

# **INVITATION FOR PUBLIC CONSULTATION ON THE PROPOSAL OF THPA S.A. FOR THE LIMITATION OF THE NUMBER OF PROVIDERS OF THE SERVICE OF RECEPTION FACILITIES FOR WASTE AND CARGO RESIDUES OF THE SHIPS THAT CALL TO THE PORT OF ITS JURISDICTION**

## **Object of consultation**

With the current invitation for public consultation, ThPA S.A. submits its proposal for the limitation of the number of providers of the service of reception facilities for waste and cargo residues of the ships that call to the port of its jurisdiction, with the purpose of conducting a public discussion with interested stakeholders (natural – legal persons) and receiving potential documented remarks – comments – opinions of the contents thereof.

The proposals – remarks of the participants that will be submitted within the public consultation will be evaluated, however, their adoption is not binding for ThPA S.A., which will decide on the basis of objective criteria, ensuring safety, protection and the environmental sustainability of the services provided.

## **Process**

Interested parties can send their remarks and opinions within a period of three (3) months from the day of publication of the present invitation on ThPA S.A. website at [law@thpa.gr](mailto:law@thpa.gr)

## **Proposal and Study**

**Proposal for the limitation of the number of providers of the service of reception facilities for waste and cargo residues of the ships that call to the port of jurisdiction of ThPA S.A.**

1. ThPA SA is among the management bodies of ports falling under the scope of the Regulation (EU) 352/2017, which entered into force back in March 2019, when ThPA had and still has legal contracts on the provision of services pertaining to the management

and removal of liquid and solid waste and residues generated by ships calling at the port facilities under its jurisdiction. These contracts expire on 31/12/2021.

**2.** From the Preamble and the analysis/interpretation of the Articles of the Regulation, it becomes clear that every managing body or competent authority may choose, in accordance with the special articles of the Regulation and subject to the requirements of its implementation, the model for awarding/guaranteeing the service that is deemed more appropriate for the body (ensuring free operation of providers or limiting the number of providers to one or more subject to conditions).

**3.** The Regulation, however, lays down the obligation for the managing bodies to ensure the free provision of such service and open to all those operating in the field of management and removal of residues generated by ships calling at the ports providing such service, while the limitation on the number thereof (providers), although not excluded, is subject to the fulfilment of strict requirements.

**4.** The above guarantee of free and open activity of providers should in no way imply the uncontrolled activity of providers who do not provide minimum guarantees of efficient and quality service; however, the introduced minimum requirements cannot be set completely arbitrarily and broadly by the management bodies and the competent authorities, thus limiting necessarily the number of providers who can be provide this service and hence the implementation of the Regulation (EU) 352/2017.

**5.** In particular, Article 2 of the Regulation lays down the four options of organizing the management of the above service that may, subject to the fulfilment of special requirements by each one of them, as set out in the other Articles of the Regulation, be followed by the managing bodies or the competent authority. These options are the following:

a) minimum requirements for the provision of port services;

b) limitations on the number of providers;

c) public service obligations;

d) restrictions related to internal operators.

**6.** The limitation on the number of providers is conditional on the following special grounds justifying it:

*(a) the scarcity or reserved use of land or waterside space, provided that the limitation is in accordance with the decisions or plans agreed by the managing body of the port and, where appropriate, any other public authorities competent in accordance with the national law;*

*b) the absence of such a limitation is obstructing the performance of public service obligations as provided for in Article 7, including when such absence leads to excessively high costs related to the performance of such obligations for the managing body of the port, the competent authority, or the port users;*

*c) the absence of such a limitation runs counter to the need to ensure safe, secure or environmentally sustainable port operations;*

*d) the characteristics of the port infrastructure or the nature of the port traffic are such that the operations of multiple providers of port services in the port would not be possible;*

*(e) where it has been established pursuant to Article 35 of Directive 2014/25/EU that a port sector or subsector, together with its port services, within a Member State carries out an activity that is directly exposed to competition in accordance with Article 34 of that Directive. In such cases, paragraphs 2 and 3 of this Article shall not apply”.*

**7.** Furthermore, in accordance with par. 2, Article 7 of the Regulation EU 352/2017 “2. In order to give interested parties the opportunity to submit comments within a reasonable period, the managing body of the port, or the competent authority, shall publish any proposal to limit the number of providers of port services in accordance with paragraph 1 together with the grounds justifying it at least three months in advance of the adoption of the decision to limit the number of providers of port services.

**8.** Pursuant to the provisions of the aforementioned articles 3 and 6 of Regulation (EU) 2017/352 and in the context of corporate social responsibility and its environmental commitments, ThPA deemed necessary to determine how the service is provided and the maximum number of providers that can offer the port service of collection of ship-generated waste and cargo residues in the Port of Thessaloniki, in order to ensure the protection and safety of the environment and the environmental sustainability of the port, viewed from the perspective of the needs of the port, its specificities and always within the framework of Regulation (EU) 2017/352.

**9.** Following this, MARNET SA was commissioned on behalf of ThPA SA as a managing body of the Port of Thessaloniki the study on the evaluation of all the characteristics of the port and its wider area of development and operation, to the extent that they affect the provision of the port service of collection of ship-generated waste and cargo residues, in order to make the best estimate of the maximum number of providers to can offer this port service in the Port of Thessaloniki.

**10.** For the completion of the above study, the considerations that were taken into account were inter alia: *i. the current port situation, ii. the Port Traffic, iii. the existing utilization of spaces, iv. the current provision of a port service of collection of ship-generated waste and cargo residues - Existing infrastructure , v. the approved Masterplan, vi. the Masterplan provisions regarding the provision of a port service of collection of ship-generated waste and cargo residues, vii. Traffic regulations in the port, viii. the obligations arising from the Concession Agreement between the Greek State and ThPA, ix. the Waste Collection and Management Plan, x. the type and quantities of waste collected, xi. the characteristics of a wider port area.*

**11.** In addition, for estimating the maximum number of port service providers for the collection of ship-generated waste and cargo residues the following were taken into account: *i. the parameters for limiting the number of port service providers for the collection of ship waste and cargo residues and ii. port capabilities in terms of the number of port service providers.* In particular, according to the above study, the following parameters that affect the provision of the port service of collection of ship-generated

waste and cargo residues were identified and the possibilities were identified in terms of the number of active providers, according to Chapter 4 of the attached study.

**12.** Following the conclusion of Chapter 5 of the attached study, the Board of Directors of ThPA S.A., with its number 7597/30.07.2021 decision has approved the submission of the proposal to limit the number of providers offering the port service of reception facilities for waste and residues generated by ships calling at the port of jurisdiction of ThPA SA to one (1) provider for the category of liquid waste and to one (1) provider for the category of solid residues

**Study (attached):**