

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

2003/0132B(NLE) - 12/12/2011 - Final act

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.