

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

2005/0241(COD) - 13/06/2008 - Commission communication on Council's position

The Commission is of the view that the Council has emptied its proposal of much of its content.

Firstly, the common position aims to exclude inland waterway transport and a large part of domestic maritime transport from the scope of the proposal.

Secondly, the Council has also rejected two mechanisms to harmonise compensation levels that would have worked to the benefit of both passengers involved in accidents and the industry: as the political agreement stands, such passengers cannot in all cases be compensated up to the ceilings set by the Athens Convention and, in certain circumstances, carriers could be made to pay higher compensation than is provided for in the Athens Convention.

The Commission also notes the Council's intention to clarify the rules on jurisdiction and the recognition and enforcement of judgments. These rules may be derived either from the Athens Convention itself or from Community legislation. The Commission considers, however, that the wording in the common position (recital 3(e)) is not appropriate. This wording suggests a restrictive delimitation of the scope of the Community's exclusive jurisdiction which does not appear to be in line with the case law of the Court of Justice.

In conclusion, the Commission takes note of the Council's common position, which was adopted by a qualified majority. By opposing this majority agreement the Commission could have obstructed its passage at second reading, but chose not to do so since it felt that the inter-institutional debate should be allowed to proceed. The Commission reiterates its view on the scope and on the need for the levels of compensation to victims to be harmonised at EU level.