

POWERS AND DUTIES OF PORT ADMINISTRATIONS REGARDING TAXES

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Abstract: *In order to provide users for the naval transport infrastructure and in order to render services, the port administration may charge fees and taxes established under the laws in force. Prices and fees for the services provided to ships of all flags in Romanian maritime ports by the port administration are calculated in euros, starting with January 1, 2004. Prices and charges are approved by the Board of Directors of the National Maritime Ports Administration S.A. Constanta.*

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1. AUTHORIZATION TO OPERATE ROMANIAN PORTS

In shipping, the Ministry of Transport and Infrastructures is the state authority that elaborates and coordinates the policy and program development of the shipping system; the regulatory authority develops and promotes specific laws and rules for the management, use and shipping activities in ports and national waters of Romania and ensures the fulfillment of state obligations in international agreements and conventions to which Romania is party.

1.1 Shipping activities

Shipping activities include:

- 1) public maritime or river transport of people and / or goods by legal persons;
- 2) maritime or river transport of persons and / or goods for own use;
- 3) maritime or river transport of goods and / or individuals, for personal interest;

Romanian seaports operate under a license issued by the State in the field of naval transport.

Provision and development of safety services, activities relating to operation of ships and related activities and auxiliary activities of shipping are in compliance with G.O. no. 22/1999 (R1), and the orders issued by the state in shipping authorizations.

1.2. Activities related shipping activities

Activities related shipping activities include:

- 1) safety services in ports and inland waterways, such as the pilotage of ships into and out of ports, between the berth of the same port and on inland waterways, linking-unlinking of ships, towage of ships, maneuvers in ports;
- 2) activities in connection with the operation of ships, such as loading / unloading of ships, storage, stowage, lashing, sorting, marking, palletizing, containerization and other commodities, domestic and international shipments, cleaning barns and warehouses, ship bunkering, tank cleaning and degassing vessels.

1.3 Activities auxiliary to shipping activities

Activities auxiliary to shipping activities include:

- 1) maintenance activities on ship transport infrastructure such as naval transport infrastructure maintenance and repair, land and floating signals for navigation, dredging maintenance in order to provide the necessary depth in ports and on inland waterways, supporting ships when maneuvering dangerous goods, taking residues and waste water from ships, taking garbage and household refuse from ships;
- 2) other activities, such as executing specific shipping hydraulic structures, surveillance of unmanned ships, leisure craft services for tourism, extraction dredging, re-provision of water, electricity, heating, assistance, salvage and refloating ships, repairs on ships, supply of ships.

Services subject to approval and authorization procedures of each activity are determined by the state authority in the field of shipping.

Services for which no authorization is required may be carried on under the work permit issued by the port administration.

The procedure for issuing work permits and the minimum grant shall be established by the port administration; the interested parties are notified by posting it on its premises.

Depending on the specific activity of economic agents, they must have the other authorizations provided by law. In Romanian maritime ports, services (activities related / ancillary to shipping activities), when such services are performed by port operators, are provided only under a contract between them and the port administration; the existence of this contract conditions the operating authorization in Romanian maritime ports, issued by the NRA.

Security services may be provided directly by the port administration or by port operators as provided in Ordinance no. 22/1999 (R1), Ch. VII - "Security services in ports and inland waterways." Authorizing activities on public maritime or river transport of people and / or goods by legal persons are run by the port administration, directly or through companies, in accordance with the law and under the control of port administration.

Services, other than those subject to authorization, which are performed occasionally, can be executed based on a written request to the port administration of the entity, approved by it. The economic agent must indicate in its request all the information necessary to obtain the approval and execution of the service.

2. CHARGING PORT SERVICES

Port Administration charges fees according to the legislation in force, calculated in EUR, for port services; these fees are paid by the shipowner or the ship operator.

Payment for services provided to vessels is made in Romanian lei by the vessels flying the Romanian flag and in foreign currency for those with foreign flag, at official exchange rates from the date of the invoice value, communicated by the National Bank of Romania, according to legal regulations in force. Payment for services rendered to ships is obligatory, and the amounts resulting from the application fees for the services rendered are due before the ship leaves the port [1].

The ship's agent is required to guarantee the amounts under Art. 206 par. (4) of the Rules of port operations, and to pay the amounts for the services before the ship leaves the port or thereafter, in accordance with the clauses provided for in port administration contracts concluded with port economic agents that provided services to the ship.

Failure to pay the amounts due may result in detention of the ship or of other ships of the same owner or operator. To the amounts resulting from the application of fees the VAT will be added, under the legal norms in force.

2.1 Port basic fees for ships

Port basic fees for maritime trade [2] ships are:

- port access tariff - is applied to the gross tonnage (GT) of the vessel registered in its certificates for each entry into the port, the type of vessel and different groups of TB, and river cargo ships depending on maximum load capacity. In the case of ships whose TB is not registered in documents, it is calculated, rounded to the units under Art. 19, after Rule 3 of the International Convention on Tonnage Measurement of Ships (Tonnage), 1969. Issues can be raised in relation to the age of the vessel [3];

- quayside charge - applies to the maximum length of the ship and the number of days in port, depending on the type of the ship, the TB group and the type of cargo;

- tank charge - applies to the maximum length of the ship and the number of days in port, depending on the type of ship and TB group;

- fees of public authorities for services performed in Romanian maritime ports - are established by regulations of the central and local authorities according to law.

Basic port tariffs apply to all ships, whether they are in jetties, in double, triple etc. berths, in the port aquarium, at anchor or moored to a buoy, according to the application of tariff rates and conditions established by the port administration and made public through brochures published whenever necessary or through an electronic information system of CN EPA S.A. Constanta.

Basic port tariffs apply equally.

Ships in the service line and cabotage vessels or other vessels may receive different fees according to tariff conditions.

Documents accepted as a basis for the application of port tariffs are the International Tonnage Certificate (ITC), 1969, and certificate of nationality of the ship.

2.2 Pricing port services

Prices for mandatory safety services and their application conditions are set by the State authority once with the approval of the concession documents.

If such services are performed by port operators, according to Art. 15 para. (9) of the Rules of operation of Romanian ports, rates and conditions of their application are determined and published by the port administration.

2.2.1 Water supply charge. The water supply fee is applied differently depending on water supply methods: directly from land or through water transport barges. The minimum quantity of water transport barges is 30 m³.

2.2.2 Electricity supply tariff. Electricity supply tariff applies to the amount of electricity consumed, measured in kWh.

2.2.3 Charge for garbage collection and waste.

The charge for garbage collection and waste is applied for

each ship and number of parking days in port. Provision of these services is made under the regulation of Romanian seaports.

2.2.4 Charges for taking sewage from ships. The fee for taking charge from ships is applied to the total amount taken from the ship, measured in m³. The takeover by EPA S.A. Constanta of ship waste oil is free of charge. Services for taking sewage from ships (waste oil, bilge water and sewage) are free except:

- services provided for ships in the roads outside the shipyard berths and requesting delivery of oil from cargo tanks before entering the shipyards;

- services provided to retrieve other liquid wastes from ships if this service was accepted;

- services provided to retrieve waste oil, bilge water and ballast dirty in Oil Terminal berths.

Conditions and maximum tariff for services other than safety ones are established by the economic agents (which provide these services) in compliance with the existing laws.

Communication and publication of tariffs and tariff related conditions are made according to Art. 281 and Art. Rule 282 of the Regulation for the operation of Romanian seaports.

2.2.5 Charges for using the antipollutant dam in oil berths. Charges for using the antipollutant dam in oil berths are applied in accordance with the maximum length of the vessel, whilst the ship is moored at berth. This is compulsory for all tanks in oil berths, in Romanian maritime ports during the loading / unloading.

2.2.6 Charges for services carried out with port ships and port equipment. Charges for services carried out with port ships and port equipment are established according to the Regulations for the operation of Romanian seaports, its annexes and orders, conventions or agreements in force between the parties at the time of supply.

2.2.7 Anchorage fees. Anchorage dues are applied to vessels by port authorities for the staying period in the port. Port charges are calculated according to the net registered tonnage of the vessel.

2.2.8 The quay fee. The quay or the parking fee is a term used occasionally to designate the taxes levied to those ships that are stationary at a berth, where they do not carry loading and unloading activities, but where they are moored for repairs, supplies etc. It is often used instead of "dockage" [4].

2.2.9 Beaconing fees. Beaconing fees are charged to merchant vessels by port administration in order to ensure the maintenance of floating means of navigation (lighthouse ships, buoys, floats etc.). The installation of buoys is made by a special ship.

REFERENCES

[1] Gheorghe Bibicescu, Andrei Tudorică, Gheorghe Scurtu, M. Chiriță, *Lexicon maritim englez-român (cu termeni corespondenți în limbile franceză, germană, spaniolă, rusă)*, Editura Științifică, București, 1971, p. 140.

[2] Gheorghe Bibicescu et alii, op. cit., p. 20.

[3] Tonajul brut al navei calculat în conformitate cu prevederile Convenției internaționale asupra măsurării tonajelor navelor, încheiate la Londre la 23 iunie 1959.

[4] Gheorghe Bibicescu et alii, op. cit., p. 70.