

CJEU: Danish cabotage rules not in violation of EU law

For a long time it has been unclear whether the Danish Cabotage Guidelines were compatible with EU Law. Yesterday's long-anticipated judgment from CJEU (Court of Justice of the European Union) clarifies that Denmark have not overstepped its authority under EU law EU by requiring that a single cabotage operation may only include either multiple loading points or multiple unloading points. The judgment is in line with the Advocate General's recommendation of November 2017.

The cabotage rules are set out in the Cabotage Regulation (1072/2009). According to the CJEU, the Cabotage Regulation's definition of a cabotage operation does not directly consider if one operation can include both multiple loading points and multiple unloading points. CJEU therefore concluded that Member States are free to adopt national measures to clarify the definition of cabotage operations, as long as these measures comply with the principle of proportionality.

The judgment confirms that the current Cabotage Regulation is unclear. Consequently, the legal status for hauliers and drivers may vary, depending on in which country the cabotage operations are performed.

Currently, Denmark and Finland require that for an operation to be considered a single cabotage operation, it must not include both multiple loading points and multiple unloading points. In Sweden and Holland, however, there are no limits as to the number of loading and unloading points for one cabotage operation. Finally, Belgium, Germany and Poland have applied a third interpretation of the Cabotage Regulation, by allowing both multiple loading and unloading points for a single cabotage operation, but only if the relevant cabotage operation is based on a single contract of carriage. Considering the Cabotage Regulation's objective of establishing common rules applicable to international carriage of goods by road within the territory of the EU, the current situation appears unfortunate and not as intended by the legislators.



ULLA FABRICIUS
ATTORNEY AT LAW,
PARTNER

(+45) 40 40 93 59
UF@NJORDLAW.COM