
***REGULATORY AND ADMINISTRATIVE REQUIREMENTS IN
INITIATING FERRY TRAFFIC BETWEEN LOVIISA AND KUNDA***

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Aim of the document

Aim of this document is to specify the regulatory and administrative requirements concerning the opening of the anticipated roro ferry connection between Kunda (EE) and Loviisa (FI) which would make the Eastern Finland and Eastern Estonia transport corridor operational. Administrative requirements concerning the opening of the connection were explored in both Estonia and Finland. The study is part of the REFEC project, whose aim is to reinforce establishment of Eastern Finland – Eastern Estonia Transport Corridor.

General assumptions

Ports of Kunda and Loviisa are essential economic actors in their respective towns. Further development of the ports is seen positively by the municipalities.

Development of a new transport corridor between Estonia and Finland over the Gulf of Finland does not require substantial debate and public hearing on state or regional county level. Major hearings are usually required when greenfield projects are developed such as Rail Baltica, Helsinki-Tallinn tunnel or some completely new cargo port development on the Gulf of Finland coastline.

Revising of existing strategy and analyzing of accessing transport modes and volumes (road, rail and ferry) are the most probable tasks that have to be done in the ports of Loviisa and Kunda. In addition to the strategical issues, technical and specific plans need to be done. These focus mainly on updating land use and infrastructure development plans (evaluating the need for a new quay, terminal areas, technical supplies etc.). This need is addressed in the port masterplan which is completed in both port within the REFEC project. This is the essential strategical document of the port authority. It is created and approved by the management and owners. The land use depicted in port master plan can be submitted to local authority (municipality) for incorporating these intentions to the official *local detailed plan* (*detailplaneering* in Estonian). In Finland, the port masterplan actions, since they are within the port area, can be realized without initiating a local detail planning process.

Land use planning

The regulation elaborated in this chapter relates spatial planning phase in preparing the ports for the roro traffic.

ESTONIA

Local detailed plan¹ (DP) forms the basis for the building works to be conducted in the future. Local authority (municipality) is responsible for preparing the local detailed plan.

There are two main legal documents in Estonia regulating the process of detailed plan²

- **Planning Act** in force from 01.05.2019, in Estonian "*Planeerimisseadus*"
- **Environment Impact Assessment and Environmental Management System Act (EIAA)** in force from 1.10.2019 in Estonian "*Keskkonnamõju hindamise and keskkonnajuhtimissüsteemi seadus*".

The most important issues for detailed spatial plan are stated in planning act paragraph 125 (obligations) and paragraph 126 (functions).

According to paragraph 6 of environmental impact assessment and environmental management system and sub-articles 15) and 16) all construction activities in ports for serving vessels with deadweight over 1350 tons are considered to be with significant environmental impact. That means conducting of Environmental Impact Assessment Program (EIAP) during detailed spatial planning.

Timing for detailed spatial plan phase

- in so-called worst-case scenario, EIAP may need up to two years i.e. together with DP the whole period will be around 30 months
- in most realistic case the period will be around nine months (keeping in mind the positive attitude of the municipality to the REFEC development)
- the absolute minimum and formal period in Estonia is five months

All development area in Port of Kunda is currently covered by approved DP for new quayside and terminal area construction activities.

FINLAND

Local authority (municipality) is responsible for preparing the local detailed plan (DP) also in Finland.

There are two main legal documents in Finland regulating the process of DP:

- **Land Use and Building Act**³ 132/999, in Finnish "*Maankäyttö- ja rakennuslaki*"

¹ "Detailed spatial plan" term is mainly used in Estonia.

² The full text for both acts in English is available in www.riigiteataja.ee/en

³ <https://www.finlex.fi/en/laki/kaannokset/1999/en19990132>

- **Act on Environmental Impact Assessment Procedure 252/2017⁴** and **Decree on Environmental Impact Assessment Procedure 277/2017⁵**.

The port activities can be updated within the current port area according to the suggested new port master plan without any changes needed in DP. However, if the port activities are to be extended beyond the current port area (e.g. truck parking), a new DP for that area is needed. This may take years if the tentative plan is appealed to the court.

In Finland, the general duration of the DP process from a launch to its approval has increased. While the average time in major cities took 9.9 months in 2004-2005, the duration in 2014-2015 was prolonged to 15.6 months⁶.

Furthermore, if the nature of port activities are to be changed (as is in the case of initiating the roro traffic) an updated environmental license is needed. The process takes tentatively 12 months. Another licence, a water permit, is needed for quay construction. This process takes tentatively 9 months. The licences are applied in one united application. If the revised environmental license or water permit is appealed to the court, the processing might take another 2 years. The current decisions on administrative court have taken on average 1,5 years.

The changes suggested in the port of Loviisa do not require environmental impact assessment (thus a different process to environmental license).

Construction in port

The regulation elaborated in this chapter relates to the implementation and realization phase in preparing the ports for the roro traffic.

ESTONIA

There is main legal document in Estonia regulating the construction phase is

- **Building Code⁷** in force from 01.10., in Estonian "*Ehitusseadustik*"

Chapter 12 of building code is fully dedicated to construction works in public water bodies.

⁴ In Finnish only <https://www.finlex.fi/fi/laki/ajantasa/2017/20170252>

⁵ In Finnish only <https://www.finlex.fi/fi/laki/smur/2017/20170277>

⁶ See

[https://www.environment.fi/fi-FI/Elinymparisto_ja_kaavoitus/Selvitys_asemakaavoitus_vie_aikaa_mutta_\(44216\)](https://www.environment.fi/fi-FI/Elinymparisto_ja_kaavoitus/Selvitys_asemakaavoitus_vie_aikaa_mutta_(44216))

⁷ The full text in English is available in www.riigiteataja.ee/en

There are several sub-acts, decrees, documents etc. regulating respective activities in designing or civil engineering. They are usually originated by building code or local authority rules and are to be fulfilled by the designer or contractor partner involved.

Depending on the scope of construction works to be carried out within REFEC framework in Kunda, the implementation and realization will need:

- new roro quay together with dedicated ramp for serving particular vessels
- roro terminal area together with parking, maneuvering and service lots supporting roro traffic corridor development
- possibly improvement of public access roads connecting ports with mainland

Timeline for implementation and realization phase

According to Estonian experience and regulation rules

- with assumption that all permits for building design for different objects are applied simultaneously, around six months
- construction works in most realistic case may last up to 12 months. It should be noted that construction of hydrotechnical facilities (quay) should be preferably started in July after the end of dredging restriction period (if sea dredging or land reclaiming applicable).

FINLAND

In Finland the legal documents which regulate spatial planning regulate also construction of objects

- **Land Use and Building Act**⁸ 132/999, in Finnish “*Maankäyttö- ja rakennuslaki*”
- **Act on Environmental Impact Assessment Procedure** 252/2017⁹ and **Decree on Environmental Impact Assessment Procedure** 277/2017¹⁰

The construction works suggested within REFEC framework in Loviisa are more extensive compared to Kunda. The implementation and realization is foreseen to include:

- new roro quay together with dedicated ramp for serving particular vessels
- roro terminal area together with parking, maneuvering and service lots supporting roro traffic corridor development
 - possibly locating truck parking outside the current port area
- possibly improvement of public access roads connecting ports with mainland

⁸ <https://www.finlex.fi/en/laki/kaannokset/1999/en19990132>

⁹ In Finnish only <https://www.finlex.fi/fi/laki/ajantasa/2017/20170252>

¹⁰ In Finnish only <https://www.finlex.fi/fi/laki/smur/2017/20170277>

- furthermore, the relocation of several current port activities are needed to accommodate ro-ro traffic into the port area. This will require e.g. removal of land masses from the port extension area.
- Port office building construction (the current one is on the tentative ro-ro yard)

Timeline for implementation and realization phase

- the building permit process takes up to 2 months if all essential info is in the initial applications
- construction works would take tentatively 12 to 18 months

Authorisation

The regulation elaborated in this chapter relates to different licenses, permits or notifications which are needed by the port authority/terminal operator or shipping company for launching the ro-ro traffic.

ESTONIA

There is 0-bureaucracy from Estonian maritime administration for obtaining permissions on establishing or running regular shipping line/ro-ro terminal.

Port Authority

Environmental permit: The port authority shall inform Estonian Environmental Board for starting ro-ro shipping line. The port plan for reception and handling of ship generated waste and cargo residues and port pollution prevention plan shall be renewed and coordinated with Estonian Environmental Board. LNG bunkering, if necessary, requires a mandatory risk assessment which is coordinated with the Estonian Rescue Board. The processing time of the permit is 1-2 months.

Safety and rescue permit/license: The Port Authority shall inform Estonian Maritime Administration and Rescue Board for starting ro-ro shipping line. There are no special permits/license.

ISPS: The Port Security Assessment shall be renewed (carried out by Estonian Maritime Administration). The Port Security Plan shall be renewed (carried out by port Authority and coordinated with Estonian Maritime Administration). Based on security assessment specific

needs may arise and associated costs (security company, add gates, systems, etc). The ISPS process takes up to 6 months.

Dangerous goods, IMDG: The transport of dangerous goods on ferries must be in line with the Memorandum of Understanding for the Transport of Dangerous Goods in roro ships in Baltic. The port Authority shall inform Estonian Rescue Board and local municipality and cooperation is conducted in the Risk Assessment. The processing time of the IMDG issues is 1-2 months.

Port Rules: Port Rules shall be renewed and coordinated with Estonian Maritime Administration. This includes also ship (ferry) size restrictions and traffic organisation in the port area.

Customs and Border Guard: The port Authority shall inform Estonian Customs Board¹¹ and The Police and Border Guard Board¹² for starting roro shipping line. Requirements of the authorities are not yet known/specified. Coordination is probably needed to settle their office needs before terminal construction.

Shipping line operator

Maritime Administration¹³ (Veeteede Amet) should be involved covering safety permissions and approvals for a certain roro vessel via Ship Supervision Department.

Pilot service and taxing exemptions: pilotage dues are charged by AS Eesti Loots and fairway dues by the Estonian Maritime Administration. Ships are released from pilotage dues and from obligatory pilotage and must not use pilotage services if the master and the chief mate have passed a pilotage exam and have a pilotage license. Upon application for a pilotage license to the master and the chief mate of a passenger ship, each position of the master and chief mate shall, within the last 12 months, have visited the same port at least ten times with pilot onboard. Fairway dues are dues for the use on public waterways of navigational organisation services, ice breaking services and information services as well as the infrastructure installed on public fairways, in order to ensure safe seafaring. Cargo ships must be pay fairway dues no more than 10 times within a calendar year. No fairway dues will be charged for subsequent calls to the port within the calendar year. According to the Estonian Maritime Safety Act there are special exceptions and requirements for shipping line vessels.

¹¹ www.emta.ee

¹² www.politsei.ee

¹³ veeteedeamet.ee

FINLAND

In Finland, several authorities were contacted in order to find out what kind of permissions are needed when a new regular shipping line is established. Customs is the authority that have most authorization related to the ferry service.

In environmental impacts of a new shipping line the ELY-keskus (Centre for Economic Development, Transport and the Environment) and AVI (Regional State Administrative Agencies) have important role. Noise, emissions and traffic amount (both sea and land) are examples of issues that have to be assessed in the process. Based on them a need for environmental permit or changes in it is evaluated. Environmental permit is, however, is applied by the port authority (see above), and no action is required by the shipping company.

Environmental authorities

ELY (assess the need for permissions) and **AVI** (licensing authority)

In the need assessment special attention is paid to the noise, especially at night time (noise originates for example from auxiliary engines and air-conditioning systems). For example in the port of Helsinki noise emissions have been measured for decades. Average noise emission from regularly operating passenger ships has been LWA = 108 dB.

In the port of Loviisa noise measurements have been made in 2018.

The average target time for processing the environmental permits is approximately twelve months, and for new activities approximately ten months.

Customs

Regular vessel traffic

The shipping company can apply for **an authorisation from Customs for regular vessel traffic¹⁴ (RSS)** if it only transports goods regularly between ports within the customs territory of the EU (as is the case between Loviisa and Kunda). The Authorisation is admitted in 120 days after the application has been approved.

Fairway dues

Customs is responsible for the delivery of fairway dues¹⁵ in their entirety. Fairway dues are provided for by the Act on Fairway Dues (1122/2005) and the related amendment act (1214/2014).

¹⁴ <https://tulli.fi/en/businesses/authorisations/other-authorisations>

¹⁵ <https://tulli.fi/en/businesses/transport-and-warehousing/fairway-dues>

Finnish Customs regulation on sea traffic notification

Customs has issued regulations regarding the notification procedure¹⁶ for vessels entering and exiting Finland and the declaration procedure concerning goods transport routes in import and export. The notification regarding the vessel's entry and exit are submitted in the Port Traffic Declaration Service (**Portnet**).

The regulation regarding the declaration procedure applies to

- seagoing vessels used for commercial purposes, excluding coastal fishing vessels which return daily or within 36 hours to their port of registry or to another port in the territory of the Member States without calling at a port located in a third country;
- seagoing pleasure craft, if they are 45 metres or longer or if they can carry more than 12 passengers;
- traditional ships, if they can carry more than 12 passengers.

Arrival and exit – safety and security data

Electronic safety and security data must be submitted to Customs before goods are imported into or exported from the European Union territory¹⁷. The safety and security data includes details about the traders, goods, transports and routes.

The transport company is always responsible for submitting the arrival and exit declarations, even if it uses a representative to submit them. The time limits for submitting declarations are based on which mode of transport is used and the transport routes.

Other authorities

The following authorities do not require permits or other authorisation when starting the operation of ro-ro traffic

- Traficom, Finnish Transport and Communications Agency
- Väylä, The Finnish Transport Infrastructure Agency
- The Border Guard

¹⁶ <https://tulli.fi/en/businesses/transport-and-warehousing/regulations-on-sea-traffic>

¹⁷ <https://tulli.fi/en/businesses/arrival-and-exit-declarations>

Storage of Dangerous goods in port area

In Finland, the Government Decree on the Transport and Temporary Storage of Dangerous Goods in a Port Area (251/2005) is to be complied with if the roro traffic would contain dangerous cargo. A safety report shall be prepared for a port area through which the volume of dangerous goods to be transported in packaged form exceeds 10 000 tons annually. The safety report is made by the operator handling the dangerous cargo to the port authority who submits it to Traficom. Trafi will notify the port of its conclusions “within reasonable time”. The internal rescue plan of the port needs to be updated to incorporate the implications of the safety report. Furthermore, transport units containing dangerous goods need to be stored in designated areas so that the arrangement does not cause damage to people, the environment or property.

Regulation on truck driver rest time – transfer of truck to ferry

The drivers have a common rest time rules in the EU area. Since drivers must have certain rest times after the driving the essential question is whether the driving time is activated once the truck is transferred from parking area to the ferry. If the truck is inside the port area the transfer of the truck to the ferry does not interrupt the regulated rest time. The truck park outside the port, but in immediate nearness of the port, forms a “grey zone” case.

In Finland, it is possible to request an interpretation of the rule case by case. Regional State Administrative Agency of South Finland is responsible for work safety issues related to ports. The request of interpretation of the rule can be directed there (tyosuojelu.etela@avi.fi). The interpretation is processed in maritime and transportation teams of the agency.

In Estonia, the process is approximately the same as in Finland.