

## **New rules regarding the Liability of Carriers of Passengers by Sea in the Event of Accidents**

Regulation (EC) No 392/2009 of the 23<sup>rd</sup> April 2009, has been introduced within the framework of the common transport policy, with the aim of furthering measures needed to be adopted in order to enhance safety in maritime transport. Such measures include liability rules for damage caused to passengers, for it is crucial to ensure a proper level of compensation for passengers involved in maritime accidents.

Since the discrepancy between national and international transport has been redeemed within the internal market in regard to maritime transport services, the Commission deemed it high time that there be the same level and nature of liability in both international and national transport within the Community.

This new Regulation builds on the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea 1974 (amended in 2002), as well as the IMO Reservation and Guidelines for Implementation of the Athens Convention of 2006.

The so-called Athens Convention establishes a regime of liability for damage suffered by passengers carried on a seagoing vessel. It declares a carrier liable for damage or loss suffered by a passenger if the incident causing the damage occurred in the course of the carriage and was due to the fault or neglect of the carrier. As far as loss of, or damage to luggage is concerned, the carrier's limit of liability varies. Such variation depends on whether the loss or damage occurred is in respect of cabin luggage, whether the carrier acted with intent to cause such damage, whether such damage was caused due to recklessness, and/or with the knowledge that such damage was most probable to result therefrom.

The scope of the Regulation is wide-ranging. It applies to the ship flying the flag of or registered in a Member State; when the contract of carriage has been made in a Member State; when the Member State is the place of departure or destination, according to the contract of carriage. Ultimately "all domestic sea-going voyages" are encompassed.

One is to keep in mind, however that this Regulation does not modify any rights or duties of the carrier under national legislation which implements the International Convention on Limitation of Liability for Maritime Claims 1976.

Where due to a shipping accident, a person suffers personal injury, or even loses his life, the carrier who performed the whole or part of the carriage when the shipping incident occurred shall make an advance payment sufficient to cover *immediate* economic needs, on a basis proportionate to the damage suffered, within 15 days of the identification of the person entitled to damages. The Regulation lays down a minimum amount of payment for compensation, that is €21, 000, in the event of death.