



# Ports de Balears

Port Authority of the Balearic Islands

Moll Vell, 3-5  
07012 Palma

Tel.: 971 22 81 51  
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## INSTRUCTION No 01/22

### **BERTH ALLOCATION PLANNING PROCEDURE FOR REGULAR LINE COASTING VESSELS AND CRUISE SHIPS IN THE PORT OF EIVISSA (WITH THE EXCEPTION OF THOSE FROM THE EIVISSA-LA SAVINA LINE).**

#### **Statement of reason**

There is an obvious need to organise and plan the allocation of berths, establishing criteria by means of a rule or instruction, due to the limited capacity of the infrastructures at the Port of Eivissa as well as the high demand for services. This will make the different port operations compatible with safety aspects in a rational way, and allow sufficient time for planning and forecasting with a certain flexibility to boost the confidence of the different operators and the Port Authority itself, especially in the summer season. All the above must take into consideration the high ship and vessel traffic density at this port.

This berth planning procedure, subject to limited infrastructure capacity, must be carried out on the understanding that there may be duly justified grounds for limiting the freedom to provide transport services and the right of shipping companies to provide the service under the requested conditions, as reflected in the Judgement of 17 March 2011 of the Eighth Chamber of the Court of Justice of the European Union, C-128/2011.

Article 149.1.20 of the Spanish Constitution establishes, among others, merchant shipping and ports of general interest as exclusive competence of the State. Within this competency framework, the Consolidated Text of the Law on State Ports and the Merchant Navy, approved by Royal Legislative Decree 2/2011, of 5 September (hereinafter TRLPEMM) establishes, in turn, a division of competences between the Directorate General of the Merchant Navy, which is responsible for the safety of navigation and human life at sea, and the port authorities. The latter is responsible, among others, for the provision of general management, coordination and control services for maritime port traffic, as well as the coordination and control of operations associated with port, commercial and other services within their jurisdiction.

Therefore, within the competences of the Port Authority of the Balearic Islands is the management and allocation of berths in the ports within its jurisdiction, including that of Eivissa, in accordance with the provisions of Articles 25(h), 106(a)(b) and 107 of the TRLPEMM. Article 107 of the TRLPEMM provides that the provision of the general services by the Port Authority will comply with the technical standards and criteria laid down in the Operating and Police Regulations, as well as in the Port Regulations.



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For its part, Art. 19 of the Regulation of Police Service and Regime of the ports of the C.A.G.P. (Port Group Administrative Committee), approved by a M.O., of 12 June 1976, establishes the instructions for entry and berthing requests. Article 20 of the same Regulation on the scheduling and designation of vessels provides that the Port's operations shall be scheduled as far in advance as possible and Article 23 establishes the rules for the designation of berths.

Order FOM/1194/2011, of 29 April, which regulates the integrated procedure for the stopover of vessels in ports of general interest aims to integrate the procedures for the stopover request, berth allocation and vessel clearance in Spanish ports of general interest. It also regulates the management of the single stopover document (DUE) and the information contained therein, in accordance with the provisions of Article 1. Article 10 of Order FOM/1194/2011 provides that the port authority shall assign the port stopover number and Article 12 provides that *"The port authority shall allocate berthing or anchorage, if applicable, at any time after the request for a port stopover made by the declarant, but not before the granting of the port stopover number, except in exceptional circumstances"*.

However, this regulation needs to be developed to facilitate the work of the APB's managers and technicians in the procedure for allocating berths in an infrastructure like the one at the port of Eivissa, which is limited and faces a high demand.

Article 6 of Law 40/2015, of 1 October 2015, on the Legal Regime of the Public Sector provides that *"Administrative bodies may direct the activities of their hierarchically dependent bodies by means of instructions and service orders"*. In this context, the Port Authority of the Balearic Islands issues the present Instruction, which establishes the internal procedure for berth planning in the port of Eivissa, in the form of a transparent model, to clarify the application procedure, priority criteria and planning and allocation of berths for cabotage vessels. Consequently, a forecast can be established as far in advance as possible, which also allows for the availability of berthing lines for other types of traffic in accordance with the supply and demand of berths, all with the due guarantees of safety and transparency.

### Section 1.- Purpose and Scope

The purpose of this Instruction is to establish the application procedure, priority criteria, planning and allocation of berths for regular line cabotage vessels and cruise ships in the port of Eivissa, with the exception of the traffic regulated by the Resolution of 20 April 2022, of the Port Authority of the Balearic Islands, approving the Port Regulation establishing the organisation and allocation of berths in the ports of Eivissa and La Savina for specific vessels.



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### Section 2.- Berth planning or forecasting

The APB will give priority to applications for berths that are recognised under the berth planning and forecasting agreement.

Shipping companies interested in applying for berths for their cabotage vessels or cruise ships must submit expressions of interest for stopovers (pre-applications) for the period between 1 January and 31 December of the following year by 1 October. The pre-applications shall indicate at least:

- Vessel IMO number
- Vessel name
- Length, breadth and depth
- Maximum passenger capacity (pax)
- Maximum cargo capacity (ml)
- Estimated minimum duration of the stopover at the Port of Eivissa for safe embarkation and disembarkation operations (and, where appropriate, the time between them) with a passenger and cargo occupancy rate of 75% (min.)

The APB, through its Port Operations and Services, and Eivissa - la Savina Delegation, will jointly analyse the pre-applications submitted, and if it notices any defect, it will proceed in accordance with the provisions of Article 68 of Law 39/2015, of 1 October, on the Common Administrative Procedure of the Public Authorities, requiring its correction.

Upon correction of the defect, the APB will notify each of the applicants of the provisional planning with a forecast for their pre-applications for berths. Interested parties may submit their applications within ten working days, in accordance with the provisions of Law 39/2015.

Following a report from the Departments of Port Operations and Services and the Eivissa - la Savina Delegation on the documents submitted, the Director of the APB will agree on the definitive planning and recognition of the berthing forecast, by 1 December.

Once the agreement on planning and recognition of the berthing forecast has been issued, the consignees may make their reservations through berthing applications with a DUE. The recognition of the berthing forecast in this agreement will not, under any circumstances, imply the granting of a berth licence, which must be requested in accordance with the provisions of Order FOM/1194/201.

Berthing requests that are not recognised in the respective forecast planning and recognition agreement will be resolved on the basis of berthing availability.



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## Section 3.- Berth planning criteria

A maximum of six (6) berths will be available simultaneously for regular line cabotage vessels. According to the characteristics of the vessels, the APB may arrange an additional berth.

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In general, and provided that their pre-applications and applications comply with the provisions of this instruction and other applicable regulations, regular line cabotage vessels will be given priority in berth planning over other traffic.

Similarly, priority shall be given to the demands or needs of the transport of dangerous goods.

In the event that there are more expressions of interest for a time slot than berths available for this traffic, the following priority criteria shall be used to resolve any possible conflict between 2 regular line cabotage vessel companies:

1. Company vessels that have a record of regular traffic in that time slot.
2. Vessels making connections with stopovers to/from other ports of the APB.
3. Company vessels registering the highest regularity and frequency.
4. Vessels that can reliably demonstrate improved environmental performance during their stopover at port.

If there are applications from several companies for the same time slot, an additional berth will not be granted until all companies have the same number of berths.

If, once the above criteria have been applied, priority still cannot be determined, the order of entry of the expressions of interest in any electronic register set up in accordance with the provisions of Law 39/2015 will be considered.

The allocation to a specific berth will also take into account the characteristics of the vessel and its operations, in relation to its needs and the capabilities of the infrastructures.

Due to the usual requirements of regular cabotage lines, as a general rule, berthing schedules for cruise ships will be from 11.30 a.m. to 03.00 a.m. the following day.

With regard to the criteria for allocating berths to cruise ships, based on the forecasts and applications received from each company, the aim will be to optimise the overall daily use of the port in the best safety conditions and with good quality service. This requires a certain flexibility in the criteria for resolving conflicts between applications, although the following priority criteria will be applied in general:

1. Vessels powered by non-fossil fuels or LNG or which can reliably demonstrate better environmental performance during their stay in port.





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2. The most frequent company vessels (with the most stopovers requested) for the year being planned.
3. The most frequent company vessels (with the most stopovers requested) in the port of Eivissa in the previous year.

If, once the above criteria have been applied, priority still cannot be determined, the order of entry of the expressions of interest in any electronic register set up in accordance with the provisions of Law 39/2015 will be considered.

The application of the aforementioned criteria may be considered exempt in a duly justified way and, in any case, this shall be the case for pre-applications from companies that have repeatedly failed to activate pre-applications accepted and recognised in the agreement referred to in the previous section of this Instruction, or that have modified and/or failed to comply with them in the previous year.

Any request for modification of the vessel's timetable and/or characteristics submitted after 1 October each year shall be processed as an ordinary request and shall be subject to berth availability, except in the case of a change of an equivalent vessel for berthing and operational purposes.

In any case, although the planning agreed in accordance with the provisions of this Instruction shall generally be respected, berth licences shall be subject to compliance with the specific essential needs that may not be initially foreseen in this planning, such as the supply to the islands of certain types of goods.

### Section 4.- Entry into force

This instruction shall enter into force on the day following its publication on the APB's website.

**The Director,**

**Jorge Nasarre López**



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