploitation suitability certificate.

The first exploitation suitability certificate shall be issued upon application by the owner of a port, port terminal or specialized port facility prior to the entry of a port, port terminal or specialized port facility in the Register of Ports and Specialized Port Sites of the Republic of Bulgaria.

A new exploitation suitability certificate shall be issued in the event of changes in the type of port, port owner, port activities and cargo and mail handling and / or passenger handling operations, port operator (or operators) having access to the port market for freight and mail handling and / or passenger handling activities and services. The application for the issue of a new exploitation suitability certificate shall be submitted by the owner of a port, port terminal or specialized port facility. In case of changes in the port activities and services performed or the port operators and in case of expiry of the temporary exploitation suitability certificate, the application shall be submitted by the relevant port operator.

In all cases, the application for the issuance of an exploitation suitability certificate shall be submitted to the relevant EAMA Territorial Directorate in whose area the port, port terminal or specialized port facility is located. On the applications submitted, the Director of the relevant EAMA Territorial Directorate shall appoint a committee to verify their regularity. The work of the commission ends with a draft report of the Executive Director of EAMA to the Minister of Transport, Information Technologies and Communications containing a proposal for issuing an exploitation suitability certificate. The Executive Director of EAMA shall submit

to the Minister of Transport the report, the draft of the exploitation suitability certificate and the entire file on the submitted application. Ordinance No. 9 provides that the certificate of exploitation suitability of a port, port terminal or specialized port facility shall be issued within one month of the submission of an application without any deficiencies.

Ordinance No. 9 sets the terms of validity of the exploitation suitability certificates, depending on the type of port and the specialized port facilities, as follows:

✚ a certificate of exploitation suitability of a terminal from a **port for public transport of national importance** is issued for a period:

- equal to the term of the concession contract;
- up to the granting on a concession - in cases of early termination of a concession contract and under a contract with a port state operator for the provision of port services.

✚ - an exploitation suitability certificate of a **port for public transport of regional importance** or a terminal at such a port shall be issued for a period of:

- 35 years - where port and cargo handling and mail handling and / or passenger handling operations are carried out by the owner of the port (terminal);
- equal to the duration of the contract concluded between the terminal owner and the port operator, which has gained access to the market for port and freight handling and mail and / or passenger handling services.

✚ a certificate of exploitation suitability of a **zone** in a port for public transport of **national importance**, which according to its purpose corresponds to the characteristics of the ports under Art. 107 - 109 MSIWPRBA shall be issued for a term:

- up to granting a concession when there is a contract with a port state operator for the provision of port services;
- equal to the term of the concession contract;
- 35 years - when maritime-technical port activities and services for which the use of port territory and / or port facilities **is not** required are provided by BPICo.

✚ a certificate of exploitation suitability of a **zone** in a public transport port of **regional importance**, which according to its purpose corresponds to the characteristics of the ports under Art. 107 - 109 MSIWPRBA shall be issued for a term:

- 35 years - when maritime-technical port activities and services for which the use of port territory and / or port facilities **is not** required are provided by the port owner;
- equal to the term of the contract concluded between the port owner and the port operator with granted access to the market for maritime-technical port activities and services that do not require the use of port territory and / or port facilities.

✚ the certificate of exploitation suitability of a port under Art. 107 - 109 MSIWPRBA is issued for a period:

- 35 years - when maritime-technical port activities and services for which the use of port territory and / or port facilities **is not** required are provided by the port owner;
- equal to the duration of the contract concluded between the port owner and the port operator that has been granted access to the market for maritime-technical port activities and services for which port and / or port facilities are not required;

✚ the certificate of exploitation suitability of a specialized port facility is issued for a period of 35 years.

Ordinance 9 introduces a general ban on the entry, berthing, stay and servicing of ships in ports or port terminals which do not have a certificate of exploitation suitability or their operation is temporarily discontinued in accordance with the established procedure.

Control of compliance with exploitation suitability requirements

Art. 96, Article 2 of the MSIWPRBA gives competence to the Minister of Transport, Information Technologies and Communications, when there are certain discrepancies, to temporarily suspend the operation of a port by issuing an order.

Requirement for a special permit under water regulations with regard to the construction, amendment and operation of ports

According to Art. 46, para. 1, item 1 p. e) of the Water Act, for construction of new, reconstruction or modernization of existing hydro-technical port facilities, a permit is required for the use of a water site issued by the Minister of Environment and Water. Acquiring such a permit is a necessary condition for the approval of a project and the issuance of a building permit.

In Art. 151, para. 6, letter "e" of the Water Act is provided that the Minister of Environment and Waters shall participate in the National Expert Council on Spatial Planning and Regional Policy when examining investment projects for the construction, reconstruction and rehabilitation of ports.

In the Regional, Municipal or District Councils for Spatial Planning which analyze spatial plans for territories involving ports, the director of the Basin Directorate shall participate by submitting a written statement of the Basin Directorate.

For the use of a water site without a corresponding permit an administrative-penal liability is provided.

Specific requirement to carry out an environmental (impact) assessment (EIA) for port construction or amendment projects

Environmental Protection Act (EPA) provides for an environmental assessment and environmental impact assessment to be carried out on plans, programs and investment proposals for construction, activities and technologies, or modifications or extensions thereof, where significant impacts on environment is possible to occur. The assessment of the



environmental impact of the investment proposals for construction works is combined with the procedures for preparation and approval of the investment proposal under a special law.

According to Art. 85, para. 1 of the EPA, the environmental assessment is mandatory for plans and programs in a number of areas, including transport, when these plans and programs outline the framework for the future development of investment proposals for:

- inland waterways and ports serving inland waterway vessels which allow entering of vessels with a displacement of more than 1350 tons.
- commercial ports, loading/unloading terminals which have connection with the hinterland, and ports for public transport (excluding ferry terminals) that can accommodate ships with a displacement of more than 1350 tons.
- construction of ports and port facilities, including fishing ports.

In Art. 92 p.1 of the EPA is provided for a mandatory environmental impact assessment of investment proposals for construction, activities and technologies for:

- inland waterways and ports serving inland waterway vessels which allow entering of vessels with a displacement of more than 1350 tons.
- commercial ports, loading/ unloading terminals with access to the hinterland, and ports for public transport (excluding ferry terminals) that can accommodate ships with a displacement of more than 1350 tons.

Investment proposals for the construction of all other ports and port facilities are subject to an assessment of the need for an environmental impact assessment. The need for an environmental impact assessment shall be assessed by the Director of the relevant Regional Inspection on the Environment and Waters on a case-by-case basis and according to the criteria specified in the EPA, which shall pronounce with a motivated decision.

The Minister of Environment and Waters is the competent authority for decision on the environmental impact assessment for investment proposals, extensions or amendments to sites which are designated as sites of national importance by an act of the Council of Ministers.

For non-compliance, the provisions of the EPA provide for administrative-penal liability.

Relevant public procurement legislation for special regulations with regard to port construction or amendment projects

The Public Procurement Act applies to all entities designated as contracting authorities of public procurements. The exploitation of a geographical area by virtue of special or exclusive rights, in particular ensuring the use of seaports or inland ports or other terminals, gives the status of a sectoral contracting authority.

In this sense, the assignment of investment design and construction of ports as well as other investment initiatives from the side of BPICo., the municipality or a state port operator shall be carried out in accordance with the Public Procurement Act.

Economic necessity check for construction and operation of a port



In the event that a new port for public transport is to be constructed by a decision of the Minister of Transport, Information Technologies and Communications, the decision shall be preceded by a pre-investment study and elaboration of a master plan - Art. 112a of the MSIWPRBA.

In Art. 5 of Ordinance No. 10 of 31.03.2014 on the scope and content, the elaboration, approval and amendment of the master plans of the ports for public transport is defined the minimum content of the pre-investment study which includes:

- analysis of the existing situation;
- analysis of the terrain, geological, hydrological and climatic conditions, based on the necessary surveys and background information;
- marketing analysis;
- technical and technological analysis;
- environmental analysis.

For each of the analyzes the scope and content are determined. The pre-investment study is the basis for drafting a Master Plan. The master plan of a port for public transport is adopted by an interdepartmental council appointed by the Minister of Transport. Representatives of the municipalities and the districts of the port for public transport and experts from the Ministry of Finance, the Ministry of Defense, the Ministry of the Interior and the Ministry of Environment and Waters shall participate in this Council, and depending on the specifics of the port concerned, the council may include representatives of other interested bodies.

In the event that the investment initiative for the construction of a new port for public transport belongs to a natural or legal person, they shall submit an application to EAMA. The application must include:

- technological and financial justification of the investment initiative;
- an investment program and data on the financial security of its realization;
- individualization of the territory on which the port can be constructed, together with preliminary studies on the availability of appropriate geographic, hydrological, hydrogeological and other conditions and the possibilities for its connection to the road network and the railway infrastructure;
- a draft master plan, respectively modification of an existing master plan - upon extension of an existing port;
- study on the traffic of the type of cargo concerned;
- the necessity and the amount of public investment for the expropriation of landed properties, for the construction of road and / or rail links to the aquatory or individual zones thereof, in parts of the overall technical infrastructure of the port, and in cases where ships from international navigation will be served - and a border crossing zone.



EAMA analyzes the investment initiative presented in the application and the possibility of investing the necessary public investments for which it presents an opinion of the Minister of Transport.

The MSIWPRBA provides for the possibility of awarding a concession for construction to entrust the construction or extension of the port in connection with the provision of the port services requested by the investment intention.

Expropriation

In Art. 209 of the Spatial Development Act is introduced a special order for the expropriation of parts of landed properties for extension of the elements of the transport infrastructure - state property, including ports.

Expropriation shall be effected by an order of the regional governor, on the basis of an assessment made by licensed specialists, and shall determine the amount of monetary compensation at market prices and the date on which the expropriated part will be seized. Expropriation is the only foreseeable opportunity to build objects on the transport infrastructure.

Public-private partnerships for port investment projects

In the paragraph for economic necessity check the only form of public-private partnership is described for the process of investment design of ports - concession for construction.

In case a concession procedure is finalized, the concession contract is concluded with the participant chosen to be a concessionaire or in the cases acceptable under the Concessions Act with a project company or with a public-private company.

A project company is established for the purpose of concluding the contract for the concession considered, in the form of a commercial company. A requirement for the formation of a project company may be set by the Grantor as a condition when the participant designated as Concessionaire is a group of economic operators. All economic operators participating in the project company are jointly responsible with the project company for the performance of the contract.

A public-private company is established for the purpose of concluding a concession contract for a period up till termination of the contract in the form of a capital commercial company, in which partners or shareholders are the participant designated as concessionaire - "private partner" and the state, one or more municipalities and / or a public undertaking designated by the grantor - "public partner". The public-private partnership is managed by the private partner and the public partner, regardless of its share in the capital, has a blocking quota in taking certain decisions.

Termination of the operation of ports or the demolition of ports



With Art. 96, para. 2 of the MSIWPRBA, the Minister of Transport has the power to suspend the operation of a port **temporarily** when:

- in technical or organizational terms, the port does not meet the requirements for the safe reception, servicing and handling of ships, passengers, cargo and mail;
- port operations and services which are not included in the registration of the port or terminal are carried out;
- the right of the port operator for access to the market for port services is terminated;
- registered port services and activities are not provided for 12 months at the port;
- the validity of the Certificate for exploitation suitability has expired and the owner has not taken action to issue a new certificate within one month.

The Minister of Transport has the option, with an order, to temporarily limit the operation of a port in the cases referred to in Art. 96, para. 3 of the MSIWPRBA:

- when in technical or organizational sense, the port does not meet the established requirements for the safe execution of a particular type of port service or activity registered;
- when a terminal, from a technical or organizational point of view, does not meet the requirements for the safe reception, handling and servicing of ships, passengers, cargo and mail;
- when port services are carried out at a port terminal beyond those specified in the port or terminal registration;
- when the validity of the terminal's exploitation suitability certificate has expired and for a period of one month the owner of the port or the port operator has not taken action to issue a new certificate;
- when individual port facilities do not technically meet the established operational suitability requirements of the port.

The control over the fulfillment of the exploitation suitability requirements is assigned to EAMA. Proposals to the Minister of Transport for the temporary limitation or temporary suspension of the operation of a port, port terminal or specialized port facility shall be made by the Executive Director of EAMA when an audit is carried out in compliance with Art. 96 of the MSIWPRBA.

For non-observance of the provisions of Ordinance No. 9 there is also an administrative penal responsibility.

There are **no specific** legal provisions on the **irrevocable termination** of exploitation or **destruction** of ports.

3.5 Port financing: Rules & Practices

This section shall deal with the financial sources available for developing port infrastructure and superstructure as well as maintenance needed in the Danube ports. In this respect financing is used as a general term which includes both public and private sources, while the



term funding refers to government subsidies or other public funds available via national or European programs.

Current practice for investment financing in ports is focused on:

1. Investments made by BPICo. in ports for public transport of national importance;
2. Investments made by port operators – private companies concessionaires or companies with state ownership of the capital;
3. Investments made by private owners of private terminals.

Under item 1.: For each calendar year BPICo. elaborates and fulfils annual program for building, reconstruction, rehabilitation, maintenance, development and management of the infrastructure of the ports for public transport of national importance.

Financial means for implementation of the program are provided in accordance with the regulations of art. 115c, para. 1 of the MSIWPRBA by:

- ✓ port dues as per art. 103 c, para. 1 of the MSIWPRBA;
- ✓ incomes from own activities;
- ✓ interest on deposits of own funds and overdue payments;
- ✓ state budget;
- ✓ activities related to the realization of the object of activity as per art. 115m, para. 1 of the MSIWPRBA;
- ✓ donations;
- ✓ funds from EU programs.

The funds forming the budget of BPICo. are spent according to the provisions of the law:

- for carrying out the object of activity of the BPICo. under Art. 115m, para. 1 of the MSIWPRBA;
- to ensure the safety of navigation in the canals and waterways of the ports for public transport of national importance;
- to support the BPICo.

Under item 2.: When granting a port terminal under concession, the concessionaire company concludes a contract with the Minister of Transport. The contract shall enter into force subject to the following conditions being met within two months of its signature:

- a) The concessionaire has paid the concession grantor a one-off concession payment;
- b) The concessionaire has submitted to the grantor bank guarantees.

The contract describes in details the property liabilities of the concessionaire, which usually include the following:

- ✓ management and maintenance of port services for the duration of the contract, and the port terminal - in exploitation suitability;
- ✓ to carry out partial expansion, partial reconstruction, partial rehabilitation and repair of the concession site;

- ✓ not to employ subcontractors for the provision of port services;
- ✓ to carry out the investments and to execute the Investment Program under the conditions, according to the order and within the terms specified in the concession contract;
- ✓ on the basis of its Investment Program to prepare and present for approval by the Grantor annual investment programs for the concession object within the terms specified in the concession contract;
- ✓ In accordance with its offer, if necessary, ensure that a master plan and a modification of the detailed development plan for the port terminal are carried out at its own expense;
- ✓ to coordinate in advance and obtain approval from the grantor for improvements on the concession object which are not foreseen in the respective Annual Investment Program.
- ✓ to make concession payments in the amount, under the terms and conditions and within the terms set in the concession contract;
- ✓ to insure the object of the concession for its own account in favor of the grantor (at the date of signing the contract, the insurance is in favor of the BPICo.) for each year of the term of the contract in accordance with the effective legislation;
- ✓ to carry out and finance all the actions necessary to ensure safety and security, environment protection, ensure healthy and safe working conditions and train the personnel involved in the concession activities.
- ✓ to use the object of the concession in accordance with the good engineering and operational practice as a good trader in accordance with the current legislation;
- ✓ to maintain bank guarantees for the good performance of the contract for the duration of the contract;
- ✓ upon termination of the concession contract, to transfer back to the grantor the concession object in exploitation suitability under conditions, within the terms and in the order specified in the concession contract;
- ✓ to receive an exploitation suitability certificate as well as to comply with the exploitation suitability requirements of the port terminal, provide conditions for its certification, and is entered in the register of port operators under the MSIWPRBA for the entire duration of the contract.

Until granted on concession, port terminals are operated by port operators with **100% state ownership**. These operators have also concluded contracts with the Minister of Transport pursuant to § 74 of the Transitional Final Provisions of the MSIWPRBA. By their nature, these operators are not private companies, but they are commercial companies with their own management, commercial and financial policy.

Contractual obligations typically include:



- the provision by the operator of port services under Art. 116 para. (1) of the MSIWPRBA at its own expense and at its own risk, while maintaining the commercial, multipurpose and public character of a port for public transport of national importance;
- the operator undertakes to carry out, in his own name and at the expense of BPICo., the maintenance, repair and rehabilitation of the provided public state property for use;
- the operator annually prepares and implements an investment program for maintenance, repair and rehabilitation;
- the operator has the right, through BPICo., and in compliance with the legal procedure to propose to the Minister of Transport to decide on expansion, reconstruction and modernization of the existing port for public transport of national importance.
- for the use of the public state property provided by contract, the operator owes an annual remuneration to the BPICo., which is related to the cargo turnover and passengers passed through the port. The remuneration is covered by the value of the executed investment program of the operator.

Under point 3.: Owners of most regional ports are **private companies**. They decide when and how much to invest in their ports without having an explicit legal obligation to regulate them. Private investors are obliged to comply with the regulatory provisions listed above in this report. Their activity is outside the scope of the BPICo. and therefore not much public information is available for study.

3.5.1 Rules and procedures for public funding of port investments

The main program for public financing of transport projects in Bulgaria, including ports, is the **Operational Program Transport and Transport Infrastructure (OPTTI)**.

Beneficiaries under the OPTTI are defined in advance. These are: National Railway Infrastructure Company (NRIC), Road Infrastructure Agency, Metropolitan EAD, Bulgarian Ports Infrastructure Company, the Executive agency for exploration and maintenance of the Danube River, the Public Works and Projects Directorate, in the Ministry of Regional Development and Directorate "Coordination of Programs and Projects" at the Ministry of Transport, Information Technologies and Communications, Managing Authority of OP "Transport".

In view of the updated information published on the OPTTI website (<http://www.optransport.bg>), the indicative annual work program is prepared in accordance with Art. 26, para. 1 of Decree № 162 of the Council of Ministers of 2016 laying down detailed rules for the award of grants for the programs financed by the European Structural and Investment Funds for the period 2014-2020.

Beneficiaries initiate and implement individual projects and receive public funds. Each of the first four beneficiaries has an indicative list of projects for implementation. The grant is distributed at a rate of 85% from the European Funds (ERDF or CF) and 15% of national co-financing, depending on the project, the eligible costs calculated in the Cost-Benefit Analysis and the applicability of the legislation on State aid.



Projects in the field of ports for 2014-2020 are set under Priority Axis 4 "Innovation in Management and Services - implementation of modernized traffic management infrastructure, improvement of transport safety and security" and focus on:

- Improvement of transport management through the introduction of innovative systems in navigation and modernization and construction of waste reception and handling facilities in the Bulgarian ports - Beneficiary BPICo. Total amount of the grant 15 227 286,58 BGN
- Improvement of the conditions for navigation on the Danube River - Beneficiary EAEMDR. Total amount of the grant 20 585 663,00 BGN
- Improving transport management through the introduction of innovative systems for road traffic and rail traffic management and information systems for navigation - beneficiaries of Road Infrastructure Agency, NRIC, EAMA, BPICo. Total grant amount: 93 890 959,22 BGN

Priority Axis 5 "Technical Assistance" is also used to finance projects in the port area. The applicable European port investment financing programs are:

- European Regional Development Fund (through OPTTI);
- The Connecting Europe Facility,
- the European Maritime and Fisheries Fund,
- the European Social Fund,
- The Cohesion Fund,
- the European Agricultural Fund for Rural Development

4 Port Authority/Administration

Ports usually have a governing body referred to as the Port Authority, Port Management or Port Administration. "Port Authority" is used widely to indicate any of these three terms.

Therefore, it makes sense to start this section with definitions of the terms:

- port administration
- port authority
- port management

and in contrary to the "port authority" the "port operator" provides logistics services and can be either private or public.

This chapter shall clarify aspects dealing with those responsible for managing Danube ports and their duties in line with the legal framework in force. The distinction between port owners, port administration/port authority/ port managers and port operators shall be clearly made in those countries where this is the case. The analysis of the legal framework will also highlight the services that have to be provided in the Danube ports as well as the applicable fees, how they are calculated, updated and applied.

Definition of "port administration", "port authority" and "port management"



In the current Bulgarian legislation **there are no definitions** of "port administration", "port authority" and "port management".

As already stated in point 2.1. **Regulatory framework, description of "Competent Port Authorities"** of this report, in Bulgaria there is not one and single institution to control and manage port activities. Functions and responsibilities in this regard are divided between the **Ministry of Transport, Information Technologies and Communications, and the bodies in its structure - EAMA, BPICo. and EAEMDR.**

These major state institutions directly participate in the management and control of the sea and river ports in Bulgaria. Some other authorities have also direct connection to port operation, such as: Ministry of regional development and public works, Ministry of finance (Customs), Ministry of interior (Firefighting, civil defense, etc.), Ministry of Environment and Waters (Basin Directorates, Regional environment and water inspections), etc.

With regard to management of the ports of national importance port operators also bear obligations under the existing concession contracts or contracts under § 74 of the MSIWPRBA.

4.1 Port administrations & responsibilities

Control for compliance with the legislative regulations in the ports is carried out by the Ministry of Transport, Information Technologies and Communications.

Executive agency Maritime administration (EAMA) is a legal entity on budget support to the Ministry of transport, information technology and communications, a second level user of budget credits, based in Sofia with regional offices in Bourgas, Varna, Lom and Ruse. In accordance to art. 115k of the MSIWPRBA controls the port activity in Bulgaria.

According to Art. 115k, para. 2 of the MSIWPRBA, EAMA performs the regulatory and control functions of the State in the area of ports.

Bulgarian Ports Infrastructure Company (BPICo.) performs the management of the port infrastructure and other long-term assets of ports for public transport of national importance. With Art. 115m, para. 1, item 9 of MSIWPRBA BPICo. is determined to assist the Minister of Transport, Information Technologies and Communications in carrying out the control over the implementation of the concession contracts and the contracts with the sole commercial companies for carrying out port services and related activities. Much of the functions and obligations that are part of those of port authority in most European countries are entrusted to BPICo. Traffic management services and the provision of navigation and maintenance of service systems are included in the subject matter of the Company.

The Executive agency for exploration and maintenance of the Danube river (EAEMDR) is a specialized administration, performing functions in accordance with the domestic and international law for the implementation of the international obligations of the Republic of Bulgaria on servicing, exploring and maintaining the conditions for navigation on the Danube river.



Competencies of the Ministry of Transport, Information Technologies and Communications:

MTITC is a legal entity on budget support. The Minister of Transport, Information Technologies and Communications is the central sole executive body for the implementation of the state policy in the field of transport.

As already noted, the decision to build a new port or terminal in a port of national importance, as well as the expansion of an existing port or terminal, is taken by the Minister of Transport on the basis of a national strategy for the development of ports approved by the Council of Ministers.

The preparation for the granting on concession is also within the competence of the Minister of Transport, on a proposal by the EAMA and the BPICo.

The management, control and regulation of all port activities is carried out by the Minister of Transport through EAMA and BPICo.

The Minister carries out the state policy and the state investment policy in the field of transport, allocates and controls the spending of funds from the state budget for transport, information technologies and communications, controls the activity of the persons who have received documents - licenses, permits, certificates, by him or by officials authorized by him.

Detailed obligations and responsibilities of the State in respect of the ports are laid down in the MSIWPRBA- Art. 92, 94, 95, 96, 103, 112 and in particular - Art. 115.

Competencies of the Executive agency Maritime administration (as listed on the website of the EAMA: www.marad.bg):

The status of EAMA is regulated by the Merchant Shipping Code - article 360, (1). The activity, structure, work organization and staff is specified in an Ordinance adopted by the Council of Ministers.

The Agency carries out administrative activities and services for the following functions:

- safety of navigation in the maritime and inland waterways of the Republic of Bulgaria;
- ensuring the liaison between the government and ships flying the Bulgarian flag;
- shall exercise control on the observation of shipping safety requirements by Bulgarian and foreign ships; the observation of the working and living conditions of seafarers; provision of services for traffic management and information of shipping maritime spaces, inland waterways, canals, ports in Bulgaria and other duly defined regions; the compliance with the quality requirements for marine fuels;
- the organization and coordination of search and rescue of people, vessels and aircraft in distress;



- the supervision and organization of the protection of the marine environment and the Danube River from pollution from ships;
- organization and conduction of examinations for competencies to seafarers;
- issues certificates of competency to seafarers;
- **Maintenance of registers of ships, seafarers, ports and port operators in the Republic of Bulgaria.**

The Agency carries out professional competence exams for the licensing of carriers for the carriage of goods on inland waterways.

Competencies of the Bulgarian Ports Infrastructure Company (www.bgports.bg)

State grants to Bulgarian Ports Infrastructure Company property – public and private state property, determined by the Council of Ministers for implementation of the object of activities.

BPICo. manages the port infrastructure of the ports for public transport of national importance in accordance with the Maritime Spaces, Internal Waterways and Ports of the Republic of Bulgaria Act. The object of activities of BPICo. includes:

- construction, reconstruction, rehabilitation and maintenance of the ports for public transport of national importance;
- maintenance of the existing and the building of new approach canals, port aquatories, sea and river depots for the disposal of dredging mass, breakwaters, protection facilities and other, servicing public transport ports of national importance;
- management of the property in ports for public transport of national importance;
- elaboration, maintenance and storage of the register containing data on the port infrastructure of public transport ports of national importance;
- assistance to the Minister of Transport, Information Technology and Communications in exercising control over the implementation of the concession contracts and the contracts with the single-shareholder commercial companies for performance of the port services and activities;
- responsibility for the preparation, implementation and maintenance of security plans for port areas which include a port for public transport of national importance;
- provision of access to ports for public transport;
- construction and maintenance of facilities servicing the system for monitoring of ship movements and information and the Bulgarian river information system;
- securing the navigation safety in the territorial sea, the internal sea waters, the canals and the port aquatory;

BPICo. performs port services in cases when the contract with port operator has been terminated before the term set. In this case BPICo. provides port services until concluding of a new contract in accordance to the procedure foreseen by the law.



4.2 Services provided by the port administrations

Port services are defined by the MSIWPRBA as commercial services provided in ports for public transport and performed by port operators.

The law divides the port services into the following categories:

- Marine-technical services - Pilotage, towage (pushing or towing), mooring, supply of ships with water, telephone and electricity; reception and treatment of waste - the result of shipping activity and others;
- handling of cargo and mail - loading, unloading, stiffing, storing, repackaging of different types of cargo, internal (terminal) cargo and mail transport and others;
- passenger services.

On the other hand, depending on the technology and organization needed for provision of port services, the law divides them into:

- services which do not require the use of port territory and / or port facilities;
- services requiring the use of port territory and / or port facilities.

MSIWPRBA refers to the Merchant Shipping Code concerning the regulation of the marine technical service - pilotage.

Ordinance No. 7 of 23.05.2001 on the order for visiting, maneuvering and stay of ships in ports and raids, loading and unloading, boarding and disembarkation of the crew, passengers or other persons, as well as for a ship-to-shore link (Ordinance No 7) contains the rules for the visiting of ships in ports, provision of link with the river bank and for loading and unloading.

In Art. 32, para. 1 of Ordinance No. 7 it is provided that the acceptance, handling, storage and dispatch of cargoes shall be carried out under a contract for port services between the port operator and the customer. A ban has been introduced, up till allowing free practice for physical contacts of persons on board of ships arriving from international voyage, with shore, including other individuals and vessels, as well as a corresponding ban following exit border control no physical contact shall be allowed between persons on board ships departing on international voyage, with the shore, including other individuals and vessels.

Art. 12, para. 1 of Ordinance No. 9 requires the territory of the port or the terminal to be appropriately fenced and equipped with technical means of guarding, and a check-in regime is established at the entry and exit points (including the service railway station).

4.3 Finance of services

Port services are paid by the official representatives of ship owners and cargo shippers. They may be ship agents, forwarders or direct cargo owners who, under a contract, have an obligation to pay for the services they use.

In technological sense, usually services are paid to suppliers (to port operators) by bank transfer and according to invoices issued for this purpose. Amounts due can be based both on



mandatory dues (eg tonnage and wharf dues levied by BPICo.) as well as prices and conditions negotiated on a market-based principle between users and port operators.

4.4 Port fees

The amount of the fees collected in the ports of public transport of national importance is determined by a decree of the Council of Ministers of the Republic of Bulgaria. The structure of port dues is determined by the MSIWPRBA. Cargoes and ships are only handled in ports for public transport. Port dues are payable by all ships (except military ones) visiting ports for public transport of national importance before their departure.

Port dues are collected from BPICo. and are spent to ensure access to ports for public transport of national importance, including the expenses for building and maintaining marine canals, external protective dikes, buoys, lighthouses, port infrastructure, maintenance of project depths in the aquatory to the boundary of the operational aquatory. BPICo. transfers to the Ministry of Defense the proportion of light dues proportional to maintained fires.

Fees for receiving and handling of waste are collected by BPICo. and are spent on the receipt and treatment of waste resulting from shipping activities

The main dues collected by BPICo. for river ports are:

- **Ship (tonnage) dues:** the amount is fixed for one visit of the ship in a port for public transport of national importance - for each vessel and depending on the type of ship;
- **Quay (linear) dues:** for use of a quay or pontoon in a port for public transport of national importance for loading and unloading from or on a ship - a linear quay due for each commenced ton of cargo.

The main fees collected by EAMA are:

- fees for auditing of ships;
- fees for issuing and certifying ship documents;
- fees for the issue and certification of personal documents and documents for seafarers' competence;
- Port or port terminal examination fees in connection with the issue or change of an Exploitation suitability certificate.
- Charges for the approval or certification of port operator's documentation (security plan, waste collection and treatment plan, etc.)

Port operators apply prices and conditions for the services they provide. The prices are collected for the performing of cargo handling services, storage in open and closed warehouses, pontoon stay, maneuvering services, winter shelter, machinery and equipment rental, administrative services, technical services.

As noted above, the amount of fees collected in ports for public transport of national importance is determined by a decree of the Council of Ministers of the Republic of Bulgaria.

The amount of the fees to be collected from BPICo. is established by the decision of the Council of Ministers in accordance with the "Tariff on port dues levied by Bulgarian Ports



Infrastructure Company". In addition, the Company carries out port services in the event that a contract with a port operator (concessionaire) has been terminated earlier. In this case, the BPICo. provides port services in the respective port until the conclusion of a new contract in accordance with the law, and according to the "Price list of the services offered by BPICo." and "Prices and terms for the port services performed at the Danube terminals maintained by BPICo.

The fees collected by EAMA are determined according to "Tariff No 5 on the fees collected in the system of the Ministry of Transport, Information Technology and Communications" and Tariff no. 3 for fees collected for consular service in the system of the Ministry of foreign affairs under the State tax act.

The aforementioned documents are published on the website of the BPICo. and EAMA and are publicly accessible to all port users, they are also subject to appeal by court order.

There is no current practice for regular updating of the amount of fees collected in ports, with their size limits being set for all ports in total and not according to the commercial strategy and investment plans of each port.

There is no special procedure on complaints with regard to port services and prices. Complaints are analyzed and solved on the basis of the good commercial cooperation between parties or - if this is not the case - in the court.

4.5 Port bylaws

For the scope of the current document bylaws shall refer to the rules or laws established by an organization or community to regulate itself, as allowed or provided for by some higher authority.

Port bylaws lay down rules in respect of order, safety and environment in the port and its surroundings and the quality of the services in the port. Port bylaws can also be described as port regulations.

Art. 288 of the Commerce Act regulates the general principle adopted in Bulgarian law that commercial rules and customs as a source of law are applied in relations between traders, and in the case of differences in commercial rules and customs, the customs of the place of performance apply.

In particular, the relations between the port operator and the users of the port services with § 3 of the Supplementary Provisions of Ordinance No 7 provide for all unsettled cases to apply the rules and customs of the respective ports. In § 1, item 5 of the same regulation, "Port customs" are defined as a set of rules, norms and long-established practices applicable in the respective port. The practice in Danube ports of the Republic of Bulgaria is *The Rules and Customs* of the respective port to be issued in writing and be endorsed by EAMA.

As a special territory, access to ports is carried out under a check-in regime determined by the port operator.

The port operator defines with internal acts the port's working time, the operating technology, the cargo handling norms, and others.



4.5.1 Entity issuing the port bylaws

Port operators, whether concessionaires, private owners or state-owned enterprises, are responsible for the issue of port regulations / bylaws.

Updating / revising port regulations is made in the event of a change in the organization of the activity of the port operator or change of port operator. Usually after elaboration of relevant documents, they are approved by the Board of Directors / Managing board.

The rules and customs of the ports are also undergoing a coordination procedure with the EA Maritime Administration.

4.5.2 Area of application of bylaws

The rules and customs of the operators are applied in the terminals within the scope of their management and are binding for all their clients and counterparties.

4.5.3 Environmental requirements included in the port bylaws

Usually, there are general provisions settling, among others, the requirement for the pollution prevention on the territory and the aquatory of the port terminal.

Quote: (3) *The Customer guarantees and bears responsibility, unless otherwise agreed, that any cargo or ship or any means of transport which it delivers or sends to the port shall meet the following conditions:*

A. is not dangerous or will not become dangerous in the form in which it is delivered and / or when it is in the port territory;

B. is not poisonous and will not become a source of release of harmful gas, dust, liquid or radiation;

C. does not endanger or does not threaten to destruct or harm humans or goods or equipment, or the aquatory, or the port territory;

D. is correctly packed and complies with Bulgarian and international standards;

E. is properly marked - in case it is dangerous, it should be marked with the relevant signs as per the International Code for Dangerous Goods and accompanied by instructions for the special handling requirements;

F. does not contain narcotic substances, smuggling, pornography and other prohibited goods.

...

Article 35. Disposal of any solid and liquid wastes, including petroleum and other flammable residues, fecal and waste waters in the aquatory and the port area, is prohibited.

...

Art.37. Legal entities and individuals using part of the port territory under certain conditions are responsible for the sanitary and ecological condition not only of the coastal part but also of the relevant aquatory.

Source: http://www.portinvest.bg/rules_and_traditions_part2.php#doctop



4.6 Rules and Procedures regarding the Harbormaster

The Harbormaster is a representative of the riparian state administration whose figure is known in marine countries all over the world. Its position and functions vary from country to country and their ports according to their intended purpose. In general, the harbormaster supervises compliance with international rules and local laws and customs related to navigation safety, the protection of human life, the protection of the marine environment from pollution and the order in the port area.

Under the national laws of riparian states, in accordance with the international regulations in force, the harbormaster has a range of powers with regard to the authorization or refusal of entry and exit from the port, detention of ships, the transport of dangerous goods, places of refuge for ships in distress, organizing search and rescue operations, and more.

In § 2, item 20 of the Supplementary Provisions of the MSIWPRBA for "harbormaster" is given a legal definition as an official entitled to issue mandatory orders and to bear responsibility for protection of the environment from pollution from ships and for ensuring the safety of navigation and human life in an area designated by the Minister of Transport, Information Technology and Communications.

A characteristic feature of the Bulgarian legislation is the combination of the position of Director of the Regional Maritime Administration Directorate with the harbormaster, even though the management of the ship traffic is entrusted to the BPICo.

According to Art. 361a of the Merchant Shipping Code: *In order to perform their capacities under this Code the Executive Director of the Executive Agency "Maritime Administration" and the directors of the Regional Directorates – harbormasters, shall be seafarers with "Master Foreign-Going" legal capacity.*

In Art. 21, para. Article 1 of the Regulations of EAMA is provided that the Agency shall exercise its territorial competence in the field of ports, ensure the safety and security of navigation and environmental protection against pollution by ships through directorates as follows:

- Directorate "Maritime Administration - Varna" with an area, locked between the geographic parallel from the point of the land border between Bulgaria and Romania and that of Cape Emine;
- Directorate "Maritime Administration - Bourgas" with an area, locked between the geographic parallel from the point of Cape Emine and that of the Bulgarian-Turkish border;
- Directorate "River Supervision – Ruse" with an area defined by kilometer 374,100 (the Bulgarian-Romanian border) to km 645 from the Bulgarian section of the Danube;
- Directorate "River Supervision - Lom" with an area determined from kilometer 645 to km 845,650 (the Bulgarian-Serbian border) from the Bulgarian section of the Danube River.



In Art. 26 of the same Regulations directors of the Territorial Directorates are entrusted to carry out the functions of harbormaster for the ports within the territorial scope of the Directorate concerned, and the powers exercised as harbormaster are defined as follows:

- order detention, prohibition of the departure or arrest of ships, as well as cargo retention under the conditions and by the order of the MSC and MSIWPRBA;
- order shifting of non-navigable ships as well as ships in respect of which detention, prohibition for departure or arrest has been ordered;
- issue orders announcing the safe drafting and the maximum permitted height above the waterline of the ships (aircraft) during their passage through the navigation channels and in the aquatories of the ports, in the ports under Art. 111a, para. 2 or under Art. 111b, para. 2 or para. 3 MSIWPRBA, as well as in the aquatories of the hiding places for fishing vessels and the winter shelters.
- order the carrying out of measurements of the depths in the aquatories of the ports, in the aquatories where the ports under Art. 111a, para. 2 or under Art. 111b, para. 2 or 3 MSIWPRBA, as well as in the aquatory of the hiding place for fishing vessels and the winter shelters;
- approve the lashing schemes for floating hydro-technical port facilities;
- guide activities for combating ship-source pollution in the aquatory of the port concerned;
- guide activities to assist ships in distress in the aquatory of the port concerned;
- coordinate the technological cards for the handling of hazardous and / or polluting goods and solid bulk cargoes, as well as the changes in them;
- coordinate security assessments and security rules for ports to which Chapter Eight of the Ordinance on Conditions and Procedures for Ensuring the Security of Ships, Ports and Port Areas applies;
- allow the holding of regattas, rallies and other competitions in inland sea waters, in the territorial sea and in inland waterways;
- coordinate the location and boundaries of the areas for providing water-entertainment services.

With regulation № 1 of 31.01.2001 on the conditions and procedure for conducting pilot activities in the Republic of Bulgaria has been entrusted to the master of the port to exercise control over the observance of the provisions for conducting pilot activity including imposing penalties under the order of the MSC, to pilots or dispatchers of the pilot organizations, in case of violations.

The harbormaster has been given the right to issue instructions to the port concerned on the application of Ordinance No 7 of 23.05.2001 on the procedure for visiting, manoeuvring and



stay of ships in ports and raids, for loading and unloading, boarding and disembarkation of the crew, passengers or other persons, as well as the connection of the ship with the coast - § 4 of the Transitional and final provisions of this Ordinance.

Art. 378, para. 1 of the MSC provides for administrative punishment for a captain or crew member of a ship who violates the harbormaster mandatory orders related to ships.

5 Rules and regulations to become a port operator

Article 117 of the MSIWPRBA requires the port services in the public transport ports to be carried out by specialized port operators owning or hiring qualified personnel and the necessary technical means for carrying out the respective service. The entities which have acquired the status of a port operator in the appropriate order shall be entered in the register of port operators. The registration in the register shall be carried out by EAMA under the conditions and by the order of Ordinance № 18 of 3.12.2004 for the registration of the port operators in the Republic of Bulgaria and shall be a condition for carrying out port services.

The right to provide port services in ports for public transport is defined by Art. 117a of the MSIWPRBA, as access to the port services market.

Access to the market for port services requiring the use of port territory and / or port facilities in ports for public transport of national importance shall be granted by concession.

Port operators with the right to provide port services for which the use of port territory and / or port facilities is necessary in ports for public transport of regional importance are the owners or entities who have concluded a contract with them.

Maritime-technical port services for the performance of which are required the use of port territory and / or port facilities in the ports under Art. 107 - 109 of the MSIWPRBA, shall be provided by the owners or by entities having concluded a contract with them.

Access to the market for port services which do not require the use of port and / or port facilities is acquired by entering the Port Operators Register.

Sole-owned commercial companies with state property that have concluded contracts for carrying out port services and port related activities have the right to carry out all port services. Their contracts are limited up to the conclusion of a contract for the provision of port services or concession with operator which has won competition in accordance with the law.

BPICo. is authorized to provide port services for handling cargo, mail and passengers in cases of early termination of a contract with a port operator until the conclusion of a new contract.

Operators in ports for public transport of national importance who will carry out port services for the performance of which is required the use of port territory and / or port facilities shall



be entered in the register of the port operators after conclusion of a contract under § 74, art. (3) of the MSIWPRBA for the provision of port services or after concession has been granted.

The register of operators in ports for public transport of regional importance shall include the owners of the port or the persons who have concluded a port service contract with them.

In the Register of Port Operators with the right to provide port services for which port and / or port facilities are not required, except for the pilotage service in one or more ports an entity shall be entered which is a commercial company with registered office in the Republic of Bulgaria or in another Member State of the European Union and meets the requirements.

In order to be recorded in the register, port operators shall submit an application to the Director of the relevant territorial directorate of the Executive Agency "Maritime Administration", to which there are attached:

- a registration certificate under the national law of the Member State of the European Union where it is established when the port operator is based in another Member State of the European Union;
- a document permitting the port operator to carry out port services when the entity is not the owner of the port;
- certificates from the relevant competent authorities that the port operator does not have any unpaid tax or social security contributions under the legislation of the country in which it is established,
- certificates issued by the competent authority that the trader - a port operator registered under the legislation of another Member State of the European Union is not in liquidation, is not in liquidation procedure, is not in insolvency proceedings or is not declared in insolvency or has any similar procedures as per their national legislation;
- document for paid state fee.

Entries in the register of port operators shall be made by officials designated by the Director of the relevant EAMA Territorial Directorate. Registration shall be made within 7 days of submission of the application. In case of factual and legal complexity, the entry is made within 14 days of the filing of the application and when it is necessary to gather evidence of essential circumstances or to allow other citizens and organizations to defend themselves, the entry and issuance of the certificate is done within one month of commencement of proceedings. The official shall record the date and time of the entry, the name of the person, and shall be signed.

The Executive Director of EAMA may revoke the registration certificate of the port operator and remove it from the register at:

- termination of the contract granting access to the port services market;
- termination of the concession granted;
- termination or transformation of the trader - operator;
- declaring the trader in insolvency or in liquidation;
- if an operator ceases to meet any of the requirements.



Revoke of the registration certificate deprives the operator of the right to provide port services.

Relevant public procurement legislation

In the current Public Procurement Act (PPA), the "exploitation of a geographical area" is defined as a sectoral activity. Activities to ensure the use of seaports or inland ports or other terminals are defined as geographic area exploitation. The performance of a sectoral activity under certain prerequisites renders the quality of the contracting authority under the PPA of the entity performing it. In Art. 5, para. 4 of the PPA, as sectoral entities are defined:

- representatives of public companies and their associations when carrying out one or more sectoral activities;
- representatives of traders or other persons who are not public enterprises when, on the basis of special or exclusive rights, when they carry out one or more sectoral activities;

The PPA has given a legal definition of a "public company", which is any company over which public contracting authorities may exercise a dominant influence. A dominant influence by a public contracting authority is presumed in any of the following cases in which the contracting authority, directly or indirectly:

- (a) owns the majority of the company's registered capital;
- (b) controls the majority of the votes related to the shares issued by the company;
- (c) may appoint more than half of the members of the management or supervisory body of the company.

According to the legal definition, "Special or exclusive rights" are rights granted by a competent authority by virtue of a law, regulation or administrative act under which the pursuit of sectoral activities for one or more entities is maintained, thereby seriously affecting the possibility of other entities to carry out such activity.

A legal exception is also provided for rights which have been granted through a procedure whereby sufficient publicity has been provided and which have been provided through a procedure under the Public Procurement Act or the Concessions Act or the Underground Natural Resources Act, through procedures under other legal acts of the European Union that provide sufficient prior transparency for the granting of authorizations on the basis of objective criteria.

Restrictions or limitations as to who can operate a port in your jurisdiction?

In section **5. Rules and regulations to become a port operator** there is detailed information on the rules which entity has the right to become a port operator. Respective regulations of the PPA are applied independent of the type of the operator as long as public procurement procedure is required for the investment fulfilled.

Obligation to contract/ public service obligation for the port operator

Port services are defined by law as being of a commercial nature and there is no obligation to negotiate a public service.

Specific rules for the operation of privately owned ports

The operation of private ports is subject to the general rules regulating ports in the Republic of Bulgaria.

6 Rules and regulations for using port locations for economic activities other than port services

This chapter will address the legal framework applicable to those economic entities that are interested in carrying out economic activities that are not related to port services. The rules and procedures applied will be explained in a comprehensive manner along with the entities involved in each of the stages of these procedures. The port area can be used to carry out activities that are not only related to port operations and services. It is the responsibility of the port administration to manage the port land and to carry out procedures that result in the concession / lease of the port land for different purposes. Since there are specific authorities that have responsibilities according to the legislation applicable to ports we are interested in all types of procurement/ concession procedures they have power over as long as they are related to the port land. Consequently, we also want to know additional details about what it entails starting new types of economic activities in ports, other than those related to port services.

Under Article 116a of the MSIWPRBA, there is possibility provided that in ports for public transport, except port services, additional services may be performed. There is an explicit limitation that the accompanying activities do not interfere with the port services.

Additional activities are defined in § 2, item 34 of the Supplementary Provisions of the MSIWPRBA - **"Accompanying activities" shall mean activities ensuring the provision of the port services, as well as activities corresponding to the production and commercial objectives of enterprises whose location in the port is justified by their relation to the port traffic, the volume of the sea or river traffic they generate, or the services they provide to users.**

Accompanying activities in ports for public transport of national significance may be carried out by an entity which has been granted a service concession for the provision of a port service for handling cargo and mail and / or for the processing of passengers and / or maritime technical port services, for the performance of which is required the use of port territory and / or port facilities at one or more terminals of a port for public transport of national importance. In these cases, the performance of the accompanying activity is included in the object of the concession contract and the incomes from it are included in the value of the concession.

Except in the case of carrying out accompanying activities as part of a concession granted for the provision of port service for handling cargo and mail and / or for the processing of passengers and / or port-related maritime services for the performance of which the use of port territory and / or port facilities is required, accompanying activities may be carried out



through a concession awarded under the terms and conditions of the Concessions Act, such as:

- concession for construction;
- service concession;
- concession for the use of public state or public municipal property, hereinafter referred to as the "concession for use".

BPICo also has the right to carry out accompanying activities in the ports for public transport of national importance. This right is explicitly included in the subject matter of the BPICo. under Art. 115m, para. 1, item 18 of the MSIWPRBA.

Accompanying activities in ports for public transport of regional importance shall be carried out by the owner or by entities which have concluded a contract with him.

The relevant public procurement legislation does not foresee any special regulations with regard to carrying out economic activities other than port services in the port area.

7 Incentives for the reduction of the port eco-footprint

This chapter includes details about rules and regulations in force in the Danube ports in your jurisdiction regarding the reduction of the eco-footprint of the activities carried out in the port area. Many emission-producing sources are directly and indirectly related to port operations. These emission sources include port administration vehicles, power plants providing power for administration offices, tenant buildings, electrified cargo handling equipment, fuel-powered cargo handling equipment, ships, harbor craft, trucks, rail locomotives, etc. These sources produce greenhouse gases and other negative emissions harmful to people and environment. The relationships of these sources to the port administrative bodies vary by source type and between individual ports.

With regard to the requirements of the current legislation, BPICo. has elaborated **Plans for waste acceptance and handling**. As there are specifics for the different areas and ports, mostly related to the cargo and ship traffic, there are separate plans for each of the sea and river branches: Varna, Bourgas, Lom & Vidin, and Ruse. Also, page 32 of this document, section *Specific requirement to carry out an environmental (impact) assessment (EIA) for port construction or amendment projects* describes the general requirements related to environment protection. Internal bylaws of port operators (the so called Rules and customs) also provide for protection of the territory and the aquatory of the port from pollution.

Other sources of rules and legislation in this area are:

1. Environment protection Act;
2. Waste management Act;
3. Maritime spaces, inland waterways and ports in the Republic of Bulgaria Act;



4. Water Act (for discharge of waste water from coastal sources);
5. Ordinance No. 9 of 17.10.2013 on the requirements for exploitation suitability of ports and specialized port facilities;
6. Ordinance No 15 of 28 September 2004 on the submission and reception of waste - result of shipping activity and of cargo residues accordant to 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;
7. Ordinance No 16 Of 20 June 2006 for the processing and transport of dangerous cargo and / or pollutants by sea and dangerous goods by inland waterways;
8. Directive (EU) 2016/802 Of The European Parliament And Of The Council of 11 May 2016 relating to a reduction in the sulphur content of certain liquid fuels;

9. Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organizations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC

7.1 Incentives for port users & port operators investors in ports

There are no special incentives for port users, port operators or port investors in ports.

8 Annexes

Annex 1: List of the Bulgarian Danube ports

Annex 2: List of fees applicable in Bulgarian Danube ports

Annex 3: List of port bylaws of the Bulgarian Danube ports /publicly available on websites/

Annex № 1 List of all ports located on the Bulgarian stretch of the Danube river

Annex № 1 to art. 103a, par. 1, p. 1 MSIWPRBA

Ports for public transport with national significance

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3. PORT RUSE includes:

Ruse-east, Ruse-center, Ruse-west, Silistra, Ferryboat terminal Silistra, Tutrakan, Svishtov, Ferryboat terminal Nikopol and Somovit

4. PORT LOM includes:

Lom and Oryahovo

5. PORT VIDIN includes:

Vidin-center, Vidin-south, Vidin-north and Ferryboat complex Vidin

№	Name of the port terminal	Significance	Port operator	Owner of the land and the infrastructure
1	Vidin - north	NATIONAL	BRP JSCo. concessionaire	BPICo. – public state property
2	Ferryboat complex Vidin	NATIONAL	BRP JSCo. concessionaire	BPICo. – public state property
3	Vidin-south	NATIONAL	SKM Port Vidin - concessionaire	BPICo. – public state property

4	Vidin-center	NATIONAL	Port Vidin Ltd. (company with 100% state ownership)	BPICo. – public state property
5	Lom	NATIONAL	Port Invest Ltd. - concessionaire	BPICo. – public state property
6	Oryahovo	NATIONAL	Slanchev dar JSCo. - concessionaire	BPICo. – public state property
7	Ruse-east	NATIONAL	Port complex – Ruse JSCO. (company with 100% state ownership)	BPICo. – public state property
8	Ruse-center	NATIONAL	Port complex – Ruse JSCO. (company with 100% state ownership)	BPICo. – public state property
9	Silistra (passenger)	NATIONAL	Port complex – Ruse JSCO. (company with 100% state ownership)	BPICo. – public state property
10	Tutrakan	NATIONAL	Port complex – Ruse JSCO. (company with 100% state ownership)	BPICo. – public state property
11	Ferryboat terminal Silistra	NATIONAL	BPICo.	BPICo. – public state property
12	Ruse-west	NATIONAL	BPICo.	BPICo. – public state property
13	Somovit	NATIONAL	Octopod – C Ltd. - concessionaire	BPICo. – public state property

14	Svishtov	NATIONAL	Dredging fleet – Istar JSCo. - concessionaire	BPICo. – public state property
15	Ferryboat terminal Nikopol	NATIONAL	BRP JSCo. concessionaire	BPICo. – public state property
16	Ruse-Free zone	REGIONAL	„SAKSA” Ltd.	Private
17	Petroleum terminal Arbis	REGIONAL	Romp petrol – Bulgaria JSCo.	Private
18	Port Bulmarket	REGIONAL	Port Bulmarket JSCo.	Private
19	Danube dredging fleet - Ruse	REGIONAL	Danube dredging fleet - Ruse	Private property
20	Double Ve Co Ruse	REGIONAL	Double Ve Ko Ltd.	Private property
21	Pristis	REGIONAL	Port Pristis Ltd.	Ruse municipality – Public municipal property
22	Dredging fleet – Budin, Vidin	REGIONAL	Danube dredging fleet Vidin JSCo.	Private property
23	DDF Dunim, Kozloduy	REGIONAL	Danube dredging fleet Dunim JSCo.	Private property
24	Free zone Vidin	REGIONAL	EMELDA Ltd.	
25	TEC Sviloza	REGIONAL	TEC Sviloza Ltd.	Private property

26	Silistra Lesil	REGIONAL	Agrotrans Ltd.	Private property
27	East point Silistra	REGIONAL	Drustar 2004 JSCo.	Private property
28	Silistra Polaris - 8	REGIONAL	Polaris – 8 Ltd.	Private property
29	ADM Silistra	REGIONAL	ADM Bulgaria Logistics	Private property
30	Petrol Somovit	REGIONAL	Nafteks Petrol JSCo.	Private property
31	Port Belene	REGIONAL	Brave Master Logistics JSCo.	NEK EAD (property of the Bulgarian Energy Holding)
32	Port Nikopol	REGIONAL	Port Nikopol Ltd.	Nikopol Municipality
33	Ro-ro SOMAT Vidin	REGIONAL	SO – MAT Vidin Branch	Private
34	Ferryboat complex Oryahovo	REGIONAL	Ferryboat complex Oryahovo	Private property
35	Eco petroleum Vidin (Tayfun)	REGIONAL	OMV Bulgaria Ltd.	Private property
36	IAPPD (EAEMDR) Ruse	Special purpose	EAEMDR Ruse	State property
37	Ruse shipyard	Special purpose	Ruse shipyard	Private property
38	River service Ruse	Special purpose	River service Ltd.	Private property

Annex 2: List of fees applicable in Bulgarian Danube ports

1. TARIFF for the Port Dues levied by the Bulgarian Port Infrastructure Company, approved by CM Decree No. 97 of May 3, 2007, promulgated, State Gazette No. 38 of 11 May 2007, amended, SG No. 56 of 10.07. 2007, in force from 10.07.2007, issue 2 of 8.01.2008, supplemented, issue 38 from 21.05.2010, in force as of 13.05.2010, amended and supplemented, issue 72 of 29.08.2014, amended, issue 30 of 24.04.2015, in force since 24.04.2015, amended by Decision No 8928 of 22.07.2015 of the SAC of the Republic of Bulgaria - issue 9 of 2.02.2016, in force from 2.02.2016, amended and supplemented, issue 76 of 30.09.2016, in force as of 30.09.2016.
web page: <http://www.bgports.bg/bg/page/40>
2. Tariff no. 3 for fees collected for consular service in the system of the Ministry of foreign affairs under the State tax act.
Web page: <http://www.marad.bg/page.php?category=25>
3. Tariff No 5 on the fees collected in the system of the Ministry of Transport, Information Technology and Communications"
Web page: <http://www.marad.bg/page.php?category=25>



Annex 3: List of port bylaws of the Bulgarian Danube ports /publicly available on websites/

1. Mandatory rules for Bulgarian Danube ports
2. Rules and customs of port Ruse – port for public transport with national importance (Port complex Ruse JSCo.) - <http://www.port-ruse-bg.com/bg/documents>)
3. Rules and customs of port Lom (Port Invest Ltd. - http://www.portinvest.bg/rules_and_traditions.php)
4. Rules and customs of port terminal Nikopol (Bulgarian River Shipping JSCo. http://www.brp.bg/nikopol_pravila.pdf)
5. Rules and customs of port Vidin-north (http://www.brp.bg/vidin/doc/rules_bg.pdf)
6. Rules and customs of port for public transport with regional importance ADM Silistra <https://portadmsilistra.com/PortRules.pdf>