Transport: Commission refers Spain to Court over rules for the recruitment of port workers

The European Commission has today decided to refer Spain to the EU Court of Justice over its rules on hiring port labour in several Spanish ports. Currently, cargo-handling companies in these ports are not allowed to resort to the market to employ their staff. On the contrary, the rules in place oblige cargo-handling companies to participate financially in the capital of private companies, which in turn provide them with the required workforce. It is only when the workforce proposed by these private companies is not suitable or not sufficient that cargo-handling companies may freely hire staff from the market. The Commission considers that cargo-handling providers from other Member States wishing to establish themselves in Spanish ports may be discouraged from doing so because of these restrictive labour practices.

Treaty rules on freedom of establishment fully apply to port activities. In particular, the Treaty precludes any national measure which, even though not discriminatory on grounds of nationality, hinders or renders less attractive the exercise of the freedom of establishment.

Spanish law provides that private companies called SAGEPs (Sociedad Anónima de Gestión de Estibadores Portuarios) should be set up in ports of general interest. SAGEPs are in charge of recruiting dockers and putting them at the disposal of cargo-handlers. These rules are applicable to the largest Spanish ports, including the ports of Barcelona, Algeciras, Valencia and Bilbao. The same law obliges all companies wishing to provide cargo-handling services to join and financially participate in the capital of a SAGEP. Cargo-handling companies can be exempted from this obligation only in very marginal cases. Moreover, the cargo-handling company has to rely on workers recruited and put at its disposal by the SAGEP. Only if the dockers proposed by the SAGEP are not sufficient or not suitable, may the cargo-handling companies freely recruit workers from the market, but even then only for one working shift. This causes a forced alteration of the companies' existing employment structures, recruitment policies and ultimately business strategies. Such changes may entail serious disruption within companies and have significant financial consequences. Cargo-handling companies may consequently be discouraged from establishing themselves in Spanish ports of general interest.
Useful links
On the June infringement package decisions, see MEMO/13/583
On the general infringement procedure, see MEMO/12/12
More information on infringement procedures

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