


Procedure file

Basic information		
NLE - Non-legislative enactments Decision	2003/0132B(NLE)	Procedure completed
Carriage of Passengers and their Luggage by Sea, Protocol of 2002 to the 1974 Athens Convention: accession (Articles 10 and 11)		
Subject 3.20.03 Maritime transport: passengers and freight 7.40.02 Judicial cooperation in civil and commercial matters		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	JURI Legal Affairs		20/06/2011
		PPE LEHNE Klaus-Heiner	
	Committee for opinion	Rapporteur for opinion	Appointed
	TRAN Transport and Tourism	The committee decided not to give an opinion.	
Council of the European Union	Council configuration	Meeting	Date
	Transport, Telecommunications and Energy	3134	12/12/2011
European Commission	Commission DG	Commissioner	
	Mobility and Transport	KALLAS Siim	

Key events			
03/05/2011	Legislative proposal published	08663/2011	Summary
07/06/2011	Committee referral announced in Parliament		
11/10/2011	Vote in committee		Summary
13/10/2011	Committee report tabled for plenary, 1st reading/single reading	A7-0341/2011	
15/11/2011	Results of vote in Parliament		
15/11/2011	Decision by Parliament	T7-0479/2011	Summary
12/12/2011	Act adopted by Council after consultation of Parliament		
12/12/2011	End of procedure in Parliament		
12/01/2012	Final act published in Official Journal		

Technical information	
Procedure reference	2003/0132B(NLE)
Procedure type	NLE - Non-legislative enactments
Procedure subtype	Consent by Parliament
Legislative instrument	Decision
Legal basis	Treaty on the Functioning of the EU TFEU 218-p6a; Treaty on the Functioning of the EU TFEU 081-p2; Treaty on the Functioning of the EU TFEU 081-p1
Other legal basis	Rules of Procedure EP 159
Stage reached in procedure	Procedure completed
Committee dossier	JURI/7/06141

Documentation gateway					
Legislative proposal		08663/2011	03/05/2011	CSL	Summary
Committee draft report		PE469.963	14/09/2011	EP	
Committee report tabled for plenary, 1st reading/single reading		A7-0341/2011	13/10/2011	EP	
Text adopted by Parliament, 1st reading/single reading		T7-0479/2011	15/11/2011	EP	Summary

Additional information	
National parliaments	IPEX
European Commission	EUR-Lex

Final act
Decision 2012/23 OJ L 008 12.01.2012, p. 0013 Summary

Carriage of Passengers and their Luggage by Sea, Protocol of 2002 to the 1974 Athens Convention: accession (Articles 10 and 11)

PURPOSE: the accession of the European Union to the protocol of 2002 to the 1974 Athens Convention on the Carriage of Passengers and their Luggage by Sea, as regards Articles 10 and 11 of the protocol.

PROPOSED ACT: Council Decision.

BACKGROUND: the 2002 protocol to the 1974 Athens convention on the carriage of passengers and their luggage by sea (or the ?Athens protocol?) represents a major improvement to the regime relating to the liability of carriers and the compensation of passengers carried by sea. In particular, it provides for a strict liability of the carrier, including compulsory insurance, with a right of direct action against insurers up to specified limits, and for rules on jurisdiction and the recognition and enforcement of judgments. The Athens Protocol is therefore in accordance with the Union's objective of improving the legal regime relating to carriers' liability.

The Athens Protocol modifies the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974 ("Athens Convention") and establishes in Article 15 that the two instruments shall, as between the Parties to the Athens Protocol, be read and interpreted together as one single instrument.

EU competences: the majority of the rules of the Athens Protocol have been incorporated into Union law by means of [Regulation \(EC\) No 392/2009](#) of the European Parliament and of the Council on the liability of carriers of passengers by sea in the event of accidents, which is to be applied by 2013 at the latest. Insofar as these rules are concerned, accession to the protocol is a Union competence. There remain, however, a number of protocol provisions not falling within the Union's competence, but rather within that of the member states, for example the possibility of fixing higher limits of liability than those provided for in the protocol. The individual member states therefore also need to accede to the protocol for it to become applicable in full, thus ensuring a coherent legal framework throughout the Union. It is desirable for the

protocol to become applicable not later than the regulation, in order to avoid any legal vacuum. A speedy accession of both the EU and the member states is therefore important to make sure that the number of ratifications required for the entry into force of the protocol is reached with enough time to allow its application as from 2013.

Reservation: the Legal Committee of the International Maritime Organization adopted in October 2006 the IMO Reservation and Guidelines for Implementation of the Athens Convention ("IMO Guidelines") to address certain issues within the Athens Convention, such as, in particular, compensation for terrorism-related damages. Regulation (EC) No 392/2009 reproduces in its annexes the relevant provisions of the consolidated version of the Athens Convention as amended by the Athens Protocol and the IMO Guidelines. The Union should consequently accede to the Athens Protocol and make the reservation contained in the IMO Guidelines. The making of such a reservation should not be interpreted as altering the current division of competence between the Union and the Member States in relation to certification and the controls by State authorities.

IMPACT ASSESSMENT: no impact assessment was undertaken.

LEGAL BASIS: Article 100 (2) of the Treaty on the Functioning of the European Union (TFEU), in conjunction with point (a) of Article 218(6) and the first subparagraph of Article 218(8) thereof.

It should be noted that in view of the protocol's rules on jurisdiction and the recognition and enforcement of judgments, the Council decided for legal reasons to take two separate decisions on the accession:

- one covering the transport part of the protocol and legally based on the Lisbon treaty's transport policy provisions(see [NLE/2003/0132A](#)),
- another on the civil law part, with the treaty provisions on judicial cooperation in civil matters as a legal basis.

That separation according to the legal bases is due to the special position of Denmark, Ireland and the United Kingdom, which do not, or do not automatically, participate in judicial cooperation under the Lisbon treaty. In the case at hand, though, Ireland and the United Kingdom will be bound by the EU decision, since the EU rules on jurisdiction and recognition and enforcement of judgments already apply to them; Denmark, however, will be bound only as a contracting party to the protocol, as far as civil law matters are concerned. The decision on the transport part automatically applies to all EU member states.

CONTENT: in this proposal for a decision, it is proposed that the European Union approves the 2002 Protocol to the Athens Convention of 1974 relating to the Carriage of Passengers and their Luggage by Sea, as regards Articles 10 and 11 of the protocol.

The text of the Protocol is attached to this decision. For further details as to the Protocol's content, please refer to the summary of the supplementary initial legislative document in the procedure files [NLE/2003/0132A](#), dated 30/11/2010.

The protocol, which will enter into force when there have been a certain number of ratifications, will bring about better compensation rights for passengers, in particular by providing for strict liability for the carrier and including compulsory insurance with a right of direct action against insurers up to a specified limit. In addition, it contains rules on jurisdiction and the recognition and enforcement of judgments.

This proposal for a decision (and the [parallel proposal for a decision](#)) stipulates that Member States should, if possible, accede to the protocol by 31 December 2011, at the same time as the Union.

BUDGETARY IMPLICATIONS: the proposal has no impact on the EU's budget.

Carriage of Passengers and their Luggage by Sea, Protocol of 2002 to the 1974 Athens Convention: accession (Articles 10 and 11)

The Committee on Legal Affairs adopted the report by Klaus-Heiner LEHNE (EPP, DE) on the draft Council decision concerning the accession of the European Union to the Protocol of 2002 to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974, as regards Articles 10 and 11 thereof.

It recommended that Parliament consent to accession to the Protocol.

Carriage of Passengers and their Luggage by Sea, Protocol of 2002 to the 1974 Athens Convention: accession (Articles 10 and 11)

The European Parliament gave its consent to accession of the European Union to the Protocol of 2002 to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974, as regards Articles 10 and 11 thereof.

Carriage of Passengers and their Luggage by Sea, Protocol of 2002 to the 1974 Athens Convention: accession (Articles 10 and 11)

PURPOSE: to approve, on behalf of the European Union, the Protocol of 2002 to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974 (Athens Protocol) and improve the legal regime relating to carriers liability.

NON-LEGISLATIVE ACT: Council Decision 2012/23/EU concerning the accession of the European Union to the Protocol of 2002 to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974, with the exception of Articles 10 and 11 thereof.

CONTENT: the Council adopted two decisions providing for the accession of the European Union to the protocol of 2002 to the 1974 Athens Convention on the carriage of passengers and their luggage by sea, following the consent given by the European Parliament.

The Athens Protocol represents a major improvement to the regime relating to the liability of carriers and the compensation of passengers

carried by sea. In particular, it provides for a strict liability of the carrier, including compulsory insurance, with a right of direct action against insurers up to specified limits, and for rules on jurisdiction and the recognition and enforcement of judgments.

In view of the protocol's rules on jurisdiction and the recognition and enforcement of judgments, the Council decided for legal reasons to take two separate decisions on the accession:

- the [first Decision](#) covering the transport part of the protocol and legally based on the Lisbon treaty's transport policy provisions;
- and the other Decision on the civil law part, with the treaty provisions on judicial cooperation in civil matters as a legal basis.

That separation according to the legal bases is due to the special position of Denmark, Ireland and the United Kingdom, which do not, or do not automatically, participate in judicial cooperation under the Lisbon treaty. In the case at hand, though, Ireland and the United Kingdom will be bound by the EU decision, since the EU rules on jurisdiction and recognition and enforcement of judgments already apply to them; Denmark, however, will be bound only as a contracting party to the protocol, as far as civil law matters are concerned. The decision on the transport part automatically applies to all EU Member States.

The draft decisions stipulate that Member States should, if possible, accede to the protocol by 31 December 2011, at the same time as the Union.