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Work Package 3

Activity 3.2 Improve & harmonize port legislation

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Thank you for writing a national legal framework report on your jurisdiction for the DAPhNE project. The template contains headings, brief explanations and questions. The questions shall function as guidance only. The final report shall be a continuous text, which neither includes the questions nor direct answer to the questions only (eg not just "yes" or "no"). Please read through the questions below and put your input for the report where indicated. The final report shall be drafted in a way that each heading is followed by a chapter, which includes the answers to the guidance questions plus any information that you deem relevant for the specific chapter.

1 Scope of the document

The project is called DAPhNE – Danube Ports Network – and it 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

1. How is a port defined in your national jurisdiction?

[Please include here the official definition of a port (inland/maritime, where applicable) in line with the legal framework in force in your jurisdiction. Please also list the legal documents giving the official definitions.]

The goal is to find out if there are differences at national level between riparian countries in the definition of ports especially in relation to the general definitions given at EU level.]

The Hungarian legislation does not differentiate between inland and maritime ports. Maybe the reason for the lack of description is that Hungary is a riparian country. Act No. XLII of 2000 on waterborne transport contains provisions concerning ports, as defined below.

In the Hungarian legislation port shall mean: „a coastal area designated for the mooring of floating installations eligible for the provision of actions concerning waterborne transport, embarkation and disembarkation of persons, handling of goods, transshipment of goods and their distribution as well as concerning the maintenance of shipping fitness of floating installations; with the operational permit of the shipping authority”.

Port activity by the definition of law shall be as follows:

„an activity concerning waterborne transport whereby persons are embarking and disembarking, goods are loaded, unloaded, transshipped and handled”.

Furthermore, there are two other legal definitions in the same act for further port types: (1) „border port: shall mean a port designated to be a customs road whereby the floating installations and the persons and goods are entered and

moved out”; (2) „emergency port: shall mean a water and coastal area designated for the transitional residence for floating installations due to an emergency situation during the waterway use (such as extraordinary water level, drift ice)“.

2 Description of the current port governance models (if there are more than one)

2.1 Regulatory framework

2. Please set out the port legislation in your jurisdiction in general. In particular:

- *Which legal regulations exist?*
- *To which parties from the private and public sector is the legislation applied?*
- *Apart from federal or state laws is there also secondary legislation, which specifies the laws?*
- *How has EU port legislation been implemented into your jurisdiction?*
- *Are there any other types of legal acts and strategic documents specifically relevant for ports?*

[Please do not elaborate on shipping legislation, but focus on the legal regulations specifically relevant for ports. You do not need to elaborate on individual legal regulations in other areas of law (eg labour law, tax law, construction law etc) but focus on codifications specific for ports. Please provide the name of the regulation and a short description of the subject matter.]

There is no single, unified legislation about ports in the Hungarian legislation, but laws of different hierarchy contain regulations for this matter. Act is on the highest level among the hierarchy of norms. The most relevant act for port legislation containing direct regulation is Act No. XLII of 2000 on waterborne transport.



Furthermore, there is Act No. CXC of 2012 affecting the ownership situation of the ports on the handover of certain properties to the Municipality of Budapest as well as on the amendments of certain acts concerning the municipalities.

The next level of the legislation shall be the government decrees, whereby the followings contain concerning ports:

- Government Decree No. 120/1999. (VIII. 6.) on tasks concerning the maintenance of the waters and water facilities
- Government Decree No. 219/2007. (VIII. 15.) on the river information services

Thirdly, the following ministerial decrees – on lower level of the the hierarchy of norms – contain relevant regulations concerning ports:

- GKM Decree No. 49/2002. (XII. 28.) on the general operational regulations of port, ferry and ferry port and other shipping facilities as well as on application of the operational regulations
- GKM Decree No. 50/2002. (XII. 29.) on the creation, use, operation and termination of port, ferry and ferry port and other nautical facilities
- NFM Decree No. 45/2011. (VIII. 25.) on the professional and operational regulations concerning river information services
- NFM Decree No. 57/2011. (XI. 22.) NFM on the rules of water transportation

The above laws contain references that they are in line with the legislation of the European Union and they refer to many – directly applicable – regulations of the European Union. Regulations of the European Union have direct effect in the Hungarian legislation, therefore a separate publication or national implementation is not necessary. Therefore, we can argue that the level of the European Unions' harmonisation of law concerning regulations for ports are satisfactory.

Next to the state acts – pursuant to Act No. XLII of 2000 on waterborne transport – each and every port operator shall regulate the detailed rules for the use of ports in the form of a port bylaws, to be approved by the Shipping Authority.



While acts, government and ministerial decrees are applicable for all ports and all parties connected to such ports, irrespective of being state institutions or private persons, the port bylaws – established as a non-state act – shall be applicable only for the given port and the persons linked to such ports. The legal regulation does not directly differentiate between the ports subject to (indirect) state or private ownership.

3. Which entities are involved in issuing/updating the port legislation in your jurisdiction?

[Please give a brief overview over the entities involved in issuing/updating port legislation including statutes, secondary legislation and any other types of legal acts or strategic documents specifically relevant for ports.]

Acts are adopted in line with Act No. CXXX of 2010 on legislation by the Hungarian Parliament. By virtue of Act No. XLII of 2000 on waterborne transport, further organisations are authorised by the legislator for establishing legislation of different type and level, such as (1) government decree, (2) ministerial decree, and the development and acceptance of other strategic documents and information systems.

In accordance with Act No. XLII of 2000 on waterborne transport, the corresponding legislation, authority and other state tasks shall be performed by the Government and certain organisations (ministers) thereof, as specifically defined by the laws.

The act does not mention any organisations that shall be mandatorily involved in the legislation.

4. Please set out the competent port authorities in your jurisdiction in general. In particular:

- *What is the highest port authority (eg Ministry of Transport) and which other authorities are competent in port matters?*
- *Are there any other entities (eg state owned companies, national companies) that have competences in port matters?*



Designation of authorities

Act No. XLII of 2000 on waterborne transport designates the responsible organisations for assuming the tasks assigned to the authority concerning ports, as follows:

The minister shall perform the management activities among state competences concerning shipment, waterways and ports – by taking into consideration the worksharing by force of law – through the unified transportation and management organisation.

Part of the shipment management organisation – operating within the unified transportation and management organisation – is the ministry (lead by the minister), and the territorial organisations established for the management tasks for shipment.

Based on Government Decree No. 378/2016. (XII. 2.) on the legal succession concerning the supervision of certain central offices and the ministerial background institution operating in the form of a budgetary authority, as well as on the takeover of certain public tasks, the Hungarian Transportation Authority has ceased to exist on 31 December 2016 and was taken over by its general legal successor, the Hungarian Ministry of National Development.

Government Decree No. 382/2016. (XII. 2.) on the designation of organisations assuming tasks assigned to the authority concerning transportation management tasks and Government Decree No. 392/2016. (XII. 5.) on the designation of a military aviation authority may contain different rules, whereby certain tasks may be assigned to other official organisations.

In line with the above, Government Decree No. 382/2016. (XII. 2.) on the designation of organisations assuming tasks assigned to the authority concerning transportation management tasks defines the specific authorities and their detailed tasks as follows:

Authority on the highest level and its tasks

Based on the rules, the ministry for transportation (Minister of National Development) shall have be authorised to act as Shipping Authority in the following matters:



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- national ports of general interest or the corresponding nautical facilities, and
- the approval concerning the creation, use, maintenance, operation and termination of customs and border ports, as well as the approval of their operational regulation.
- as supervisory authority for construction, in case of of national ports of general interest, customs and border ports, as well as for nautical facilities receiving international passenger, freight traffic or similar.

Further authorities and their tasks

The Government Office of the Capital City Budapest shall proceed as Shipping Authority from 01 January 2017 (by indicating the scope of responsibilities applicable for ports in bold) in the following matters:

- inspection of the shipment activity with a floating vessel, the shipment fitness security, life and working conditions of floating installations, investigation of complaints concerning the shipment activity as well as the life and working conditions of floating installations,
- registration of floating installations, issuing international marks, official vessel numbers,
- approval of the floating installations, their equipment, equipage, the RIS terminal used in the harmonised river information services concerning public inland transportation, network equipment and software application,
- supervision and approval of the building (rebuilding) plans of floating installations,
- creation and certification of the operability of the floating installation,
- approval of the facilities for the technical supervision, manufacture and repair of shipping containers (containers),
- issuance and certification of the logbook of the floating installations, crew list, machine- and oil registry, environmental and motor registry and equipment registry,
- issuing and keeping records of the documents of floating installations,
- authorisation of works concerning waterways,



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- approval of signals for the direction of water transportation,
- **authorisation of the transshipment of cargos outside of the port and authorisation of the embarkation and disembarkation of passengers,**
- instruction for navigation limitations and for release of waterway, actions concerning the floating installations stuck or sunken in the waterway,
- **creation, use, maintenance, operation and termination of a nautical facility, approval of the operational regulation, with the exception of the tasks concerning national public ports of general interest, falling under the scope of the ministry,**
- approval of diving activity on waterways,
- tonnage of the inland and maritime ships as a tonnage authority (mark: BFKH-HU),
- issuance of the approval and eligibility certificate for ships transporting dangerous or hazardous goods,
- shipment activity, operation of small crafts with combustion engine and boats on a restricted area, cabotage, permit of third country and third flag traffic and issuing individual permit,
- permit for special shipment and traction, push and propel on side-by-side formation with passenger ship,
- permit for bearing additional sign for floating installations,
- issuing a certificate for participation in the Rhyne Vessel System,
- extraordinary instruction for the health examination of a person performing nautical service on a floating installation,
- designation of the water sports ground,
- permission concerning the shipment of radioactive materials,
- registration of the control data of maritime ships with Hungarian flag, performed by the maritime port state authority (controlling authority, date of control, result), in case of interception, control of the recovery of operability,



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- market surveillance check of the performance of obligations concerning the certification of conformity of water vessels and tools,
- issuance, management, authentication, registration and control of shipmen and sailor's service book,
- issuance and authentication of the yacht book of marine recreational crafts and crew list,
- registration of the medical professional examining the medical fitness of the person performing nautical services and appointment of the medical expert for the second instance examination of the medical fitness,
- registration of data concerning the obligation of ships transporting dangerous or hazardous goods for presentation and provision of information,
- control of the inland shipment of dangerous goods,
- certification and acceptance of the training by force of law and its duration,
- issuance of the publications for shipmen and sailors, outside the scope of the minister,
- imposing nautical penalties within its scope,
- procedures concerning shipping authorities outside the scope of other bodies by force of law.

National bodies not expressly operating as authorities and their allocation of tasks

The act on waterborne transport includes other allocation of tasks - not necessarily considered to be performed by an authority - whereby the state - and therefore the government shall:

- approve concepts for the development of shipping, ports and waterways, established by taking into consideration the protection of the built environment and the natural environment, concerted with the balanced development needs of the country



- issue the data collection necessary for the sectoral governance of the water traffic

The minister for transportation (Minister of National Development) shall:

- build, develop and operate the shipment, waterway and port operation information system, including the river information services, the free provision of basic information services laid down in the government decree on the river information services to the users
- the maintenance, development of the waterways by taking into consideration the international obligations on state owned surface waters and water facilities (artificial waterway) (hereinafter jointly referred to as: state owned navigable waters), as well as the establishment and operation of emergency ports on state owned navigable waters

The minister for transportation, the minister for foreign policy and the minister for health shall:

- perform the public authority tasks concerning shipment, ports and waterways

The minister for transportation shall jointly perform the following task in relation to the border ports with the minister for economic policy, the minister for treasury together with the ministry for border control:

- ensuring the conditions of the road and rail link necessary for the ordinary operation and development of the national ports of general interest and border ports

The minister for transportation shall jointly perform the following task with the responsible member of the government for the use of the fundings of the European Union, the minister for economic policy and the minister for treasury:

- definition of the support system concerning the development of the ports of general interest

The minister for defence shall jointly perform the following task with the minister responsible for the protection against disasters, the minister for transportation and the minister for economic policy:

- definition and securing the availability of the floating installations to be used during defence and civil protection tasks,



The minister for transportation together with the minister for adult and vocational education shall:

- define the school-based educational and training conditions (also outside of school) of inland and marine professionals, in line with the international educational requirements

The minister for transportation together with the minister for health shall:

- define the health requirements concerning shipment

The minister for employment together with the minister for transportation and the minister for health shall:

- define the working safety conditions concerning shipment

The minister for environment and the minister for nature protection together with the minister for transportation shall:

- define the environment and nature protection requirements concerning shipment

The next task shall be performed jointly by the minister for transportation and the minister for responsible for the protection against disasters:

- the provision of tasks concerning the prevention of water traffic accidents.

2.2 Port owner

5. Who owns the port based on the legal definition in force in your jurisdiction?

There is no uniform mandatory regulation in the Hungarian legislation for the ownership of ports. There are state owned, municipality owned and private owned ports at the same time.

In line with Act No. CXCVI of 2011 on national wealth, the total channel length of the Danube (417 kilometers) is exclusively owned by the state.



National ports of general interest

Based on the above, Act No. XLII of 2000 on waterborne transport does not have mandatory regulation on the ownership of ports but distinguishes the state-owned ports.

Pursuant to the act, the area of the port of general interest is state owned or is handled by a trustee set up by the deciding majority of the state. Another condition that – as a transshipment and distribution center – it shall have a fundamental traffic infrastructure enabling a link between water, rail and road traffic of passengers and goods, and therefore, it can be regarded as a national port of general interest.

The national port of general interest is run by the state on its own or through an economic operator set up for these purposes and the area of the national port of general interest shall be utilized through lease.

Budapest ports

A few years ago, the ownership situation of the – fundamentally not cargo related – ports of Budapest was uniformly arranged as follows.

Pursuant to Act No. CXC of 2012 on the handover of certain properties to the Municipality of Budapest, as well as on the amendment of certain acts concerning municipalities, with the effective date of 1 July 2012 – for the establishment of the uniform landscape and the development of the traffic – the district municipalities of Budapest and the state owned premises with a direct border to the Danube within the administrative territory of Budapest were provided to the management of the Municipality of Budapest, free of charge for 99 years, without an asset management agreement, as follows:

- the premises on the lower quay of Buda and Pest, as well as the berths and the port infrastructure;
- the berths eligible for the reception of large vessels and the port infrastructure.

2.3 Types of ports

6. Is there a differentiation made on port legislation between public (state-owned, owned by regional/local public bodies) ports and privately owned ports?

[If yes, please give a definition of public and private ports and set out the different regulations applicable to private and/or public ports. Please explain the different cases valid at national level and provide the legal framework regulating those cases.]

- *Public ports (state-owned): what types of services do they provide and who manages them?*
- *Private ports: what types of services do they provide and who manages them?*
- *Are there any other types of ownership relevant in your jurisdiction, eg public-private ownership, any type of combination between these ownership models etc?*

[Depending on the legal provisions in force, please also list the types of Danube ports in your country.]

By virtue of the form of management the port shall be

- a) of general interest, which can be used by anybody with the conditions published by the port operator,
- b) private port, which shall be used for the embarkation and disembarkation of passengers for its passenger transport services and the loading and unloading of goods for the operator and the loading and storage of the forwarded goods.

The port shall be considered as private port, if

- it is owned or used by a government body, the Hungarian Armed Forces, security forces, and
- it is owned or used by an association if the port can be used only through membership.



Port of general interest can be pronounced as a national port of general interest only for the joint recommendation of the minister for transportation and the minister for economic policy.

According to the purpose of use, the following types of ports are defined in GKM Decree No. 50/2002. (XII. 29.) on the creation, use, operation and termination of port, ferry and ferry port and other nautical facilities:

- boat port: shall mean a port capable only for the receipt of not more than 50 boats,
- industrial port: shall mean a port for building, maintenance, repair, refurbishment and wrecking of floating installations,
- recreational port: shall mean a port not receiving passenger or freight traffic, not performing industrial activity, therefore it is a port for sport and recreational activity, removal from water or launching, serving and storage of small ships or boats,
- commercial port: shall mean a port for the entry to and exit from a port, loading, unloading and transshipment, placing into and leaving storage, storage of goods between ship-coast or ship-ship or ship-rail as well as ship-road vehicle, the area for the corresponding logistic services and the establishments of the traffic connections within the port, the embarkation and disembarkation of passengers and the standing of floating installations,
- Ro-Ro (Roll on - Roll off) port: shall mean a port for the entry to and exit from a port of road/rail vehicles, for the waiting period, commercial procedures and other services concerning vehicles,
- passenger port: shall mean a port for passenger traffic which can be (1) ship station, whereby the embarkation and disembarkation of passengers from ship to coast or coast to ship is ensured by one or more nautical facility or (2) port of built shoreline, whereby mooring is possible directly to the shoreline,
- water facility mooring station: shall mean a port place whereby the mooring can be performed for the purposes of embarkation and disembarkation of passengers (ship station) or the loading operations (water facility loading place) to the floating installation



permanently anchored to the shore and provided with port tools. The water facility mooring station can be either an individual shipping station or part of the port.

Please provide as Annex 1 a list of all Danube ports in your country, grouping them by the different categories/types of ownership they fall under.

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

7. How is port infrastructure defined in your jurisdiction?

[Please name the types of elements defined as infrastructure and the legal document in force explaining them.]

There is no separate definition for the port infrastructure in the Hungarian legislation. There is no uniform legal regulation in this respect.

Please note that pursuant to GKM Decree No. 49/2002. (XII. 28.) on the general operational regulations of port, ferry and ferry port and other nautical facilities as well as on application of the operational regulations the operator shall regulate the following matters (port infrastructure) in the port bylaws:

- description of the port loader or the equipment for the service of floating installations (crane, slipway, etc.),
- description of the superstructures of the port related to storage, cargo handling or other passenger related services,
- the number and sizes of port places and berths,
- the road and rail accessibility of the ports.

3.1.1 Responsibilities for infrastructure investments in ports

8. Which entity is authorized/obliged by law to carry out port infrastructure investments?

[Please provide information on the entities authorized and obliged by law to carry out port infrastructure investments. Please also provide the names of authorities and a list of main contact details.]

Considering that the laws does not have a single and uniform definition of a port infrastructure, the obligation for carrying out port infrastructure investment is also not regulated by law.



In practice port infrastructure investment is carried out by the owner, port operator or other port service providers contracted by the operator.

According to Government Decree No. 147/2010. (IV. 29.) on the general rules for the actions and facilities concerning the use, protection and damage prevention of waters, the rules for maintenance shall be set out in the operational regulation. Therefore, as a main rule, the operator shall be liable for the maintenance of infrastructure.

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

9. How is port superstructure defined in your jurisdiction?

[Please name the types of elements defined as superstructure and the legal document in force explaining them.]

There is no separate definition for the port infrastructure in the Hungarian legislation. There is no uniform legal regulation in this respect.

3.2.1 Responsibilities for superstructure investments in ports

10. Who is authorized by law to carry out port superstructure investments?

[Please provide information on the entities authorized/obliged by law to carry out port superstructure investments.]

Considering that there is no separate definition of port superstructure investments in the Hungarian regulation, there is no need of a legal authorisation for carrying out port superstructure developments. In absence of a regulation, the scope of initiators is not defined; therefore, both the owner and the operator are entitled to perform developments. However, in practice, development investments above the infrastructure are generally performed by other port service providers being in a contractual relationship with the operator or by the port operator.

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

3.3.1 Responsibilities for dredging

11. Who is authorized by law to carry out dredging, in particular maintenance dredging, in your country?

[If there are different scenarios that apply, please describe them.]

Pursuant to Act No. LVII of 1995 on water management, the cost for operation and maintenance of the waters and water facilities operated and maintained by the state up to the level of public interest shall be secured **by the central budget**.

The tasks to be performed shall enable the undisturbed drainage of the water, alluvia, ice, as well as the performance of river management and channel maintenance works in the channel of water flows (such as in the channel of small, medium and large waters and streams) as well as the designation, appointment and maintenance of the waterway on the navigable river sections, natural lakes and channels.

According to Government Decree No. 120/1999. (VIII. 6.) on tasks concerning the maintenance of the waters and water facilities, the maintenance of facilities for the protection of shores (shore protection facilities) shall be performed by the operator of the river, natural lake. The obligation for the maintenance of the facilities for the regulation of the channel and shores shall be performed up to the level of public interest. Tasks beyond that limit shall be performed by the operator upon the request of the claimant or by the claimant itself (with the consent of the operator).

Therefore, based on the above, dredging and maintaining the port channel shall be performed by the port operator.

3.4 Construction and Permitting of Ports

12. Please briefly set out the requirements in order to construct a new port or amend an existing port following your jurisdiction.



[Please include a brief description of the required permits, the competent authorities and the required procedures in order to build or amend a port.]

Permits of the Shipping Authority

Pursuant to GKM Decree No. 50/2002. (XII. 29.) on the establishment, use, operation and termination of port, ferry and ferry port and other nautical facilities the Shipping Authority (from 01 January 2017 the Government Office of the Capital City of Budapest) shall give its permission to construction, use, operation, maintenance, refurbishment, use outside of its original purpose and demolition of nautical facilities.

Within the scope of authorisation, the official procedures of the Shipping Authority are the followings:

- theoretical authorisation procedure for construction,
- authorisation procedure for construction,
- authorisation procedure for use,
- authorisation procedure for operation,
- authorisation procedure for maintenance,
- authorisation procedure for use outside of its original purpose,
- authorisation procedure for demolition,
- registration of data change.

Authorisation procedure for construction

Request for the authorisation procedure for port construction shall be submitted – for the entire facility - in writing, together with the necessary attachments. The request can be submitted electronically, too. In case of a building divided into several progress sections, authorisation procedure for port construction can be requested separately for the facility to be builded in each section, as well as for those facility parts which are individually eligible for ordinary and safe use, by presenting the facility part in the general description of the site of the complete facility.



What are the contents of the request for authorisation procedure for port construction?

- the completed form (if the planned port does not have a theoretical authorisation permit for construction or if there is a change in the data provided in the form to the theoretical authorisation permit for construction);
- the final official permits, if necessary (environmental permit, construction authority's permit, water law permit);
- the document certifying the building right of the claimant;
- the technical design schedule according to the general requirements of the building regulations and the regulations for the given facility, depending on the character of the facility;
- the declaration concerning the operational form of the planned port (national port of general interest, port of general interest or private port);
- certification and declaration of the designer;
- in case of a technical solution outside the corresponding national standard, the building experts' opinion certifying at least the equality of structure, procedure or calculation method with the standard, so that the technical solution used at the design of the facility corresponds to the general requirements for these facilities;
- the declaration of the operators of the public utilities concerning the facility on the provision of service, or in case of a negative declaration, the description of the technical solution to be used instead of the public utility;
- in case of a building activity on agricultural or inland area subject to agricultural activity, the permit of the land registry for use for other purposes.

The administrative deadline for the procedures shall be 30 days concerning the creation, maintenance of port and the supervision and approval of the building (refurbishment) plans of floating installations, as well as concerning the creation, maintenance, operation of ferry and ferry port.

13. Are there any restrictions or limitations as to who can construct a new port or amend an existing port in your jurisdiction?

[Please include information on the parties to which the respective legislation is applied from the public and private sector.]

Anybody can submit a request for the creation of port, if complies with the content of the decree and has the necessary legal title for creation (owner, operator, lessee, etc.). The laws do not have any limitation concerning who can be regarded as claimant.

14. Is there a prohibition or a limitation on the construction or amendment of ports in your jurisdiction?

[Please elaborate on prohibitions or limitations with regard to the area/place/property where a port may be erected. Also include information on prohibitions or limitations with regard to the purpose of the port (eg handling of dangerous substances).]

There are no general restrictions and prohibitions concerning the erection places of ports, however the erection of ports shall comply with several detailed technical aspects.

GKM Decree No. 50/2002. (XII. 29.) contains rules for the minimum requirements for the technical parameters for port, ferry and ferry port and ship lifter:

- The area for the basin port shall be chosen so that the drifting ice can not enter into the basin, the port shall provide full protection in case of high water pass, the effect of wind and wave shall have the smallest possible impact on ships moving or stranding in the port.
- The river bed depth of the water surface of the port receiving large vessels (hereinafter referred to as: PBD) shall be set to the SLL (shipping low water level) applicable to the waterway connecting to the port, 0.4 m lower to the water depth of the class of the fairway (PBD=SLL-defined waterway depth-0.4 m). The river bed depth of the water surface of the port receiving small vessels shall be defined according to the standard – accepted by the shipping authority - draught of the small vessels. The distance between the bottom of the vessel and the channel shall be at least 0.4 m at the

PBD. The defined water depth shall be secured on the whole water surface for mooring, stranding and navigation of the territory of the basin.

- The entry channel of the river basin port for the navigation of large vessels (including industrial) shall be planned into a segment of the waterway whereby the effluent (at PBD) is near the shore of the planned port.
- The angle between the axis of the entry and industrial channel of the river basin port for the navigation of large vessels and the river effluent shall not be more than 30°, at a water speed of 2.2 m/s at the navigational high water level – in the entry channel segment – not be more than 15°.
- In the basin port for the navigation of large vessel with an entry channel, the depth of the entry channel (DEC) shall meet at least 0.2 m below the depth defined for the bed depth of the ports' water surface (DEC=PBD-defined fairway depth-0.6 m).
- The width of the entry channel of the port for the navigation of large vessels shall be at least 40 m – the fairway depth in the depth more than 0.2 m under the PBD -, the shipping authority may allow deviation in case on an existing lake port in justified cases.
- The turning spot of the river basin port for the navigation of large vessels shall be established so that there is at least a circle of 1.2× diameter of the length of the vessel with the largest length (in the water depth for the basin).
- An artificial object or a crossing establishment can only be placed in a port connecting to a free flow river section for the navigation of large vessels or industrial and commercial basin if it has a 5 m structure gauge under the water depth level authorised by the creation plan; the art object can not be erected with an uncovered part.
- The sizes of the port for the navigation of large vessels shall be defined by mooring a number of ships next to the quay at the same time, which is necessary for the smooth flow of planned traffic and an undisturbed navigation of ships in the port. The length of the

quay shall be at least 1.2× the total length of the cargo- or passenger ships mooring at the same time.

- The levelness of the operation shore of the quay and the industrial port shall be erected at least 0.5 m over the HNV, in case of national port of general interest and inland port of international significance („E” level) at least 0.5 m over the standard high water level. The quay may be erected in several levels, by taking into consideration the goods to be loaded and unloaded; in this case the condition of the first sentence shall be applied for the highest level.
- At the determination of the upper level of the pier at lake ports, not only the highest water level of the navigation season, but the highest wave level – according to the applicable zone - shall also be taken into consideration.
- The height of quay of channel ports and ports on dam sections shall be built at least 1.0 m over the highest dam water level, except of the port receiving only small vessels.
- Plinths, console or other establishment endangering the ships can not stand out of the upper edge (or vertical plain) of the vertical port shorewall (including the operation shore of the industrial port); a distance of at least 1.0 m shall be secured between the track of the loader equipment and the shore edge, a distance of at least 0.6 m shall be secured between the edge of the placed supporting structure and the shore edge.
- Bollards, port rings shall be placed for the riverwall and the receiving pillars in numbers enabling the safe mooring of ships at every water level. The distance between the bollards shall be 25-30 m for ports receiving large vessels. The bollards built in the vertical river wall and the highwall shall be recessed.
- On the vertical river wall of the commercial ports receiving large vessels, floating bollards shall be placed in the perpendicular of the wall bollards or bollards and port hooks vertically, in each 1.6-2.0 meters. Bollards shall not be built in the shore in case of floating bollard used for the total river wall height.

- In ports other than as indicated in the previous point, the distance between bollards shall be chosen according to the distribution of the bollards used by the ships in the port.
- The water depth of the winter port used also for emergency port shall be defined individually by the prior instruction of the shipping authority.
- The pillars of the pillar port (except of the ports receiving small vessels) shall be designed according to the followings:
 - its height shall be at least 2 m over the navigational high water level,
 - their distance shall be designed according to the lengths of the floating installations planned to be received, by securing at least two supporting points.
- The gradient between the port for the embarkation or disembarkation of road vehicles and the bridge for entry to a port of a ferry in a planned operational water level limit cannot exceed 8%. Ports serving passengers shall make sure that the passengers have a pavement with at least 1.1 meter width. A built, removable barrier shall be placed into the edge of the pavement or the passenger traffic shall be separated by an optical lane.
- The border port and its port bound part shall ensure the mooring of the standard ship and ship caravane (without breaching its line) as well as for standing during border control.

The Shipping Authority may deny issuing the permit if the planned nautical facility does not meet the above criteria or it is contrary to the local planning regulations and plans.

The Constitution may impose an indirect limitation, as natural resources, in particular arable land, forests and the reserves of water, biodiversity, in particular native plant and animal species, as well as cultural assets shall form the common heritage of the nation; it shall be the obligation of the State and everyone to protect and maintain them, and to preserve them for future generations.



Furthermore, there are some general prohibitions and obligations in Act No. LVII of 1995 on water management:

Preservation of the utilization possibilities of waters shall be performed by the:

- regular monitoring of the utilization possibilities of natural waters,
- prohibition of water pollution,
- construction and operation of water facilities for the protection and regulation of waters,
- prevention, abatement and avert of the water quality damages against water use,
- water protection related maintenance of the channel of water and water facilities,
- monitoring of waters and their characteristics, evaluation of situation,
- analysis of the human intervention, effects on the surface- and ground waters,
- economic analysis of the water use,
- creation of the legal and economic set of instruments for the reasonable use of water resources.

15. Is there a requirement for a special construction permit with regard to the construction or the amendment of ports in your jurisdiction?

Due to the special character of the construction activity, the followings are necessary in the authorisation procedure for the construction as well as its amendment:

- water law permit;
- construction permit for the buildings (theoretical construction permit);
- valid environmental permit in case of a nautical facility to be constructed or operated in possession of an environmental protection permit;
- technical design documentation concerning the planned nautical facility, declaration on the planned operational form;
- the declaration of the designer that the planned technical solution corresponds to the effective laws and he/she has the necessary

designer certificate, and in case of a technical solution outside the corresponding national standard, the building experts' opinion in one copy certifying at least the equality of structure, procedure or calculation method with the standard, so that the technical solution used at the design of the facility corresponds to the general requirements for these facilities;

- the declaration of the operators of the public utilities concerning the facility on the provision of service, or in case of a negative declaration, the description of the technical solution to be used instead of the public utility;
- in case of a building activity on agricultural or inland area subject to agricultural activity, the permit of the land registry for use for other purposes.

16. If yes, please summarize the regulatory regime for construction permits. In particular:

- *What permits or other authorizations (eg use permit) are required and which regulator issues them?*
- *Which are the competent authorities?*
- *What timeframe has to be considered?*
- *What are penalties or consequences for non-compliance?*

Permit	Competent authorities	Timeframe
Water law permit	National Directorate General for Disaster Management	45 days
Construction permit	The notary of the municipalities (city or Capital city of Budapest)	21 days
Environmental permit	Ministry of Environment and Water – Environmental, Nature and Water Inspectorate	90 days
Port construction permit	Shipping Authority (Minister of National Development, Traffic Department of the Governmental	30 days

	District Office of the Capital City of Budapest)	
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If the nautical facility (or part of it) was constructed without permit or otherwise than it was indicated in the permit (incorrectly), and if it is requested by the builder or the entitled person, the Shipping Authority shall provide a retention permit, provided that there are conditions to correct the errors or they can be rectified and the builder has certified its entitlement for construction.

In the absence of a request, the Shipping Authority may inform the builder to submit a claim for retention permit or may proceed ex officio.

If the builder does not submit the claim for retention permit until the deadline indicated in the notification, as well as does not rectify it by providing the missing documents in the given deadline or does not undertake to perform the necessary works for rectifying the errors, the Shipping Authority will order the demolition of the facility.

17. Is there a requirement for a special operating license/plant permit/business premises authorization with regard to ports in your jurisdiction?

18. If yes, please summarize the regulatory regime for operating licenses/plant permits/business premises authorizations. In particular:

- *What permits or other authorizations are required and which regulator issues them?*
- *Which are the competent authorities?*
- *What timeframe has to be considered?*
- *Is there a statute of limitation on operating permits for ports?*
- *What are penalties or consequences for non-compliance?*

Authorisation procedure for use

The nautical facility subject to authorisation procedure for construction can only be used and operated by having an authorisation procedure permit. The authorisation procedure permit is issued by the Shipping Authority.

In case of a building divided into several progress sections, authorisation procedure for construction can be requested separately for the facility to be



built in each section, as well as for those facility parts which are individually eligible for ordinary and safe use.

The operation of the nautical facility is permitted by the Shipping Authority for the following periods: 10 years for port of built shoreline, ferry and ferry ports, boat ports and stranding place.

Naturally, the authorisation procedure for use shall be requested by the claimant from the shipping authority before the commencement of use. The procedural fee is detailed in KöViM Decree No. 29/2001. (IX. 1.) on the official navigation procedural fees.

What are the contents of the request for authorisation procedure for port use?

- the designation of the place and purpose of the facility, as well as its denomination;
- the number and date of construction permit;
- the declaration of the responsible technical head leading the building construction (controller) that the construction work was performed according to the construction permit, the corresponding site plan and the technical plans, as well as the eventually authorised deviation (modification), in compliance with the professional, quality and safety provisions and that the facility is suitable for normal use, and
- if the nautical facility was created differently from the valid and effective construction permit and the approved technical design documentation, but the deviation shall not be subject to approval, the declaration detailing the deviation;
- the declaration of the operators of the public utility(ies) concerning the facility on the provision of service;
- the technical design schedule;
- the draft port operation regulation;
- the certification for payment of the procedural fee.

Permit for change of original purpose

Provisions concerning the authorisation procedure for construction shall be applicable for the authorisation procedure with construction works – for the change of original purpose – subject to the approval of the Shipping Authority.

What are the contents of the request for authorisation procedure for change of original purpose of the port?

- The technical plan documentation in accordance with the general requirements defined in the construction regulations and the rules for the given facility, and
- Declaration on the planned operational form.

19. Is there a requirement for a special permit under water regulations with regard to the construction, amendment and operation of ports in your jurisdiction?

20. If yes, please summarize the regulatory regime for permits under water regulations. In particular:

- *What permits or other authorizations are required and which regulator issues them?*
- *Which are the competent authorities?*
- *What timeframe has to be considered?*
- *What are penalties or consequences for non-compliance?*

There is no separate regulation for under water permits, this shall be included in the environmental permit issued based on an environmental assessment. Furthermore, GKM Decree No. 50/2002 has certain technical and building criteria, which shall have an effect expressly under the water. Among the detailed rules, the followings are applicable for ports, ferry and ferry ports:

Geometric parameters, location

- The river bed depth of the water surface of the port receiving large vessels (hereinafter referred to as: PBD) shall be set to the SLL (shipping low water level) applicable to the waterway connecting to the port, 0.4 m lower to the water depth of the class of the fairway

(PBD=SLL-defined waterway depth-0.4 m). The river bed depth of the water surface of the port receiving small vessels shall be defined according to the standard – accepted by the shipping authority – draught of the small vessels. The distance between the bottom of the vessel and the channel shall be at least 0.4 m at the PBD.

- In the basin port for the navigation of large vessel with an entry channel – by taking into consideration the slurry area – the depth of the entry channel (DEC) shall meet at least 0.2 m below the depth defined for the bed depth of the ports' water surface (DEC=PBD-defined fairway depth-0.6 m).
- The width of the entry channel of the port for the navigation of large vessels shall be at least 40 m – the fairway depth in the depth more than 0.2 m under the PBD -, the shipping authority may allow deviation in case on an existing lake port in justified cases.
- An artificial object or a crossing establishment can only be placed in a port connecting to a free flow river section for the navigation of large vessels or industrial and commercial basin if it has a 5 m structure gauge under the water depth level authorised by the creation; the art object can not be erected with an uncovered part.

Safety

- Basin cable, basin tube or similar artificial object shall be placed in the estuary of the river basin entry channel 300 m above and 500 m below the estuary basin, only in a depth not endangering the use of anchors; the lying depth will be defined by the shipping authority by taking into consideration the type of ships navigating therein as well as the soil of the basin, according to a separate legal act. If the port is established after a linear establishment, this shall be taken into consideration in the operational regulation and the permit can be denied or may be conditional.

21. Is there a specific requirement to carry out an environmental (impact) assessment (EIA) for port construction or amendment projects in your jurisdiction?



[Please include a brief description of the environmental assessments in your jurisdiction, including environmental impact assessments, conformity assessments and strategic environmental assessments.]

22. If yes, please summarize the regulatory regime for EIA. In particular:

- What types of port projects are covered?
- Are permits or other documents required before the port project can start and which regulator issues them?
- Which are the competent authorities?
- What are penalties or consequences for non-compliance?

There is no separate regulation concerning the necessity of an environmental assessment – other than the general rules – for the construction or maintenance of a port. The environmental permit shall be issued based on the environmental assessment and it shall be always attached to the request for port construction, but the relevant legal act does not impose any further condition to the general environmental permit.

The general and detailed rules of the environmental permitting procedure is in Government Decree No. 314/2005. (XII. 25.) on the environmental impact assessment and the uniform environmental use authorisation procedure.

The necessity and purpose of the procedure for assessment of the environmental implications

By force of law, procedure for assessment of the environmental implications is mandatory for the construction and modification of ports for ships of 1,350 tonnes deadweight and above and – if the ship unloader outside the port is attached to the coast with a mole – and the port is for loading and unloading ships of 1,350 tonnes deadweight and above.

In relation to the construction and modification of ports whereby procedure for assessment of the environmental implications is not mandatory, the authority shall individually decide whether the project may have a significant environmental impact based on which procedure for assessment of the environmental implications is necessary, if the port



- is created for ships of 400 tonnes deadweight and above or
- is a sport and recreational port eligible for the mooring of 100 small vessels or
- is a sport and recreational port eligible for the mooring of 20 small vessels on a protected natural site and Natura 2,000 site.

Purpose of the procedure for assessment of the environmental implications is the definition of the environmental impacts of the planned investment, as well as the definition of the conditions of the environmental use in the form of an environmental permit. The environmental permit is necessary for the port construction permit; therefore, it can be obtained before the submission of the request for the construction permit.

Environmental impact assessment procedure

Before commencement of the environmental impact assessment procedure, an environmental impact study shall be prepared in line with Schedule 6 of Government Decree No. 314/2005. (XII. 25.). The environmental impact study shall be prepared by an expert professional.

The baseline without the planned activity shall be examined by the environmental impact study (to be prepared based on the environmental impact assessment) and the expected environmental impacts (for soil, air, water, ecosystem, built environment, systems of the environmental compartments) of the activity shall be calculated and estimated by taking into consideration the technical plans at the time of construction, operation and demolition.

The environmental impact assessment procedure is initiated by the environment user, thus by the port developer, and the competent authority shall complete the procedure within 90 days, at the most.

The authority shall make the following steps after commencement of the environmental impact assessment procedure:

- Publication on starting the procedure shall be issued.
- The publication and the documentaton shall be sent to the competent notary based on the location of the facility so that the probably affected public is informed on the commencement of the

procedure and so that they can comment on the planned activity and the implications thereto.

- Public hearing shall be ensured.
- The affected competent authority shall be involved in the procedure.
- As finishing step of the environmental impact assessment procedure, a decision shall be made by the authority.

Result of the environmental impact assessment procedure

As result of the environmental impact assessment procedure, the competent authority shall make a decision based on the content of the submitted environmental impact assessment study, its own and the competent authorities' conclusions, and the comments of the affected clients. The inspectorate may decide on issuing or denying the request for the environmental permit.

The request for an environmental permit will be denied if the planned activity would endanger

- the environmental target status set by the National Environmental Protection Program;
- the performance of environmental or nature protection obligation undertaken by Hungary in the form of an international treaty.

By virtue of a successful environmental impact assessment procedure, the environmental permit will be issued by setting the actions concerning avoiding, minimising and terminating the harmful environmental impacts, and - if the conditions are met - other permits within the competents of the inspectorate will be issued.

23. Does the relevant public procurement legislation in your jurisdiction foresee any special regulations with regard to port construction or amendment projects?

The general rules apply to public procurement procedures concerning ports. Act No. XCLIII of 2015 on public procurement does not have any further rules – other than the general ones – concerning ports.



Based on the laws, public procurement shall be conducted in case of public contracts intended to ensure the pursuing of the contracting entities' public service activity. Based on the Act, public service providers are entities if they are pursuing the activities or were established for the purpose of pursuing an activity concerning providing inland ports or other port facilities to carriers on inland waterway or passenger carriers.

In relation to procurements to be realised using entities not covered by this Act (such as private entrepreneurs), whose procurement is subsidised directly the state to an extent exceeding 50% in case of procurements equalling or exceeding EU threshold, and to an extent exceeding 75% in case of procurements equalling or exceeding national threshold but not reaching EU threshold, shall conduct procurement procedures, provided that the subject-matter of the procurement is the civil engineering activity, as defined by law. These include the construction of the followings:

- waterways, port and river facilities, sport ports, ship lock, etc.,
- dykes and embankments,
- dredging,
- under ground works.

Provision of works concerning the above defined construction investments shall be subject to entering into a public contract.

Irrespective of the above, in relation to procurements to be realised using non-repayable subsidies, private entities, whose public works, public supply or public services contract is subsidised directly by at least HUF 40 million by the state, shall conduct procurement procedures, except if the procurement is realised

- a) using an investment subsidy set out in a single government decision,
- b) using single job creation subsidy,
- c) using education, furthermore vocational training centre establishment and development subsidy,

- d) using research-development and innovation aimed subsidy,
- e) using the subsidy of undertakings' investment aimed at reindustrialisation or
- f) using any subsidy applied for prior to 1 November 2015, which is funded by the European Union or from national resources.

24. Is the construction and operation of a port subject to an economic needs test in your jurisdiction?

Special rules apply when using subsidies funded by the European Union or other national resources, whereby feasibility study or cost-benefit study shall be prepared. Other than that, there is no legal rules concerning economic needs test for the construction and modification of a port.

25. If yes, please summarize the process of such economic needs test. In particular:

- *What types of ports require an economic needs test?*
- *Which authority is conducting the economic needs test and which other parties/stakeholders are required or allowed to express their opinion?*
- *What factors are taken into consideration when assessing the economic needs?*

[Please insert input.]

26. Does the legislation applicable to the construction/extension and/or operation of ports provide for expropriation or other forms of coercion rights (eg shared use rights, temporary use of property)?

[Please include a brief description of the expropriation regime in your jurisdiction and elaborate on any other rights that grant the operator of a port construction project access to the required property.]



Pursuant to Act No. CXXIII of 2007 on expropriation, a property may be subject to expropriation only if it is provided by law and the conditions indicated therein, for defined public purposes.

For the development of the transport infrastructure and for the purpose of the construction and development of a nautical facility expropriation is only possible if the public port, water facility mooring station, ferry and ferry port as well as other nautical facility and placement of signs for the demarkation of fairway abolishes or significantly obstructs the ordinary use of the property ashore.

According to Act No. V of 2013 on Civil Code, easement may be granted to and held by the possessor of a real estate property on another person's real estate property to use such property to a specific extent for right-of-way, or for the installation of water lines or water conduits, basement, poles for aerial lines, building abutment, or for other similar purposes to the benefit of the dominant tenement, or to demand the holder of the servient tenement to refrain from otherwise rightful conduct proceeding from his entitlement.

If a piece of land is not connected to a suitable public road, neighbors shall tolerate the holder of dominant tenement to pass through their land.

27. Is there any special regulation regarding public-private partnerships for port investment projects?

There is no specific Hungarian regulation regarding public-private partnerships for port investment projects. Furthermore, there is no other uniform regulation regarding public-private partnerships for investment projects in general. The applicable rules are placed in several legal acts and can be deducted from the provisions of the act on public procurement, act on public finances, laws for concession, and the civil code.

Determination of the conditions of such investments shall be set by the government on a case by case basis.

28. Is the termination of the operation of ports or the demolition of ports specifically regulated in your jurisdiction?

[If yes, please elaborate also on the relevant procedure and whether or not the competent authority can request remediation measures.]



Procedure concerning the operation and demolition of a port after the date of the permit for use is regulated by GKM Decree No. 50/2002. (XII. 29.) on the creation, use, operation and termination of port, ferry and ferry port and other nautical facilities.

Permit for use

The port shall be operated after the date defined in the permit for use only in possession of a permit for use. If the validity of the permit for use has elapsed, and, if during control, the operation was prohibited by the Shipping Authority, operation of the port shall be ceased as long as the authority – as result of another control procedure – decides on the further operation of the port.

What shall be the content for the prolongation of the request for port operation permit?

- completed application form;
- the description of works performed since the permit for use (if it was issued) or the lastly issued port operation permit which are not subject to permission or notification;
- the certification for payment of the procedural fee.

Port operation permit shall cost HUF 10,000 for each meter based on the length of the ports' shore edge and based on the length of the water facility in case of a water facility mooring station.

Demolition permit

Procedure for demolishing a port will be performed by the Shipping Authority if the owner or the user intends to finish its activity, or the nautical facility does not conform to the provisions of the relevant legislation and the technical requirements.

What shall be attached to the request for demolition of the port?

- reasoning for the demolition;
- the navigational safety analysis of the situation due to the demolished port;
- the site plan after the demolished port;

- the plan for the placement of residues and materials after the demolished port;
- the recovery plan of the site to the status quo before the construction of port or a plan and reasoning deviating therefrom;
- the certification for payment of the procedural fee (HUF 51,000).

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.

Please set out the types of financial sources available for port investments and maintenance in your jurisdiction:

[Please include information on (i) private investments, (ii) public investments and (iii) public-private collaborations for investments and lay down any special rules and practices regarding the different investment types.]

Investments regarding port development are aiming

- upgrading, expanding machineries and equipment directly contributing to improve quality or quantity of logistics services
- reconstruction, renovation of inner road and rail network, quays, public utilities
- energy modernization of current facilities to improve background services
- upgrading accessibility of ports on road, rail or IWW, indirectly contributing to their development.

(i) Private investments

Private ports finance their investments from their own resources in Hungary.

Private investments are typically related to the development of port facility or equipments, which return financially on a shorter time period (5-10 years).



However, the development of basic port infrastructure is not as profitable as the purchase of equipments. This is the reason, why the construction of a new quay for example cannot be financed only from private resources. The financial return of such investment would be 50 years or even more. Private ports have also carried out such infrastructural investments with additional public funds (the ratio was adjusted according to the cost-benefit forecast).

(ii) Public investments

National strategies (National Transportation Infrastructure Development Strategy, Middle-term Logistics Strategy) aim at investing in logistics services and transportation. These strategies define major areas of development in ports as well. So-called 'dedicated' projects i.e. financed from the 2nd priority of the Integrated Transport Development Operational Program (IKOP) and from Connecting Europe Facility (CEF), are chosen on national governmental level. Therefore, beneficiaries have to apply for grants and complete the same entire administration process as if was competition, however, there is none. From this perspective, projects implemented from these sources are not funded, but financed by the national government or by the EU via the national government.

The below table indicates the main grant sources, which are fundamental to finance port developments in Hungary.

1. Table Ongoing public financed projects of Hungarian Danube ports

Financing instrument	Project	Project's sum	Timeframe
IKOP priority 2	Upgrading the infrastructure of Public Port of Győr-Gönyű	~ 9.542.842	2016-2018
	Construction of MAHART Mobile Flood Dam at the Freeport of Budapest	~ 4.902.667	2016-2018
	Development of Public Port of Baja	~ 12.476.853	2017-2019
	Establishment of a new public port in Mohács	~ 16.539.688	2017-2019
CEF Transport	preparation of PAN-LNG-4-DANUBE - Hungarian IWW LNG infrastructure and developing the first fix and mobile LNG stations (Freeport of Budapest)	7.097.150	2016-2019
	Master Plan and feasibility study for the development of the TEN-T ports, including Komárom Port	1.046.686	2016-2018

(iii) Public-private collaborations for investments

Public-private collaborations for investments in ports are not typical in Hungary.

Please provide information on the financial sources and the corresponding duties as they are assigned to the different parties involved.

[Starting from the previous sections where responsibilities were defined in connection to investments, please give an overview linking the financial sources with the duties of the parties assigned as responsible.]

Are there any specific rules regarding how much a port can reinvest and allocate to maintenance from the fees it receives?



Since public-private partnership is not regulated by law in Hungary in any sector, there are no specific rules regarding how much a port can reinvest and allocate to maintenance from the fees it receives.

3.5.1 Rules and procedures for public funding of port investments

Please set out the public funding system for ports in your jurisdiction. In particular:

- *Are there national programs or case-by-case activities for port investments? If yes, please give an overview of the legal framework, the procedures for applying, the timeframe, overall sums available and the eligibility of candidates.*
- *Are there European programs for port investments available and in use? If yes, please give an overview of the legal framework, the procedures for applying, the timeframe, overall sums available and the eligibility of candidates*
- *Are there any other types of national public funding systems available?, If yes, please elaborate.*
- *Are there national rules and funding programs available that allow the collaboration between the public and the private sectors using public funding?*
- *Are there different eligibility grids that apply to private entities and public entities when competing as a consortium for joint funding? [Please give a description of the public funding system for port investments.]*

Calls for proposals are available for port infra- and superstructure development on national and EU levels.

Sources from IKOP and other OPs are available under calls for proposals. There are no national funding schemes for port development, national contribution is only provided for EU grant schemes.

Since the latest amendment of GBER – the extension to ports and airports in 2017 – the funding rules have been significantly modified. Before the



publication of the new GBER article 'Aid for inland ports' the funding of port investments had been rather cumbersome. In the lack of a dedicated GBER article, major port investments from Hungary had been notified individually to the Commission. The new article aims at providing a clear legislation on the public funds for port infrastructure, however, the definitions and the applicability of the aid raises further questions:

- what port infrastructure elements are exactly part of 'port infrastructure' in the understanding of the article
- what port superstructure elements and equipments are exactly part of 'port superstructure' in the understanding of the article
- since port superstructure is not, only port infrastructure costs are eligible under this article, under what article of the GBER are the superstructure elements eligible for funding

There are no national legislation and funding programs ruling the collaboration between the public and the private sectors using public funding. In case of joint application, only eligible costs make differences between public and private bodies. Certainly, different criteria rule public and private bodies, but no matter whether they apply for grants by their own or jointly: no advantages in case of joint application.

Granting sources for port infrastructure and superstructure development:

- ❖ Integrated Transport Development Operational Program (IKOP), priority 2

This program includes the main transport infrastructure investments. It focuses on further developing highways and railways across the country, improving public transport services not only in and around the capital, but also in the main cities, and, in improving regional accessibility.

The second priority axis of the Program is the improvement of waterborne and railway accessibility of the TEN-T corridor.



- ❖ Economic Development and Innovation Operational Program (GINOP), priority 1

The program aims to stimulate the economies of the less developed regions in Hungary. The most important priorities are the competitiveness of small-and medium sized enterprises, research and innovation, and employment.

Priority 1 of the Program is about to improve the competitiveness of small-and medium sized enterprises. To reach this goal, the improvement of business environment and infrastructure is needed through the development of logistics centres along the main transport corridors.

- ❖ INTERREG Danube Transnational Program (INTERREG DTP)

The Danube Transnational Program (DTP) promotes economic, social and territorial cohesion in the Danube Region through policy integration in selected fields. The cooperation program tackles common challenges related to environmentally-friendly (including low-noise), low-carbon and safe *transport systems including inland waterways & ports* and multimodal links in order to contribute to sustainable regional and local mobility, modal integration and intelligent transport.

- ❖ INTERREG Central Europe (INTERREG CE)

INTERREG CE is a European funding program that encourages transnational cooperation beyond borders in Central Europe. Thanks to the projects funded under *Transport* priority, the gap between peripheral and less accessible regions and the area's well-connected centres can be reduced. The connections of regions and cities to the European transport networks will improve and multi-modal environmentally friendly passenger and freight transport will be strengthened.

Responsible institutions:

- Ministry of National Development (NFM)



- Emergency and Disaster Information Service (RSOE)
- Port owners, port authorities, port management organizations (e.g. MAHART-Freeport Ilc., Freeport of Budapest Logistics, etc.)

Ministry of National Development is the managing authority (MA) of projects granted in the frameworks of Operational Programs.

In case of European level INTERREG grants, the responsible institution (or MA) is the so-called Joint Secretariat (JS). This coordinating organization varies by each Program.

JS in case of INTERREG DTP is the Ministry for National Economy in Hungary (NGM).

JS in case of INTERREG CE is a program specific office in Vienna.

2. Table Funding programs in details

Funding program	JS	Program's overall sum (EUR)	Timeframe	Eligible beneficiaries
IKOP	NFM	3.27 billion	2014-2020	port developments under priority 2 dedicated projects are selected by the national government
GINOP	NFM	4.45 billion	2014-2020	SMEs or corporates if project directly helps SMEs to develop as well; from the entire country except Central-Hungary
INTERREG DTP	NGM	231 million	2014-2020	public and private organizations across the Danube Region (Austria, Bulgaria, Croatia, Czechia, part of Germany, Hungary, Moldova, Romania, Serbia, Slovakia, Slovenia, part of Ukraine)
<i>INTERREG DTP Transport</i>		<i>56 million</i>		
INTERREG CE		246 million	2014-2020	public and private organizations across Central-Europe (Austria, Croatia, Czechia, part of Germany, Hungary, part of Italy, Poland, Slovakia, Slovenia)
<i>INTERREG CE Transport</i>		<i>30</i>		

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.

How are the terms "port administration", "port authority" and "port management" defined in your jurisdiction?

Generally, there is no detailed and precise definition in the Hungarian legal system for the definitions of a „port authority”, „port operator or administrator”. Only Act No. XLII of 2000 on waterborne transport can serve as a guideline, as it contains a definition of the „operator”.

The Hungarian laws does not have a definition for the „port authority”. As we have elaborated above, **administration activity** of the state concerning navigation, waterways and ports are performed by the Minister of National Development (**Shipping Authority**) and the Government Office of the Capital City Budapest. This does not necessarily cover the definition of a „port authority”.



The closest definition to the „port operator or administrator“ shall be the **operator**, as defined by the law. According to the act on waterways, the operator shall be

- the owner of the floating installation or the port, as well as
- whoever is entitled to operate the floating installation or port by virtue of an agreement or other legal title.

We may conclude that the „operator“ is the same person in the Hungarian legislation as the „port administrator“, „port operator“, and the „port authority“. The „port authority“ competence of the operator is underlined by the fact that based on the laws, the port operator is entitled to check the validity of the navigational documents, to provide the invalid documents to the competent waterway police authority as well as to withdraw the documents until the payment of the port usage fee. Further, the mooring place of the floating installations and the residence duration of the floating installations shall be defined by the port operator.

4.1 Port administrations & responsibilities

Name the port administrations that were appointed by law and list their responsibilities

- Is there a difference between port owners and port administrations in your jurisdiction?

[Please list all port administrations in case several scenarios apply to the Danube region in your country.]

Please give a brief outline of the legal requirements regarding port administration. In particular:

- *Who is responsible for the port administration?*
- *What are the main competences of port administrators?*
- *What permits, registrations and other authorizations are required for port administration and what is their term?*



The port operator is responsible for the administration of the port. The detailed rules concerning the use of ports is set by the port operator in the so-called port bylaws. The port bylaws are approved by the Shipping Authority – in case of a border port with the approval of the customs and border control authority. The port bylaws of the port of public interest shall be published yearly by the port operator in the Official Notices annexed to the Hungarian Official Gazette (*in Hungarian: Magyar Közlöny*). Part of the port bylaws affecting vessel traffic shall be published in a gazette for sailors. In practice, this is published on the homepage of the port operator.

The main rights and obligations of the port operator is defined in GKM Decree No. 49/2002. (XII. 28.) on the general operational regulations of port, ferry and ferry port and other nautical facilities as well as on application of the operational regulations.

The legal regulations do not contain any special permission or provision concerning the person of the port operator. Rules for the permissions concerning creation, operation and use were detailed above.

Laws and agreements concerning concession and lease of the operation of state owned ports may require general economic and legal compliance, such as the provision that the operator shall not have a due, enforceable public debt, and shall not be subject to bankruptcy, winding-up or liquidation proceeding.

4.2 Services provided by the port administrations

Please give a brief outline of the legal requirements regarding port services. In particular:

- *Which port services are legally required? (eg bunkering, drinking water, bathroom facilities, waste disposal facilities, sewage, disposal of oil)*
- *Which rules apply to moorings?*
- *Which safety requirements apply? (eg fire safety, life belts, ice breakers)*

- *Which legal prohibitions apply (eg no swimming/fishing in the port basin)?*
- *What are the penalties or consequences for non-compliance?*

There is no law for the detailed rules concerning legally required port services. However, in relation to services, GKM Decree No. 49/2002. (XII. 28.) contains certain rules, including mooring and standing:

- The port operator – in case of ports operating in winter – shall make sure that to provide at least drinking water, social places (toilet, bathroom), and energy supply from the shore to the crew of wintering floating installations.
- The mooring place of the floating installations in the port as well as the residence duration of the floating installations is defined by the port operator. If the driver of the floating installation does not comply with these conditions, the port operator is entitled to have the floating installation reallocated, for the cost of the owner of the floating installation.
- The floating installations shall be moored safely to the place designated thereto so that it limits the nautical operation of the other floating installations to the least possible extent.
- The operator shall prioritise regular ships for mooring in public ports.
- Permission of the police is necessary for mooring in border ports.
- Based on the act on waterborne transport, the operator of the private port shall not deny the mooring of floating installations that are endangered due to extraordinary weather, water level or ice conditions; however, it may require the reimbursement of its extra cost due to such conditions.

The corresponding safety conditions are detailed in GKM Decree No. 49/2002. (XII. 28.) as follows.

- The placement of fire, emergency and damage elimination tools shall be kept by the operator of the facility and the driver of the floating installation in a state ready for use.



- The floating installation shall be investigated by the operator before wintering, from a fire protection and safety point of view (which shall be documented), the internal spaces and the equipment shall be set to winter mode and the operator shall make sure that there is no water inside.

GKM Decree No. 49/2002. (XII. 28.) also lists the port prohibitions as follows. The followings are prohibited at the territory of the nautical facility:

- any action and conduct endangering the safety of other persons or the operation of the facility and may cause environmental pollution (such as water pollution),
- to place oil, oil waste as well as their combination with water as well as firm or liquid waste outside the collection facility,
- to use or place the light by disturbing the waterborne transport,
- to bathe or dive without the permission – and without complying with the security measures – of the operator.

The laws do not have concrete sanctions for non-compliance with the port rules. By virtue of GKM Decree No. 49/2002. (XII. 28.), the application of sanctions are within the competence of the operator. Based on this, the main sanctions are the followings:

- retention of the documents until the payment of the port user fee;
- in case of earlier port service fee debt, the prohibition of the entry and residence in the port;
- the denial of entry and residence for a person violating the code of conduct published for the maintenance of order and security in the port.

Other sanctions than described above, such as the application of penalties are possible based on the decision of the operator, if the sanctions are set in the port bylaws.

4.3 Finance of services

Please explain how services are paid for in the Danube ports in your jurisdiction.

- *Are port fees applied and are they paid by the port users or is there a special state finance available to compensate these fees?*
- *Is there a direct or indirect charging system in place in your jurisdiction?*

[In case there are several scenarios applicable to the Danube Ports in your jurisdiction, please describe them on a case by case basis.]

There is no regulation on how port service fees have to be paid and no legislation on the level of such fees. However, national ports are obliged to publish their service fees on their website and apply the same conditions to any port users.

Finance of services and maintenance of ports depend on the certain port's ownership structure and the size and number of organizations operating in the given port. Typical fees are port use fee, wharfage fee, ship stand fee and fees for various services (Ro-Ro ramp use, storage, mooring, public utilities, etc.). All the fees are usually paid by the port users, but given the different port management structures, it is not obvious who is the contracting entity. Port owner, port manager, port operators and various port users are sometimes different entities (e.g. in the public port of Baja or Budapest) but in other cases, one entity represents several roles (typically in private ports, owner and operator is the same company). Unlike service fees, in case of state owned ports, rental fee is paid by the port operator.

Application of fees at national public ports is adopted only by FBL, Public Port of Győr-Gönyű, Public Port of Baja and the future Public Port of Mohács. Private ports have no public fees, they are not forced to be transparent regarding prices. At private ports there are no rules concerning their fees or the contracting partners, hence at some private ports there are several but lower fees, while others can create few but higher fees for port services.

(i) Public ports



In case of the Freeport of Budapest, the port manager Freeport of Budapest Logistics (FBL, functioning as landlord) is paying for the owner MAHART Freeport Ilc. for the right of usufruct.

For port maintenance and services, fees are defined by FBL, but having agreed with port operators, FBL is in partnership with companies in the port. Major income of FBL is paid by tenants. Tenants in the port area are loading, storing, packing, etc. Further income of FBL is coming by additional port services: handling railway tracks, parking fees, security, handling barges. Vessels pay to port operators for using the port, while operators, loading companies pay to FBL for using the quays. Additionally, handling fee for railway wagons is paid by customers to service provider. Investments and port infra- and superstructure development projects are financed thanks to these incomes and credits.

(ii) Private ports

Another example is the private Port of Paks, where the owner and operator is the same company and they provide all of the port services for port users. Fees and prices of port services depend on the market. Most important income is from loading/unloading vessels: HUF 550-650/ton (~ EUR 1.8-2.1/ton, oil cargo is more expensive to load/unload than bulk cargo).

Puffer storing for maximum 6 days costs HUF 250/ton (loading/unloading included, ~EUR 0.8/ton). There are no weighing fees. Extra fee is for bagging (bag's cost included), if needed.

4.4 Port fees

How are the access fees or taxes for the use of ports regulated in your jurisdiction?

[Please describe the general categories of fees applicable to Danube ports in your jurisdiction and how they are linked to the types of services available in those ports.]

- *Which services are included in the fee? (eg use of the port and mooring, use of waste disposal facilities, ice removal in winter)*

- *Describe fees/taxes for port infrastructure and port services.*
- *Who is obliged to pay the fee and when?*
- *What is the mode of payment of the fee?*
- *Who is liable for the fee?*

Pursuant to GKM Decree No. 49/2002. (XII. 28.), port usage fee and the payment method and conditions shall be displayed in a prominent place clearly visible to the public. The operator may impose the prior payment of the port coast usage fee. Floating vessels seeking protection in the port for the duration of the storm, as well as floating installations waiting for the embarkation of the authority for inspection shall not pay port coast usage fee for a maximum period of 30 minutes.

The ship owner shall pay the port coast usage fee at all times. The driver of the ship may appoint another person as bearer of charges; however, the owner of the ship shall be liable for the payment of charges according to the tariff schemes. This is also applicable for port coast usage fee if it shall be paid by the owner of the ship.

Who decides on the amount of the fees or taxes for the use of ports and how is it calculated?

[If available, please include the calculation methods that are in force. Specify if there are clear legal rules in force for this or if each port administration has their own calculation method in force. How often are port fees updated and is there an official explanation for this?]

In case secondary fee or port tax legislation or other fee legislation is issued, please elaborate on the respective authority issuing such legislation and provide information on the legal procedure for issuing it.

Is there a special complaint process available for port users with regard to port services and access fees/taxes in your jurisdiction?

[If yes, please indicate whether there is a special complaint body or institution and give a brief overview over the complaint process, the parties involved, the costs and the timeframe.]



The port operator is free to define its tariff schedule. There is no body or procedure by law ensuring complaint concerning port fees and services.

We would like to note that based on the act on waterborne transport, remedy is possible against navigation related decisions of first instance.

Please include as Annex 2 a list of fees applicable in all Danube ports in your jurisdiction, including the link to the website where they are available for consultation online.

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.

Does the relevant port legislation in your jurisdiction foresee the possibility to issue port bylaws?

- *Is there a specific national legislation regulating the elaboration and publication of port bylaws or any other port rules that have an equivalent value?*
- *If yes, please explain if there is a general set of provisions imposed at national level applicable to all Danube ports or if there are specific provisions defined on a case by case basis.*
- *If there is no such rule, please explain this aspect, by stating that bylaws do not apply to your jurisdiction*

Pursuant to the act on waterborne transport, the detailed rules for using the port is defined by the port operator in the form of port bylaws. Port bylaws are the operational regulation concerning port.



The port bylaws are approved by the Shipping Authority, in case of a border port, with the approval of the customs and border control authority. Port bylaws shall be valid after the approval of the authority until withdrawal.

The below data and conditions shall be defined accordingly in the port bylaws by the operator:

- the geographic identifiers and the name of the port,
- the name and address of the port operator,
- the scope of the port bylaws,
- the destination, nature and utilization possibilities of the port (such as receipt of large or small vessels),
- the numbers and sizes of mooring and berthing places,
- the data of the gauge concerning port,
- the hydrographic and water depth data of the port, entry channel and standing place(s),
- the procedure for port use (such as check in),
- the provision authorising the port operator for defining the validity of the navigation document, rules concerning the invalid and withdrawn navigational document,
- the detailed rules prohibiting the entry to port,
- the description of the equipment operating to serve the loading or floating installations of the port (crane, slipways, etc.),
- the short description of the loading technology,
- the fire protection requirements,
- the road and rail access to the port,
- the description of the facilities for storage or other cargo handling and passenger services,
- the method of handling waste, hazardous waste and wastewater (location of containers), the navigation possibilities from the water facility,



- other services of the port,
- the social rooms in ports receiving only passenger or personal traffic,
- the site plan of the port by indicating the navigation safety, environmental protection and communal services, mooring and berthing places, safety tools, equipment and the location of information boards.

The port bylaws of the port of general interest shall be published by the port operator in the Official Notices annexed to the Hungarian Official Gazette (*in Hungarian: Magyar Közlöny*). Part of the port bylaws affecting vessel traffic shall be published in a gazette for sailors. The publication and information sheet for sailors are published by the Traffic Department of the Governmental District Office of the Capital City of Budapest and is available on the homepage of the Shipping Authority.

4.5.1 Entity issuing the port bylaws

Which entity is in charge of issuing the port bylaws/port rules in your jurisdiction?

[Please insert input.]

Is there a specific procedure in place for updating/revising the port bylaws/rules?

[If yes, please give a brief outline on the procedure for issuing port bylaws.]

As outlined above, the primary and most important document is port bylaws. The port operator shall be responsible for erecting such document and it shall be approved by the Shipping Authority.

There is no legal regulation concerning the mandatory supervision of the port bylaws. However, at the time of modification, the modified bylaws shall be published in the Official Notices annexed to the Hungarian Official Gazette (*in Hungarian: Magyar Közlöny*).

Examples for the currently valid Hungarian bylaws are set out in Schedule 3.



Please provide the port bylaws/rules of equivalent value of the Danube core network ports in your jurisdiction as Annex 3.

4.5.2 Area of application of bylaws

To which area do the bylaws apply and which port users should be aware of them?

[Please also elaborate on whether or not some port bylaws limit the third party access rights (eg access to oil ports).]

The port bylaws serve as a general terms and conditions or regulation and is applicable to all parties using the services of the port, and furthermore, it is applicable to parties entering into the area of the port.

4.5.3 Environmental requirements included in the port bylaws

Do the port bylaws applicable in your jurisdiction foresee specific requirements for aspects dealing with pollution prevention aspects such as: air emissions, alternative fuels, etc?

[In case there are specific environmental requirements applicable to different port locations in your jurisdiction, please list all of these.]

The port bylaws shall mandatorily include the method of handling waste, hazardous waste and wastewater (location of containers). Furthermore, there is no specific bylaws for environmental protection.

We would like to enhance that Hungary has signed the 1973 international convention for the prevention of pollution from ships and Act No. X of 2001 has published its 1978 protocol („MARPOL 1973/1978.“).

4.6 Rules and Procedures regarding the Harbormaster

Please give an overview of the legal requirements regarding the harbormaster department in your jurisdiction.

[Please list the duties and responsibilities of the harbormaster departments in the Danube Ports in your jurisdiction.]



There is no special requirement or a designated training in Hungary for harbormasters. The scope of responsibilities of the harbormaster is defined in the port bylaws.

5 Rules and regulations to become a port operator

This chapter shall explain the legal framework and the administrative procedures applicable to third parties interested in becoming a port operator in your jurisdiction.

The indicative timeline of the procedures applied as well as the estimated costs shall also be included in this chapter.

Is there a requirement for a specific concession in order to operate a port and/or to provide port services in your jurisdiction?

- *What concession or other authorizations are required and which regulator issues them?*
- *Which are the competent authorities?*
- *What timeframe has to be considered for achieving the right to operate?*
- *What are the penalties or consequences for non-compliance?*

No separate authorisation is needed for the operation of a port. As indicated above, the laws regulate the permission procedure concerning the construction of port.

The general rules for public procurement, public finances and concession are applicable for the operation of a state-owned port. In such case, the operating conditions (and the consequences of the breach) are set on a case by case basis in the form of a government decree or concession contract or contract for use.

Does the relevant public procurement legislation in your jurisdiction foresee any special regulations with regard to port operation?

The general rules apply to public procurement procedures concerning ports. Act No. XCLIII of 2015 on public procurement does not have any further rules – other than the general ones – concerning ports.



Based on the laws, public procurement shall be conducted in case of public contracts intended to ensure the pursuing of the contracting entities' public service activity. Based on the Act, public service providers are entities if they are pursuing the activities or were established for the purpose of pursuing an activity concerning providing inland ports or other port facilities to carriers on inland waterway or passenger carriers.

Are there any restrictions or limitations as to who can operate a port in your jurisdiction?

[Please include information on the parties to which the respective legislation is applied from the public and private sector.]

Is there an obligation to contract/public service obligation for the port operator?

[If yes, please give a brief outline of the obligation to contract/public service obligation, the specific situations when such obligation to contract/public service obligation would be triggered and the contract partners.]

There is no restriction in the Hungarian laws concerning the person of the port operator. The port operator has some rights and obligations concerning public services, but these are primarily administrative tasks promoting the work of the authorities:

- Checking the validity of the shipment documents, the provision of the invalid documents to the competent waterway police authority.
- Ensuring the extraordinary transit of regular passenger ships in border ports. Prior discussion with the police and customs authority concerning the time of transit.
- Ensuring and promoting the control tasks of the shipping authority – and if necessary, of other authority eligible for control.

As the legal rules does not have any specific provisions concerning the person of the operator, there no different provisions for the private owned operators either. As indicated above, laws and agreements concerning concession and lease of the operation of state owned ports may require general economic and legal compliance, such as the provision that the operator shall not have a due, enforceable public debt, and shall not be subject to bankruptcy, winding-up or liquidation proceeding.

Are there specific rules for the operation of privately owned ports?

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.

In case there is an economic entity interested in, for instance setting up a manufacturing plant within the port area and thus needs to receive and deliver cargo by water, what are the procedures this company would have to comply with in order to invest in a particular port location?

[Please give an overview on (i) whether economic activities other than port services are allowed within the port area in your jurisdiction, (ii) what procedures the economic entity interested in carrying out such economic activities has to follow and (iii) whether there are any specific rules applicable on such economic activities other than port services carries out in a port area.]

There is no specific legal limitation concerning the activities to be performed in the ports, other than not directly linked to port services. Therefore, the general rules apply for investments on the port area.

Is there a requirement for a specific concession in order to carry out economic activities other than port services in a port area in your jurisdiction?

- *What concession or other authorizations are required and which regulator issues them?*
- *Which are the competent authorities?*
- *What timeframe has to be considered?*
- *What are the penalties or consequences for non-compliance?*

[Please insert input.]

Does the relevant public procurement legislation in your jurisdiction foresee any special regulations with regard to carrying out economic activities other than port services in a port area?

[Please insert input.]

Are there any restrictions or limitations as to who can carry out economic activities other than port services in a port area in your jurisdiction?

[Please insert input.]

Are there any restrictions or limitations as to what economic activities other than port services may be carried out in a port area in your jurisdiction?

[Please insert input.]

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.

Are there special rules/measures in your jurisdiction that encourage parties working in the port area such as the port administrator or the port tenants (port operators and other economic entities) to reduce the emissions in the port area?

- *Are there special environmental protection programs regarding air, water or soil pollution?*
- *Do "green vessels" (eg LNG powered vessels, vessels with exhaust emission treatment devices, etc) pay a smaller tax fee to access the port just because they pollute less or do they perhaps receive a tax-waiver?*
- *Does a port operator who uses state of the art technology benefit from a certain type of incentive scheme such as reduced port fees, lower rent/concession fees to be paid, etc?*
- *Are there special incentive schemes included in the port bylaws regarding the set-up of LNG refueling points such as simplified procedures for the award of the port land for such refueling stations, reduced port taxes, spatial planning done to accommodate such bunkering stations, etc?*



There is no specific legal incentive concerning decreasing the ecological footprint of ports.

7.1 Incentives for port users & port operators

[Please provide a list of incentives and briefly describe them. When explaining these incentives, please separate them taking into account the different categories of entities active in the port area. If there is no general legal framework applicable at national level, please explain the different scenarios available for the port locations in your jurisdiction.]

There is no specific legal incentive concerning environmental protection for the port users and operators. The tax advantage linked to environmental investments can naturally be used by the operator too, if the investment is performed according to the laws.

7.2 Incentives for investors in ports

[Please provide a list of incentives and briefly describe them. When explaining these incentives, please separate them taking into account the different categories of entities active in the port area. If there is no general legal framework applicable at national level, please explain the different scenarios available for the port locations in your jurisdiction.]

Pursuant to Act LXXXI of 1996 on Corporate Tax and Dividend Tax, any undertaking is eligible for reduction in corporate tax (profit) if an environmental protection related investment is performed in the value of at least 100 Million Hungarian Forints (in present value).

8 Annexes

Annex 1: List of all Danube ports

Danube ports	Ownership
Győr-Gönyű National Public Port (Port of Győr-Gönyű)	public port (state-owned)
Port of Komárom	private port
Csepel National Public Port (Freeport of Budapest)	public port (state-owned)
Ferroport Budapest	private port
'Dunai' Port	private port
Port of Adony	private port
Port of Dunaújváros (Dunaferr Port)	private port
Centroport (Dunaújváros)	private port
Port of Dunavecse	private port
Port of Paks	private port
Port Harta	private port
Port of Foktő	private port
Concordia Port (Fadd Dombori)	private port
Baja National Public Port (Port of Baja)	public port (state-owned)
Port of Bogyiszló	private port
Margitta Island (Mohács)	private port
Port of Bóly (Mohács)	private port
Cargill Port (Mohács)	private port
International Port of Mohács, Mohács Port Border Crossing Point	public port (state-owned) (owned by the Municipality of Mohács)

Annex 2: List of fees applicable in public Danube ports

List of fees applied by Freeport of Budapest Logistics

Fees	Specifications	
Loading default fees are set at 100 kg		
Extra fees for loading	selection	30%
	consignment	15%
	over-time loading on working days	30%
	over-time loading on weekends and holidays	50%
Storing default fees are set at 100 kg and by weeks		

Source: website of the Freeport of Budapest

http://www.bszi.hu/images/PDF/Dijszabas/2018/dijszabas_2018.pdf

List of fees applied by Port of Baja

Fees	Specifications		HUF
fee of embankment	ore, coal, coke, rock, sand / ton		HUF 45
	cereals (wheat, barley, rye, corn) / ton		HUF 52
	sunflower seed / ton		HUF 58
	other (at least HUF 10.000) / ton		HUF 58
fee of harbour	use for cargo transportation river ships per ton of bearing capacity and per day	1-9 days	HUF 1.30
		From day 10- (minimum HUF 7800)	HUF 13
	for other water vehicles or floating elements per ton of bearing capacity and per day and per occupied square meter	first day	HUF 2.60
		second day	HUF 3.90
ship stand fee within the harbour area	cargo ships	empty ship	HUF 19.500
		loaded ship	HUF 26.000
	ships with no staff (+25%)	empty ship	HUF 24.375
		loaded ship	HUF 32.500

Source: website of the Port of Baja

<http://www.portofbaja.hu/index.php?page=services>

List of fees applied by Port of Győr-Gönyű

Fees	Specifications	EUR
fee of harbour	use for cargo transportation river ships per ton of bearing capacity and per day	EUR 0.01
fee of embankment	use for loaded and unloaded goods per ton	EUR 0.29
	or use after 48 hours per ton of bearing capacity	EUR 0.03
	with minimum fee per ship	EUR 105
fee of embankment use for docking per occasion		EUR 33
ship stand fee within the harbour area	empty ship	EUR 170
	loaded ship	EUR 250
water supply fee per cubic meter		EUR 5
electricity supply fee per ship per day (220V-380V)		EUR 15
wintering fee is 45% of the fee of harbour use		

Source: website of Győr-Gönyű Port
http://en.portofgyor.hu/harbour_tariffs.html

Annex 3: List of port bylaws of the Danube ports

Source of port bylaws at Port of Győr-Gönyű:
http://portofgyor.hu/doktar/Kik_t_rend.pdf

Source of port bylaws at Freeport of Budapest:
<http://www.bszl.hu/images/PDF/Kikoto/kikrend2011.pdf>

Source of port bylaws at Port of Baja:
<http://www.portofbaja.hu/index.php?page=services>