

Outline contents

<i>Preface</i>	5
<i>Outline contents</i>	7
<i>Detailed contents</i>	9
<i>Figures and tables</i>	22
<i>Citations and abbreviations</i>	23
<i>Bibliography</i>	37

1	The EU Seaports Regulation in brief	57
2	Policy background	67
2.1	Main features of the EU seaport industry	67
2.2	History of European seaport policy	79
2.3	Legislative process leading to the EU Seaports Regulation	90
2.4	Objectives of the EU Seaports Regulation	99
2.5	Subsidiarity and proportionality	120
3	Legal status	130
3.1	A regulation	130
3.2	Entry into force and transitional measures	156
3.3	Legal basis	188
3.4	Interpretation	218
3.5	Relationship with other rules of law	224
3.6	Implementation and progress reporting	239
4	Scope of application	243
4.1	Principles	243
4.2	Port services	245
4.3	Maritime ports	293
4.4	Special rules	356
5	The provision of port services	390
5.1	Principles	390
5.2	Minimum requirements	420
5.3	Limitations on the number of providers	555
5.4	Public service obligations	687
5.5	Internal operators	742
5.6	Employee rights	784
6	Financial transparency and autonomy	814
6.1	Principles	814

6.2	Transparency of public funding	815
6.3	Port service charges	860
6.4	Port infrastructure charges	910
7	Procedural safeguards	1042
7.1	Principles	1042
7.2	Consultation and information	1044
7.3	Complaints handling	1085
7.4	Appeals	1114
7.5	Penalties	1118
7.6	Privacy	1131
8	Critical assessment	1132
	<i>Annexes</i>	1149
	<i>Index</i>	1289
	<i>About the author</i>	1306
	<i>About Portius – International and European Port Law Centre</i>	1307
	<i>About the Portius Port Law Series</i>	1307

Detailed contents

<i>Preface</i>	5
<i>Outline contents</i>	7
<i>Detailed contents</i>	9
<i>Figures and tables</i>	22
<i>Citations and abbreviations</i>	23
<i>Bibliography</i>	37

1	The EU Seaports Regulation in brief	57
	1 General presentation	57
	2 Twenty-five Frequently Asked Questions	59
2	Policy background	67
2.1	Main features of the EU seaport industry	67
	3 Functions of seaports and drivers of port regulation	67
	4 Distinction between port services	68
	5 Public v. commercial initiative in ports	69
	6 Legal status of port land and infrastructure	70
	7 Legal status of port authorities	71
	8 Functions of a port authority. Landlord, tool and service ports	72
	9 Organization of port labour	74
	10 Organization of technical-nautical services	75
	11 Port reform and PPPs in ports	76
	12 Economic importance of ports and port services	77
2.2	History of European seaport policy	79
	13 European seaport policy up to 1997	79
	14 The Green Paper on Sea Ports and Maritime Infrastructure (1997)	82
	15 The EC Seaports Directive Proposals: Port Package I (2001 and 2002) and Port Package II (2004)	83
	16 The EC Seaports Communication (2007)	86
	17 The EU Seaports Regulation Proposal: Port Package III (2013)	88
2.3	Legislative process leading to the EU Seaports Regulation.....	90
	18 Applicable procedural rules	90
	19 Preparatory stakeholder consultations and studies	90
	20 Preparatory Impact Assessment	91
	21 Initiation of legislative procedure by the European Commission	92
	22 Opinions of the national Parliaments, the European Economic And Social Committee and the Committee of the Regions	93
	23 Amendments from the EU Council and the European Parliament, and 2016 Trilogue	93
	24 Final adoption of the Regulation	97
2.4	Objectives of the EU Seaports Regulation.....	99
	25 Main objectives according to the Preamble	99
	26 Problem analysis in Explanatory Memorandum and Communication	101
	27 Problem analysis in Impact Assessment	102

28	Identification of objectives in Impact Assessment	104
29	Choice of policy package	107
30	Absence of any intention to allocate specific functions to ports	113
31	Conclusion: transparent port competition as the key principle	117
2.5	Subsidiarity and proportionality	120
32	Treaty principles	120
33	Claim by Commission that Proposal was in line with subsidiarity and proportionality principles	121
34	Dissenting views concerning respect of subsidiarity and proportionality principles	123
3	Legal status	130
3.1	A regulation.....	130
35	Supremacy, direct applicability and direct effect	130
36	Justification of choice of a Regulation by the Commission	134
37	Matters for which the Regulation refers to 'national law'	136
38	Matters for which the Regulation refers to decisions by Member States – 'may' v. 'shall' provisions	140
39	Matters for which the Regulation refers to decisions by national entities – 'may' v. 'shall' provisions	143
40	Tasks and powers of the European Commission	148
41	Pre-emptive effect of the EU Seaports Regulation	150
42	Exhaustive character of Regulation's provisions. National 'gold-plating' and relationship with Treaty exceptions	152
43	The EU Seaports Regulation v. national or local 'port regulations'	154
3.2	Entry into force and transitional measures	156
44	Dates of entry into force and applicability	156
45	Transitional regime for pre-existing port service contracts. Principles	157
46	Notion of 'port service contract'	159
47	Regime of 'limited' port service contracts	168
48	Regime of 'unlimited' port service contracts and contracts having 'similar effects'	172
49	Procedure to amend 'unlimited' or 'similar' pre-existing contracts	175
50	What compliance with the Regulation entails. Principles	176
51	What compliance with the Regulation entails in relation to competitive tendering	179
52	Compensation for service providers whose contract is amended	184
53	Impact of transitional regime on 'exempted' services	186
3.3	Legal basis.....	188
54	Freedom to provide services and freedom of establishment in the transport and seaport sectors. Principles and legal basis chosen	188
55	Legal basis of Commission Proposal and intention to introduce freedom to provide services	191
56	Removal of certain market access-related passages upon the initiative of the European Parliament	195
57	Confirmation of market access principle in finally adopted Regulation	200
58	Theory of direct application of free movement of services in the seaport sector. Doubts about the legality of the EU Seaports Regulation	210

3.4	Interpretation	218
59	Literal interpretation and language versions	218
60	Precedence of the Treaty and Treaty-consistent interpretation	219
61	Autonomous and uniform interpretation	220
62	Teleological interpretation and <i>effet utile</i> principle	220
63	Use of the Travaux Préparatoires	222
64	Commission Q&As	223
3.5	Relationship with other rules of law	224
65	Precedence of the EU Concessions and Public Procurement Directives	224
66	Regime of port terminal contracts in landlord ports	230
67	EU Charter of Fundamental Rights	235
68	International status of ports, waterways and maritime zones	237
3.6	Implementation and progress reporting	239
69	Commission's initial Implementation Plan	239
70	European Ports Forum	239
71	Report to Parliament and Council	240
4	Scope of application	243
4.1	Principles	243
72	Overview of provisions	241
73	Regime of port services and ports outside the scope	241
4.2	Port services	245
74	Categories of port services covered	245
75	Service provision either 'inside the port area' or 'on the waterway access to the port'	246
76	Notion of 'bunkering'	248
77	Notion of 'cargo-handling'. Definition	252
78	Notion of 'cargo-handling'. 'Cargo'	252
79	Notion of 'cargo-handling'. 'Waterborne vessels'	253
80	Notion of 'cargo-handling'. Ownership of provider irrelevant	254
81	Notion of 'cargo-handling'. 'Organisation' and 'handling' of cargo	254
82	Notion of 'cargo-handling'. Ship-to-shore v. ship-to-ship operations	255
83	Notion of 'cargo-handling'. Import, export or transit	257
84	Notion of 'cargo-handling'. In-terminal location of activities and direct relationship with transportation	257
85	Notion of 'cargo-handling'. 'Processing'	259
86	Notion of 'cargo-handling'. 'Lashing' and 'unlashing'	259
87	Notion of 'cargo-handling'. 'Stowing', 'transporting' and 'temporary storage'	260
88	Notion of 'cargo-handling'. Exclusion of 'warehousing', 'stripping', 'repackaging' and 'other value added services'	262
89	Notion of 'cargo-handling'. Regime of excluded activities	264
90	Notion of 'cargo-handling'. National extensions	264
91	Notion of 'mooring'	265
92	Notion of 'passenger services'	269
93	Notion of 'collection of ship-generated waste and cargo residues'	275
94	Notion of 'pilotage'	279
95	Notion of 'pilotage'. Pilotage on waterways outside the competence of the managing body of the port	282

	96	Notion of 'pilotage'. Deep sea pilotage	283
	97	Notion of 'towage'	284
	98	Notion of 'waterway access'	288
	99	Port services outside the scope	291
4.3		Maritime ports	293
	100	Maritime ports of the comprehensive TEN-T Network	293
	101	List of ports covered	294
	102	'Comprehensive' v. 'core' TEN-T ports	302
	103	Position of non-maritime Member States	305
	104	Individual ports v. port groups	306
	105	Substantive criteria for selection as TEN-T port	308
	106	Ports not, or no longer, meeting substantive TEN-T criteria, or not yet added to the list of TEN-T ports	312
	107	Ports meeting some but not all the substantive TEN-T criteria	315
	108	Notion of 'maritime port'	315
	109	Public ports v. private ports. Irrelevance of public or private status of port managing body	319
	110	Maritime ports v. inland ports	321
	111	Cross-border element and cabotage	325
	112	Single-user ports, own-account ports and dedicated terminals	327
	113	Fishing ports	341
	114	Recreational ports	344
	115	Naval ports	346
	116	Ports of refuge	348
	117	Delimitation of port area	349
4.4		Special rules	356
	118	Overview of provisions	356
	119	General exception for ports of the comprehensive network in the outermost regions	356
	120	Specific derogations for small ports	358
	121	Exemption of ports not receiving public funds not allowed	359
	122	Extension to other EU ports	360
	123	Extension to ports of the European Economic Area	361
	124	Impact of 'Brexit'	363
	125	Exemption of non-commercial subareas	368
	126	Exemption of cargo-handling, passenger services and pilotage from Chapter II	369
	127	National extensions of Chapter II to pilotage	383
	128	National extensions of Chapter II to cargo-handling and passenger services	384
	129	National extensions to other port services	385
	130	Regime of dredging	385
5		The provision of port services	390
5.1		Principles	390
	131	Overview of provisions	390
	132	Relationship between freedom and restrictions. No reversal of the logic of the Treaty	391
	133	Overview of six alternative market organization models allowed under the Regulation	395
	134	Principle of access to port facilities, installations and equipment	400

135	Port facilities, installations and equipment to which access must be granted	402
136	Beneficiaries of access to facilities, installations and equipment	407
137	Which terms of access must be fair, reasonable and non-discriminatory	409
138	Meaning of 'fair, reasonable and non-discriminatory'	411
139	Other freedoms and user rights unaffected	414
140	Permissibility of subcontracting	415
5.2	Minimum requirements.....	420
141	Overview of provisions	420
142	Rationale of market organization model	420
143	Power to introduce minimum requirements	421
144	Notion of 'managing body of the port'	423
145	Notion of 'competent authority'	437
146	Notion of 'Member States'	442
147	Neutrality of Regulation <i>vis-à-vis</i> national port governance models	442
148	Notion of 'provider of port services'. Natural and legal persons	447
149	Notion of 'provider of port services'. Remuneration requirement	448
150	Notion of 'provider of port services'. Categories of services and their components	452
151	Notion of 'provider of port services'. Subcontractors	454
152	Nationality and place of establishment of port service provider and recipient	458
153	Applicability of minimum requirements regardless of cross-border service provision and of establishment	460
154	Reciprocity with non-EU countries	461
155	Introduction of minimum requirements optional. Position where no minimum requirements apply	465
156	Minimum requirements v. general requirements (including port regulations)	465
157	Permissible subject-matter of minimum requirements. Overview	468
158	Permissible subject-matter of minimum requirements. Discretion of port managing bodies and limits to it	469
159	Permissible subject-matter of minimum requirements. Exhaustive character of the list	471
160	Requirements in relation to professional qualifications	475
161	Requirements in relation to financial capacity	479
162	Requirements in relation to equipment	480
163	Requirements in relation to continuous availability for all users	486
164	Requirements in relation to safety and security	490
165	Requirements in relation to the environment	494
166	Requirements in relation to social and labour law	495
167	Requirements in relation to good repute	499
168	Flag requirement for towage and mooring vessels	503
169	Permissible scope of minimum requirements. Sub-contracting	509
170	Minimum requirements for port managing bodies	510
171	Substantive requirements for minimum requirements. Overview	511
172	Substantive requirements for minimum requirements. Rationale and scope	511
173	Substantive requirements for minimum requirements. Transparency	514
174	Substantive requirements for minimum requirements. Objectivity	515

175	Substantive requirements for minimum requirements. Non-discrimination	516
176	Substantive requirements for minimum requirements. Proportionality	518
177	Substantive requirements for minimum requirements. Relevance	521
178	Territorial validity	522
179	Mutual recognition	523
180	Non-duplication	525
181	Burden of proof	526
182	Access to information relating to knowledge of local conditions	527
183	Publication of minimum requirements and authorization procedure	529
184	Information on changes in criteria or procedure	531
185	Procedural rules for grant of right to provide a port service. Overview	532
186	Procedural rules for grant of right to provide a port service. Need to apply for and obtain formal decision	533
187	Procedural rules for grant of right to provide a port service. Right to provide the service when all requirements are met. Automatism principle	535
188	Procedural rules for grant of right to provide a port service. Form of the right to provide the service. Authorizations, licences, contracts and land use rights	536
189	Procedural rules for grant of right to provide a port service. Transparency, objectivity, non-discrimination and proportionality	542
190	Procedural rules for grant of right to provide a port service. Burden of proof	546
191	Procedural rules for grant of right to provide a port service. Time limit for decision to grant or refuse right to provide service	546
192	Procedural rules for grant of right to provide a port service. Justification of refusals	549
193	Procedural rules for grant of right to provide a port service. Limitation or termination of the right	551
5.3	Limitations on the number of providers	555
194	Overview of provisions	555
195	Rationale of market organization model	555
196	Notion of a 'limitation' on the number of providers. Analysis	559
197	Notion of a 'limitation' on the number of providers. Conclusion	578
198	Combination with minimum requirements	580
199	Power to introduce limitations	583
200	Permissible reasons to introduce limitations. Overview	584
201	Permissible reasons to introduce limitations. Exhaustive character of the list	584
202	Scarcity or reservation of land or water surface	586
203	No minimum of two service providers in the case of space constraints	595
204	Public service obligations	596
205	Safety, security or environmental sustainability	600
206	Characteristics of port infrastructure or nature of port traffic	602
207	Activities directly exposed to competition ('competitive market derogation')	614
208	Substantive requirements for limitations	620

209	Burden of proof	622
210	Procedural rules for the introduction of limitations and selection procedure. Overview	622
211	Publication of proposal to limit number of providers and public consultation	623
212	Publication of decision to limit number of providers	626
213	Period of validity of limitation	626
214	Obligation to organize open selection procedure	627
215	Meaning of 'selection procedure'. Need for competitive test	635
216	Substantive requirements for selection procedure. Openness, non-discrimination and transparency	637
217	Publication of information on open selection procedure	639
218	Deadline for applications and further features of open selection procedure	644
219	No additional national rules on open selection procedure allowed	649
220	Classification of authorizations, permissions, rights, contracts, public contracts, concessions and leases	650
221	Exemptions from obligation to organize open selection procedure. Overview	657
222	Exception for small cargo ports	659
223	Internal service provision	662
224	Requirement to conduct new selection procedure in the case of amendments to existing contracts	663
225	Duration and renewal of rights	665
226	Selection of cargo and passenger terminal operators. Reference to 'main principles' of the Treaty	668
227	Selection of cargo and passenger terminal operators. Practical implications of the Treaty principles	674
228	Implications for selection of port operators of Commission's State aid guidance and decision practice	679
229	Implications for selection of port operators of EU State Aid General Block Exemption Regulation	679
230	Selection of pilotage providers	685
5.4	Public service obligations.....	687
231	Overview of provisions	687
232	Rationale of market organization model	687
233	Notion of 'public service obligation'	689
234	Power to impose public service obligations	696
235	Potential obligors	698
236	Permissible subject-matters of public service obligation. Overview	700
237	Permissible subject-matters of public service obligation. Exhaustive character of the list	705
238	Universality and continuity	707
239	Availability to all users on equal terms	710
240	Affordability of the service for certain categories of users	711
241	Safety, security or environmental sustainability	713
242	Provision of adequate transport services to the public	716
243	Territorial cohesion	718
244	Compliance with social and labour law no public service obligation	719
245	General obligation to grant port access ('open port duty') no public service obligation	720

246	Procedure to impose public service obligations	726
247	Combination with minimum requirements	728
248	Substantive requirements for public service obligations	730
249	Notification to Commission of nation-wide public service obligations	733
250	Compensation for performance of public service obligations	734
251	Emergency measures in the event of disruptions	737
5.5	Internal operators	743
252	Overview of provisions	743
253	Rationale of market organization model	742
254	Notion of, and right to act as, 'internal operator'	746
255	Control of legally distinct entity	756
256	Combination with minimum requirements	763
257	Combination with a limitation scheme. Exclusive right of internal operator and conflict-of-interest rule	764
258	'Confinement' rule	777
5.6	Employee rights	784
259	Overview of provisions	784
260	Rationale of labour regime	784
261	Applicability of national social and labour rules	787
262	Duty to oblige service providers to apply social and labour law	790
263	Employee rights in the case of a change of service provider	791
264	Mandatory statements on transfer of staff in tender documents and port service contracts	798
265	Change of provider of exempted services	799
266	Training of staff	799
267	Impact of Regulation on dock labour	802
6	Financial transparency and autonomy	814
6.1	Principles	814
268	Overview of provisions	814
6.2	Transparency of public funding	815
269	Overview of provisions	815
270	Rationale of transparency regime	816
271	Relationship between EU Seaports Regulation and EU Transparency Directive	820
272	Transparency of public funding	825
273	Separation of accounts	830
274	Transitional regime in the case of newly introduced public funding	841
275	Exception for small cargo ports	841
276	Duty to keep financial information for five years	844
277	Duty to make financial information available to relevant authorities	845
278	Notion of 'relevant authority'	848
279	Duty to show public service compensation separately and prohibition on transferring it to other services or activities	849
280	Relationship between EU Seaports Regulation and State aid rules	851
6.3	Port service charges	860
281	Overview of provisions	860
282	Rationale of port service charges regime	860

283	Notion of ‘port service charge’	869
284	Scope of substantive requirements. Principle	873
285	Notion of an ‘internal operator under a public service obligation’	873
286	Notion of ‘pilotage services that are not exposed to effective competition’	875
287	Notion of ‘providers of port services whose number has been limited in order to ensure the performance of public service obligations’	882
288	Substantive requirements for port service charges. Overview	883
289	Substantive requirements for port service charges. <i>Quid-pro-quo</i> rule	883
290	Substantive requirements for port service charges. Transparency	884
291	Substantive requirements for port service charges. Objectivity	886
292	Substantive requirements for port service charges. Non-discrimination	887
293	Substantive requirements for port service charges. Proportionality	889
294	Substantive requirements for port service charges v. requirements following from EU Port Reception Facilities Directives 2000 and 2019	897
295	Integration of port service charges into other payments	900
296	Duty to make underlying information available to relevant authorities	903
297	Reservation regarding competition law and sector-specific price regulation	905
298	Transparency of cargo terminal charges in TEN-T ports	909
6.4	Port infrastructure charges.....	910
299	Overview of provisions	910
300	Rationale of port infrastructure charges regime	910
301	Notion of ‘port infrastructure charge’	921
302	Duty to levy port infrastructure charge	931
303	Integration of port infrastructure charges into other payments	937
304	Procedural and substantive requirements for port infrastructure charges. Overview	938
305	Procedural requirements for port infrastructure charges. Tariff-setting power of port managing bodies v. competent authorities. Analysis	938
306	Procedural requirements for port infrastructure charges. Tariff-setting power of port managing bodies v. competent authorities. Conclusion	951
307	Procedural requirements for port infrastructure charges. No implications for financial objectives of port managing bodies	953
308	Procedural requirements for port infrastructure charges. Managing body controlling more than one port	954
309	Procedural requirements for port infrastructure charges. Control of tariff-setting decisions by supervisory or regulatory authorities	955
310	Procedural requirements for port infrastructure charges. Collection of revenues by port managing body or competent authority	957
311	Substantive requirements for port infrastructure charges. Normative implications of references to ‘the port’s own commercial strategy’, ‘investment plans’, ‘the general ports policy of the Member State’ and the port’s ‘charging policy’. Fiscal v. market orientation of charging system	959

312	Levy of port infrastructure charge to pre-finance future investments	962
313	Substantive requirements for port infrastructure charges. Reference to 'competition rules'	964
314	Substantive requirements for port infrastructure charges. Practical implications of competition rules	970
315	Substantive requirements for port infrastructure charges. Application of the free movement rules	974
316	Substantive requirements for port infrastructure charges. Application of the Treaty rules on internal taxation	978
317	Substantive requirements for port infrastructure charges. Significance of 'definitional' Recital mentioning transparency, non-discrimination and <i>quid-pro-quo</i> rule	979
318	Substantive requirements for port infrastructure charges. Transparency	984
319	Substantive requirements for port infrastructure charges. Objectivity	986
320	Substantive requirements for port infrastructure charges. Non-discrimination	987
321	Substantive requirements for port infrastructure charges. Proportionality	989
322	'Structure' and 'level' of port infrastructure charges	997
323	Terms and Conditions <i>etc.</i>	998
324	Permissibility of tariff differentiations. Principle	998
325	Exhaustive character of list of differentiations	999
326	Incentives v. penalties	1001
327	Tariff differentiations based on 'the port's own economic strategy or its spatial planning policy in relation to, inter alia, certain categories of users' (including zero rates)	1001
328	Tariff differentiations to promote 'a more efficient use of the port infrastructure'	1006
329	Tariff differentiations to promote 'short sea shipping'	1007
330	Tariff differentiations to promote 'a high environmental performance, energy efficiency or carbon efficiency of transport operations'	1011
331	Substantive requirements for tariff differentiations. Overview	1017
332	Substantive requirements for tariff differentiations. Reference to 'the port's own economic strategy' and 'its spatial planning policy'	1018
333	Substantive requirements for tariff differentiations. Transparency	1019
334	Substantive requirements for tariff differentiations. Objectivity	1020
335	Substantive requirements for tariff differentiations. Non-discrimination	1021
336	Substantive requirements for tariff differentiations. Proportionality	1023
337	Substantive requirements for tariff differentiations. Reference to 'competition law, including rules on State aid'	1023
338	External costs	1028
339	Commercial practices	1029
340	Further procedural requirements for port infrastructure charges and differentiations. Overview	1030
341	Information provision to port users	1030
342	Individual commercial differentiations	1033

	343	Duty to make underlying information available to relevant authorities	1038
7		Procedural safeguards	1042
7.1		Principles	1042
	344	Overview of provisions	1042
7.2		Consultation and information	1044
	345	Overview of provisions	1044
	346	Rationale of consultation and information regime	1044
	347	Consultation of port users on charges. Principle	1046
	348	Consultation of port users on charges. Responsibility of port managing body	1047
	349	Consultation of port users on charges. Consultees	1049
	350	Consultation of port users on charges. Subject-matter	1050
	351	Consultation of port users and stakeholders on essential port management-related matters. Principle	1058
	352	Consultation of port users and stakeholders on essential port management-related matters. Responsibility of port managing body	1059
	353	Consultation of port users and stakeholders on essential port management-related matters. Consultees	1060
	354	Consultation of port users and stakeholders on essential port management-related matters. General definition of subject-matter	1062
	355	Consultation of port users and stakeholders on essential port management-related matters. Charging-related matters	1064
	356	Consultation of port users and stakeholders on essential port management-related matters. 'Coordination of port services'	1065
	357	Consultation of port users and stakeholders on essential port management-related matters. 'Connections with the hinterland'	1067
	358	Consultation of port users and stakeholders on essential port management-related matters. 'Efficiency of administrative procedures'	1068
	359	Consultation of port users and stakeholders on essential port management-related matters. 'Environmental matters'	1072
	360	Consultation of port users and stakeholders on essential port management-related matters. 'Spatial planning'	1073
	361	Consultation of port users and stakeholders on essential port management-related matters. 'Safety in the port area'	1074
	362	Consultation procedure not regulated	1075
	363	Results of consultation not meant to be binding	1081
	364	Information provision to port users on port service charges	1081
	365	Confidentiality of commercially sensitive information	1084
7.3		Complaints handling	1085
	366	Overview of provisions	1085
	367	Rationale of complaints handling regime	1085
	368	Duty to introduce effective complaints handling procedure	1089
	369	Subject-matter of complaints handling procedure	1090
	370	Effectiveness	1092
	371	Independence of complaint handling body	1093
	372	Designation as complaint handling authority of existing authorities	1096

373	Impartiality and transparency of complaints handling procedure	1099
374	Capacity of complainants. No requirement that complainants Show a 'legitimate interest'	1099
375	Respect of 'the right to freely conduct business'	1100
376	Information provision to users and stakeholders on complaints handling mechanism	1101
377	Territorial competence of complaint handling body	1102
378	International cooperation between complaint handling authori- ties	1103
379	Power of complaint handling authorities to request information	1105
380	Power of complaint handling authorities to take binding decisions	1107
381	Information provision to European Commission on complaint handling authorities and procedure	1109
382	Exchange of information between Member States	1110
383	Issuance of opinions	1112
384	Consultation of port users	1112
7.4	Appeals	1114
385	Right to appeal before an independent body	1114
386	Obligation on appeal body to give reasons	1116
387	Review of appeal decisions by national courts	1117
7.5	Penalties	1118
388	Duty to introduce effective, proportionate and dissuasive penalties	1118
389	Potential offenders	1120
390	Infringements for which penalties must be introduced	1121
391	Types of penalties	1125
392	Sanctioning authorities	1129
393	EU Member State liability unaffected	1130
7.6	Privacy	1131
394	Processing of personal data	1131
8	Critical assessment	1132
395	The conclusion of a desperate debate	1132
396	The keystone of EU port policy	1133
397	A well prepared initiative	1133
398	Faithful implementation of the initial policy objectives	1134
399	Clarification and consolidation of Treaty principles	1135
400	The 'regulatory toolbox' that avoids messing things up	1136
401	A liberalization law that does (not?) liberalize	1138
402	Risk of red tape and legal uncertainty	1143
403	Remaining port policy issues	1146
404	In conclusion, good luck and happy sailing!	1148
	Annexes	1149
1	<i>Travaux Préparatoires of the EU Seaports Regulation</i>	1150
1.1	<i>The Commission Proposal (2013)</i>	1150
1.1.1	<i>Communication Ports: an engine for growth</i>	1150
1.1.2	<i>Proposal for an EU Seaports Regulation</i>	1163
1.2	<i>Opinion of the European Economic and Social Committee (2013)</i>	1191
1.3	<i>Opinion of the Committee of the Regions (2013)</i>	1195

1.4	<i>European Parliament Legislative Resolution (2016)</i>	1211
1.5	<i>Statements in the Council of the European Union (2017)</i>	1213
2	<i>The EU Seaports Regulation</i>	1217
3	<i>Annex II of the EU TEN-T Regulation (excerpt)</i>	1235
4	<i>The EU State Aid General Block Exemption Regulation (excerpt)</i>	1279
5	<i>Decision of the EEA Joint Committee No 128/2019 of 8 May 2019 amending Annex XIII (Transport) to the EEA Agreement (Provisional)</i>	1286
	<i>Index</i>	1289
	<i>About the author</i>	1306
	<i>About Portius – International and European Port Law Centre</i>	1307
	<i>About the Portius Port Law Series</i>	1307