

Atenkonventionen

Atenkonventionen

801092

08.02.08

All passagerartransport med färja regleras idag av Atenkonventionen av 1974.

De viktigaste delarna av texten i denna konvention återges här på engelska.

Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974

Article 1 Definitions

1 In this Convention the following expressions have the meaning hereby assigned to them:

(a) "carrier" means a person by or on behalf of whom a contract of carriage has been concluded, whether the carriage is actually performed by him or by a performing carrier;

(b) "performing carrier" means a person other than the carrier, being the owner, charterer or operator of a ship, who actually performs the whole or a part of the carriage;

2 "contract of carriage" means a contract made by or on behalf of a carrier for the carriage by sea of a passenger or of a passenger and his luggage, as the case may be;

3 "ship" means only a seagoing vessel, excluding an air-cushion vehicle;

4 "passenger" means any person carried in a ship

(a) under a contract of carriage, or

(b) who, with the consent of the carrier is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods not governed by this Convention;

5 "luggage" means any article or vehicle carried by the carrier under a contract of carriage, excluding:

(a) articles and vehicles carried under a charter party, bill of lading or other contract primarily concerned with the carriage of goods, and

(b) live animals;

6 "cabin luggage" means luggage which the passenger has in his cabin or is otherwise in his possession, custody or control. Except for the application of paragraph 8 of this Article and Article 8, cabin luggage includes luggage which the passenger has in or on his vehicle;

7 "loss of or damage to luggage" includes pecuniary loss resulting from the luggage not having been re-delivered to the passenger within a reasonable time after the arrival of the ship on which the luggage has been or should have been carried, but does not include delays resulting from labour disputes;

8 "carriage" covers the following periods:

(a) with regard to the passenger and his cabin luggage, the period during which the passenger and/or his cabin luggage are on board the ship or in the course of disembarkation, and the period during which the passenger and his cabin luggage are transported by water from land to the ship or vice-versa, if the cost of such transport is included in the fare or if the vessel used for this purpose of auxiliary transport has been put at the disposal of the passenger by the carrier. However, with regard to the passenger, carriage does not include the period during which he is in a marine terminal or station or on a quay or in or on any other port installation;

(b) with regard to cabin luggage, also the period during which the passenger is in a marine terminal or station or on a quay or in or on any other port installation if that luggage has been taken over by the carrier or his servant or agent and has not been re-delivered to the passenger;

(c) with regard to other luggage which is not cabin luggage, the period from the time of its taking over by the carrier or his servant or agent on shore or on board until the time of its re-delivery by the carrier or his servant or agent;

9 "international carriage" means any carriage in which, according to the contract of carriage, the place of departure and the place of destination are situated in two different States, or in a single State if, according to the contract of carriage or the scheduled itinerary, there is an intermediate port of call in another State.

10 "Organisation" means the International Maritime Organisation (IMO).

Article 2 Application

1 This Convention shall apply to any carriage if:

(a) it is international carriage and the contract of carriage is made in the United Kingdom; or

(b) it is international carriage and, under the contract of carriage, a place in the United Kingdom is the place of departure or destination; or

(c) under the contract of carriage, the places of departure and destination are in the area consisting of the United Kingdom, the Channel Islands and the Isle of Man and there is no intermediate port of call outside the area.

2 Notwithstanding paragraph 1 of this Article, this Convention shall not apply when the carriage is subject, under any other international convention concerning the carriage of passengers or luggage by another mode of transport, to a civil liability regime under the provisions of such convention, in so far as those provisions have mandatory application to carriage by sea.

Article 3 Liability of the carrier

1 The carrier shall be liable for the damage suffered as a result of the death of or personal injury to a passenger and the loss of or damage to luggage if the incident which caused the damage so suffered occurred in the course of the carriage and was due to the fault or neglect of the carrier or his servants or agents acting within the scope of their employment.

2 The burden of proving that the incident which caused the loss or damage occurred in the course of the carriage, and the extent of the loss or damage, shall lie with the claimant.

3 Fault or neglect of the carrier or of his servants or agents acting within the scope of their employment shall be presumed, unless the contrary is proved, if the death of or personal injury to the passenger or the loss or damage to cabin luggage arose from or in connection with the shipwreck, collision, stranding, explosion or fire, or defect in the ship. In respect of



loss of or damage to other luggage, such fault or neglect shall be presumed, unless the contrary is proved, irrespective of the nature of the incident which caused the loss or damage. In all other cases the burden of proving fault or neglect shall lie with the claimant.

Article 4 Performing carrier

1 If the performance of the carriage or part thereof has been entrusted to a performing carrier, the carrier shall nevertheless remain liable for the entire carriage according to the provisions of this Convention. In addition, the performing carrier shall be subject and entitled to the provisions of this Convention for the part of the carriage performed by him.

2 The carrier shall, in relation to the carriage performed by the performing carrier, be liable for the acts and omissions of the performing carrier and of his servants and agents acting within the scope of their employment.

3 Any special arrangement under which the carrier assumes obligations not imposed by this Convention or any waiver of rights conferred by this Convention shall effect the performing carrier only if agreed by him expressly and in writing.

4 Where and to the extent that both the carrier and the performing carrier are liable, their liability shall be joint and several.

5 Nothing in this Article shall prejudice any right of recourse as between the carrier and the performing carrier.

Article 5 Valuables

The carrier shall not be liable for the loss or damage to monies, negotiable securities, gold, silverware, jewellery, ornaments, works of art, or other valuables, except where such valuables have been deposited with the carrier for the agreed purpose of safe-keeping in which case the carrier shall be liable up to the limit provided for in paragraph 3 of Article 8 unless a higher limit is agreed upon in accordance with paragraph 1 of Article 10.

Article 6 Contributory fault

If the carrier proves that the death of or personal injury to a passenger or the loss of or damage to his luggage was caused or contributed to by the fault or neglect of the passenger, the court seized of the case may exonerate the carrier wholly or partly from his liability in accordance with the provisions of the law of that court.

Article 7 Limit of liability for personal injury
The liability of the carrier for the death of or

personal injury to a passenger shall in no case exceed 700,000 francs (for carriers other than UK carriers) and 100,000 special drawing rights (for UK carriers) per carriage. Where in accordance with the law of the court seized of the case damages are awarded in the form of periodical income payments, the equivalent capital value of those payments shall not exceed the said limit.

Article 8 Limit of liability for loss of or damage to luggage

1 The liability of the carrier for the loss of or damage to cabin luggage shall in no case exceed 833 special drawing rights per passenger, per carriage.

2 The liability of the carrier for the loss of or damage to vehicles including all luggage carried in or on the vehicle shall in no case exceed 3,333 special drawing rights per vehicle, per carriage.

3 The liability of the carrier for the loss of or damage to luggage other than that mentioned in paragraphs 1 and 2 of this Article shall in no case exceed 1,200 special drawing rights per passenger, per carriage.

4 The carrier and the passenger may agree that the liability of the carrier shall be subject to a deductible not exceeding 117 special drawing rights in the case of damage to a vehicle and not exceeding 13 special drawing rights per passenger in the case of loss of or damage to other luggage, such sum to be deducted from the loss or damage.

Article 9 Monetary unit and conversion Unit of Account or Monetary Unit and conversion

1 The Unit of Account mentioned in this Convention is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in Articles 7 and 8 shall be converted into the national currency of the State of the Court seized of the case on the basis of the value of that currency on the date the judgement or the date agreed upon by the parties. The value of the national currency, in terms of the Special Drawing Right, of a State which is a member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect as the date in question for its operations and transactions. The value of the national currency, in terms of the Special Drawing Right, of a State which is not a member of the International Monetary Fund, shall be calculated in a manner by that State.

2 Nevertheless, a State which is not a member of the International Monetary Fund and

whose law does not permit the application of the provisions of paragraph 1 of this Article may, at the time of ratification or accession or at any time thereafter, declare that the limits of liability provided for in this Convention to be applied in its territory shall be fixed as follows:

- (a) in respect of Article 7, paragraph 1, 700,000 monetary units
- (b) in respect of Article 8, paragraph 1, 12,500 monetary units
- (c) in respect of Article 8, paragraph 2, 50,000 monetary units
- (d) in respect of Article 8, paragraph 3, 18,000 monetary units
- (e) in respect of Article 8, paragraph 4, the deductible shall not exceed 1,750 monetary units in the case of damage to a vehicle and shall not exceed 200 monetary units per passenger in the case of loss of or damage to other luggage.

Article 10 Supplementary provisions on limit of liability

1 The carrier and the passenger may agree, expressly and in writing, to higher limits of liability than those prescribed in Articles 7 and 8.

2 Interest on damages and legal costs shall not be included in the limits of liability prescribed in Articles 7 and 8.

Article 11 Defenses and limits for carriers' servants

If an action is brought against a servant or agent of the carrier or of the performing carrier arising out of damage covered by this Convention, such servant or agent, if he proves that he acted within the scope of his employment shall be entitled to avail himself of the defenses and limits of liability which the carrier or the performing carrier is entitled to invoke under this Convention.

Article 12 Aggregation of claims

1 Where the limits of liability prescribed in Articles 7 and 8 take effect, they shall apply to the aggregate of the amounts recoverable in all claims arising out of the death of or personal injury to any one passenger or the loss of or damage to his luggage.

2 In relation to the carriage performed by a performing carrier, the aggregate of the amounts recoverable from the carrier and the performing carrier and from their servants and agents acting within the scope of their employment shall not exceed the highest amount which could be awarded against either the carrier or the performing carrier under this Convention, but none of the persons mentioned shall be liable for a sum in excess



www.ferrycenter.se

of the limit applicable to him.

3 In any case where a servant or agent of the carrier or of the performing carrier is entitled under Article 11 of this Convention to avail himself of the limits of liability prescribed in Articles 7 and 8, the aggregate of the amounts recoverable from the carrier, or the performing carrier as the case may be, and from that servant or agent, shall not exceed those limits.

Article 13 Loss of right to limit liability

1 The carrier shall not be entitled to the benefit of the limits of liability prescribed in Articles 7 and 8 and paragraph 1 of Article 10, if it is proved that the damage resulted from an act or omission of the carrier done with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

2 The servant or agent of the carrier or of the performing carrier shall not be entitled to the benefit of those limits if it is proved that the damage resulted from an act or omission of that servant or agent done with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

Article 14 Basis for claims

No action for damages for the death of or personal injury to a passenger, or for the loss of or damage to luggage, shall be brought against a carrier or performing carrier otherwise than in accordance with this Convention.

Article 15 Notice of loss or damage to luggage

1 The passenger shall give written notice to the carrier or his agent:

- (a) in the case of apparent damage to luggage:
 - (i) for cabin luggage, before or at the time of disembarkation of the passenger;
 - (ii) for all other luggage, before or at the time of its re-delivery;
- (b) in the case of damage to luggage which is not apparent, or loss of luggage, within fifteen days from the date of disembarkation or re-delivery or from the time when such re-delivery should have taken place.

2 If the passenger fails to comply with this Article, he shall be presumed, unless the contrary is proved, to have received the luggage undamaged.

3 The notice in writing need not be given if the condition of the luggage has at the time of its receipt been the subject of joint survey or inspection.

Article 16 Time-bar for actions

1 Any action for damages arising out of the death of or personal injury to a passenger or for the loss of or damage to luggage shall be time-barred after a period of two years.

2 The limitation period shall be calculated as follows:

- (a) in the case of personal injury, from the date of disembarkation of the passenger;
- (b) in the case of death occurring during carriage, from the date when the passenger should have disembarked, and in the case of personal injury occurring during carriage and resulting in the death of the passenger after disembarkation, from the date of death, provided that this period shall not exceed three years from the date of disembarkation.;
- (c) in the case of loss of or damage to luggage, from the date of disembarkation or from the date when disembarkation should have taken place, whichever is later.

3 The law of the court seized of the case shall govern the grounds of suspension and interruption of limitation periods, but in no case shall an action under this Convention be brought after the expiration of a period of three years from the date of disembarkation should have taken place, whichever is later.

4 Notwithstanding paragraph 1, 2 and 3 of this Article, the period of limitation may be extended by a declaration of the carrier or by agreement of the parties after the cause of action has arisen. The declaration or agreement shall be in writing.

Article 17 Competent jurisdiction

1 An action arising under this Convention shall, at the option of the claimant, be brought before one of the courts listed below:

- (a) the court of the place of permanent residence or principal place of business of the defendant, or
- (b) the court of the place of departure or that of the destination according to the contract of carriage, or
- (c) a court of the State of the domicile or permanent residence of the claimant; if the defendant has a place of business and is subject to jurisdiction in that State, or
- (d) a court of the State where the contract of carriage was made, if the defendant has a place of business and is subject to jurisdiction in that State.

2 After the occurrence of the incident which caused the damage, the parties may agree that the claim for damages shall be submitted to any jurisdiction or to arbitration.

Article 18 Invalidation of contractual provisions
Any contractual provision concluded before the occurrence of the incident which has caused the death of or personal injury to a passenger or the loss of or damage to his luggage, purporting to relieve the carrier of his liability towards the passenger or to prescribe a lower limit of liability than that fixed in this Convention except as provided in paragraph 4 of Article 8, and any such provision purporting to shift the burden of proof which rests on the carrier, or having the effect of restricting the option specified in paragraph 1 of Article 17, shall be null and void, but the nullity of that provision shall not render void the contract of carriage which shall remain subject to the provisions of this Convention.

Article 19 Other conventions on limitation of liability

This Convention shall not modify the rights or duties of the carrier, the performing carrier, and their servants or agents provided for in international conventions relating to the limitation of liability of owners of seagoing ships.

Article 20 Nuclear damage

No liability shall arise under this Convention for damage caused by nuclear incident:

- (a) if the operator of a nuclear installation is liable for such damage under either the Paris Convention of 29th July 1960 on Third Party Liability in the Field of Nuclear Energy as amended by its Additional Protocol of 28th January 1964 or the Vienna Convention of 21st May 1963 on Civil Liability for Nuclear Damage², or
- (b) if the operator of a nuclear installation is liable for such damage by virtue of a national law governing the liability for such damage, provided that such law in all respects as favourable to persons who may suffer damage as either the Paris or the Vienna Conventions.

Article 21 Commercial carriage by public authorities

This Convention shall apply to commercial carriage undertaken by States or Public Authorities under contracts of carriage within the meaning of Article 1.

- 1 Treaty Series No. 69 (1968), Cmnd 3755.
 - 2 Miscellaneous No. 9 (1964), Cmnd 2333.
- (Articles 22 - 28 relate to declaration of non-application, signature, ratification, accession, entry into force, denunciation, revision, amendment, depositary, languages and are not reproduced here.)

