

## Shipping & Transport - Cyprus

### Carriage of passengers by sea

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#### Introduction

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#### Passenger rights

#### National application

#### Introduction

Two principal EU legislative instruments govern the carriage of passengers by sea:

- EU Regulation 392/2009 on the liability of carriers of passengers by sea in the event of accidents (the 'liability regulation'), which introduced a uniform regime of liability and insurance for the carriage of passengers by sea, based on the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea 1974, as amended by the Protocol of 2002 on the carriage of passengers and relevant International Maritime Organisation guidelines.
- EU Regulation 1177/2010 concerning the rights of passengers when travelling by sea and inland waterway and amending EU Regulation 2006/2004 (the 'rights regulation'), which safeguards passengers' rights when travelling by sea and inland waterway throughout the European Union.

#### Liability for damage suffered by passengers

The liability regulation applies to all international carriage and carriage by sea within a single member state on board ships of Classes A and B as defined in EU Directive 18/1998/EC, when one or more of the following conditions is satisfied:

- The ship is flying the flag of or is registered in a member state;
- The contract of carriage has been concluded in a member state; or
- The place of departure or destination, as laid down in the contract of carriage, is situated in a member state.

Member states are free to extend the scope of the regulation to all domestic seagoing voyages.

Under the regulation, passengers are entitled to compensation for damages related to navigation accidents on an operation of law basis. However, passengers must prove fault on the part of the carrier in order to be compensated for damages falling under the 'innkeeper' category of liability.

#### Passenger rights

The rights regulation prescribes a minimum package of rights for passengers travelling on:

- passenger services where the port of embarkation is situated in a member state;
- passenger services operated by a 'union carrier' (a carrier established within the territory of a member state or offering transport by passenger services operated to or from the territory of a member state) from a port situated in a third country to a port situated in a member state; and
- cruises where the port of embarkation is situated in a member state.

Certain voyages (principally those on vessels certified to carry no more than 12 passengers, voyages of less than 500 metres and sightseeing excursions) are outside the scope of the rights regulation.

The regulation imposes certain obligations on tour operators, travel agents and ticket vendors offering transport by passenger service or cruises to the general public, as well as on carriers, terminal operators and port authorities. It does not affect the rights of passengers established by EU Directive 90/314/ECC on package travel, package holidays and package tours and does not apply in cases where a package tour is cancelled for reasons other than cancellation of the passenger service or cruise.

The regulation specifies the following rights:

- the right to non-discriminatory contract conditions;
- the right to care and assistance;
- the right to re-routing and reimbursement in case of cancellation, delay of departure of more than 90 minutes or cancellation of a passenger service;
- the right to request partial compensation of the ticket price in case of delay in arrival at the final destination;
- rights for disabled passengers and passengers with reduced mobility; and
- the right to submit complaints to carriers and national enforcement bodies.

### **National application**

The Cyprus Department of Merchant Shipping (DMS) is the national enforcement body responsible for ensuring compliance with the passenger rights regulation. It has established a process for the filing of complaints and published the details in a circular (16/2014) together with a form for the purpose.

The circular makes clear that while the DMS – as the competent body designated for enforcing the rights regulation – is responsible for receiving complaints from any passenger about alleged infringements and for providing the complainant with a substantial reply within a reasonable period of time, it can become involved only once the passenger has submitted the complaint to the carrier or the terminal operator concerned.

Article 25 of the rights regulation allows national governments to decide whether the national enforcement body will act as an appeal body for complaints not resolved between the parties. Cyprus has decided that the DMS will not act as an appeal body. Its role is limited to examining complaints that have been submitted to the carrier or terminal operator concerned, investigating the alleged infringement and imposing any penalty that it considers appropriate.

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