



Liability of carriers of passengers by sea in the event of accidents

INFORMATION ON THE ATHENS REGULATION

On 31 December 2012 the Athens Regulation came into force in all member states in the European Union (EU) and the European Economic Area (EEA). The Athens Regulation implements the key provisions of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea and the IMO Reservation and Guidelines for the Implementation of the Athens Convention in the member states. The regulation provides compulsory law for carriage of passengers by sea. Below follows a summary of the contents of the regulation.

Regulation (EC) No 392/2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents.

The scope of the regulation

The Athens Regulation concerns passenger ships certified for more than 12 passengers and applies to international carriage and to carriage within a single EU member state on board ships of Classes A and B when the ship is flying the flag of or is registered in a member state. Member states may expand the scope of application of the regulation to apply also to domestic carriage on board passenger ships of Classes C and D. In Finland and Sweden the Athens Regulation applies only to international carriage and to domestic carriage undertaken by passenger ships of Classes A and B from 31 December 2012. In case the

scope of the regulation is extended to cover also other domestic sea voyages, we will revert with more information on this.

Limitation of the carrier's liability

The Athens Regulation lays down rules in respect of liability for carriage of passengers by sea.

Liability for loss suffered as a result of the death of or personal injury to a passenger caused by a shipping incident¹

- The carrier is strictly liable up to an amount of 250 000 SDR² per passenger
- If and to the extent that the loss exceeds 250 000 SDR, the carrier is further liable up to an amount of 400 000 SDR per passenger unless the carrier proves that the incident which caused the loss occurred without his fault or neglect.

¹ "Shipping incident" for the purposes of the regulation means: shipwreck, capsizing, collision or stranding of the ship, explosion or fire in the ship, or defect in the ship.

² SDR is a special drawing right defined by the International Monetary Fund. Exchange rate on 31.12.2012: 1 SDR = 1,16657 EUR, 1 SDR = 10,1237 SEK.

Liability for loss suffered as a result of the death of or personal injury to a passenger not caused by a shipping incident

- The carrier has a maximum liability of 400 000 SDR per passenger provided that the claimant can prove that the incident which caused the loss was due to the fault or neglect of the carrier.

Liability for loss of or damage to luggage and vehicles

The carrier is liable for loss of or damage to

- cabin luggage up to a maximum amount of 2 250 SDR per passenger
- vehicles up to a maximum amount of 12 700 SDR per vehicle, and
- other luggage up to a maximum amount of 3 375 SDR per passenger.

The carrier is free of liability for losses caused by a shipping incident if the carrier can prove that the incident:

- resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon
- of an exceptional, inevitable and irresistible character, or
- was wholly caused by an act or omission done with the intent to cause the incident by a third party.

The carrier's duty to maintain insurance

For carriage of passengers on board a ship licensed to carry more than 12 passengers, which is subject to the application of the rules of the Athens Regulation, the carrier is obliged to maintain insurance to cover liability in respect of the death of and personal injury to passengers. The limit of the compulsory insurance shall not be less than 250 000 SDR per passenger on each distinct occasion.

Certificates and "Blue Cards"

A certificate attesting that insurance is in force in accordance with the provisions of the Athens Regulation must be carried onboard at all times. The certificate is issued to each ship after the appropriate authority of the state of the ship's registry has determined that the carrier has duly fulfilled his duty to

maintain insurance. Therefore a certificate of insurance, i.e. a Blue Card, attesting maintenance of an appropriate insurance in accordance with the provisions of the Athens Regulations, shall be attached to the certificate application.

Blue Card issued by a Non-War Insurer

The Non-War Blue Card is issued by the vessel's P&I insurer as an evidence of that the carrier has fulfilled his insurance obligations with the exception of war risks under the Athens Regulation.

Blue Card issued by a War Insurer

Standard P&I insurance excludes all war-risk liability whereas the Athens Regulation merely excludes liabilities as a result of acts of war, not as a consequence of terrorist acts. The carrier can thus be held liable for death of or injuries to passengers caused by a terrorist act. Since such liability is not covered by the P&I insurance, a separate Blue Card is required which certifies that the carrier has fulfilled his insurance obligations for the war-risk liability under the Athens Regulation. In addition to the Blue Card issued by the P&I insurer, a carrier within the scope of application of the Athens Regulation requires a Blue Card covering the war-risk liability. The P&I insurer can assist in arranging a Blue Card for that purpose.

The carrier's obligation to inform passengers

In accordance with the provisions of the Athens Regulation the carrier shall ensure that passengers are provided with appropriate and comprehensible information regarding their rights under the regulation. In order to facilitate the provision of information the European Commission has published a summary of the regulation, containing the minimum information that the carrier is required to provide to passengers prior to or on departure. The summary was published on 7 December 2012 and can be found in the document "Summary of provisions concerning the rights of passengers travelling by sea in the event of accidents" in the following link:

http://ec.europa.eu/transport/themes/passengers/maritime/index_en.htm



FÖRSÄKRINGSAKTIEBOLAGET ALANDIA

Mariehamn - P.O. Box 121, AX-22101 Mariehamn, phone: +358 18 29 000, **Helsinki** - Itämerenkatu 1, FI-00180 Helsinki, phone: +358 20 52 52 580
Stockholm - Hamnvägen 8 2tr, SE-183 57 Täby, phone: +46 8 5058 8480, Business ID 0145065-2, marine@alandia.com, www.alandia.com