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Cruise Passenger Claims
Tourism Law vs Maritime Law



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Context

From 1,9 million cruisers in 1985

To more than 37,5 million cruisers in 2025*

55% came from the USA / 20% from Europe

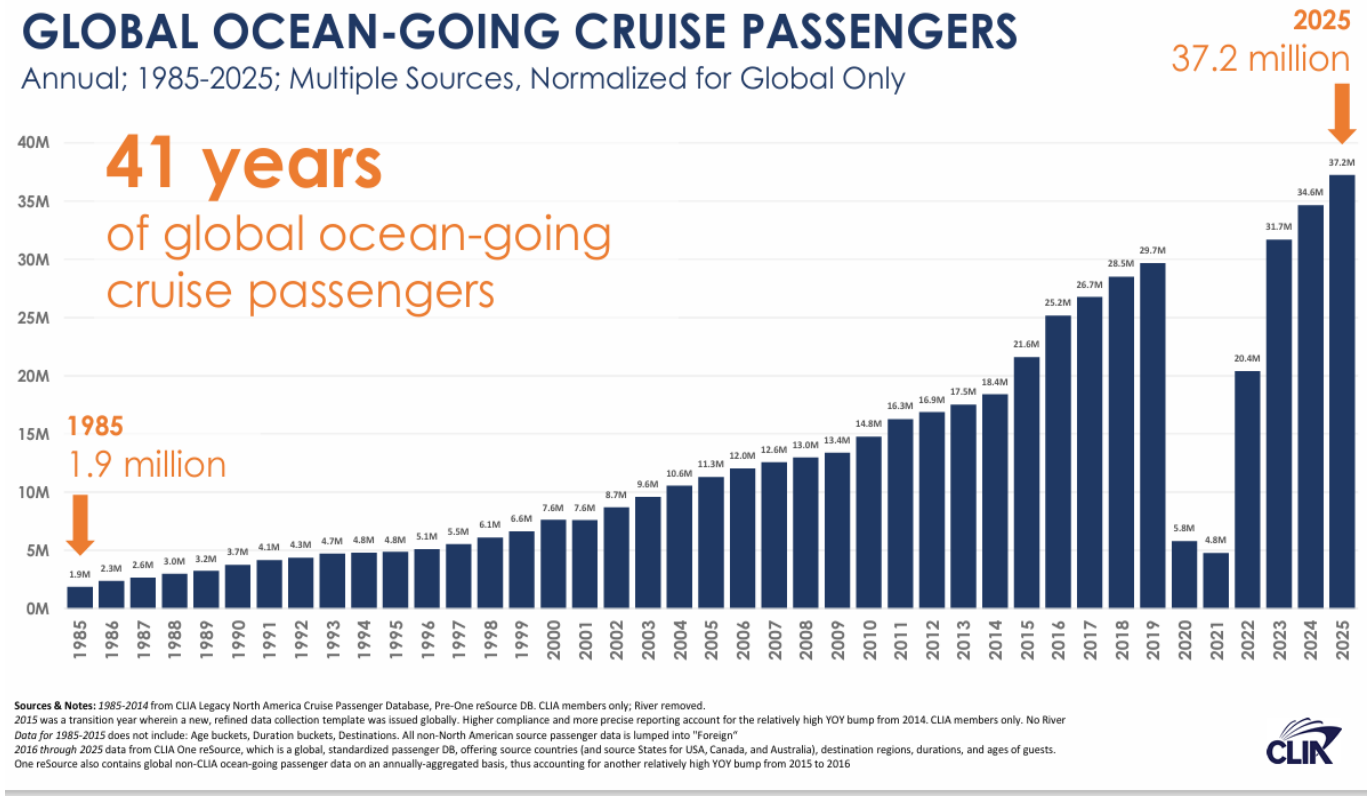
44% sailed to the Caribbean / 25% to Europe (16% to the Mediterranean)

7 days cruise average duration

Successful mode of vacation: about 90% cruisers will cruise again

Ability to visit multiple destinations on one trip

* Source CLIA State of Cruise Industry Report 2026



Cruise passenger claims: tourism law v maritime law

I. Reasons for hesitation

What is the applicable legal regime to cruise accidents?

3 opposite hypotheses at stake:

- Tourism law
- Maritime law
- Combination of these two legal regimes

Cruise passenger claims: tourism law v maritime law

I. Reasons for hesitation

Tourism law

- **Directive 90/314/CEE of 13 June 1990 on package travel, package holidays and package tours = applicable from 31st December 1992, but no longer in force!**
- Directive (EU) 2015/2302 of 25 November 2015 on package travel and linked travel arrangements = repealed Dir.90/314 + applicable in member States from 1st July 2018
- Directive (EU) 2026/1024 of 29 April 2026 amending directive 2015/2302 to make the protection of travellers more effective and to simplify and clarify certain aspects of that directive = not applicable before 29 March 2029

Cruise passenger claims: tourism law v maritime law

I. Reasons for hesitation

Tourism law

- **What is a package?**

'package' means the pre-arranged combination of not fewer than two of the following when sold or offered for sale at an inclusive price and when the service covers a period of more than twenty-four hours or includes overnight accommodation:

a) transport

b) accommodation

c) other tourist services not ancillary to transport or accommodation and accounting for a significant proportion of the package

Cruise passenger claims: tourism law v maritime law

I. Reasons for hesitation

Tourism law

- **What are the liability principles?**

The organizer and/or retailer is/are liable :

for the proper performance of the obligations arising from the contract, irrespective of whether such obligations are to be performed by that organizer and/or retailer or by other suppliers of services without prejudice to the right of the organizer and/or retailer to pursue those other suppliers of services;

unless failure to perform or improper performance of the package contract is attributable neither to any fault of theirs nor to that of another supplier of services, because:

- **the failures which occur in the performance of the contract are attributable to the consumer,**
- **such failures are attributable to a third party unconnected with the provision of the services contracted for, and are unforeseeable or unavoidable,**
- **such failures are due to a case of *force majeure* or to an event which the organizer and/or retailer or the supplier of services, even with all due care, could not foresee or forestall.**

Cruise passenger claims: tourism law v maritime law

I. Reasons for hesitation

Tourism law

- **What are the liability principles?**

In the matter of damages arising from the non-performance or improper performance of the services involved in the package, the Member States *may allow* compensation to be limited in accordance with the international conventions governing such services.

e.g. Montreal convention

e.g. Athens convention

Cruise passenger claims: tourism law v maritime law

I. Reasons for hesitation

Tourism law

- **The French position**

The Cour de Cassation decided that a cruise constitutes a package in the meaning of the travel rules

It then applied liability principles set out under the travel Directive 90/314 as transposed in Article L.211-16 of the Tourism Code (= strict liability principle) and decided to set aside the special regime of the carrier of passengers by sea

(Cass. Civ. 1, 9 December 2015, n°14-20.533)

=> Favourable to injured party participating to a cruise

Cruise passenger claims: tourism law v maritime law

I. Reasons for hesitation

Maritime law

- **The Athens convention relating to the Carriage of Passengers and their Luggage by Sea of 13 December 1974, as amended by the Protocol of 1st November 2002 adopted in London**

NB: France ratified this protocol only in 2016 (LOI n° 2016-700 du 30 mai 2016 autorisant l'adhésion de la France au protocole à la convention d'Athènes de 1974 relative au transport par mer de passagers et de leurs bagages)

- **EC Regulation 392/2009 on the liability of carriers of passengers by sea in the event of accidents = applicable no later than 31 December 2012**

This regulation lays down the Community regime relating to liability for the carriage of passengers by sea as set out in the above protocol and IMO

Cruise passenger claims: tourism law v maritime law

I. Reasons for hesitation

Maritime law

- **Shipping incident** (Art. 3 Athens conv.)

= Strict liability

Up to 250,000 SDR per passenger, unless the carrier proves the incident resulted from an act of war, natural phenomenon, or intentional act of a third party

Above 250,000 SDR, unless the carrier proves that the incident which caused the loss occurred without the fault or neglect of the carrier

- **Non-shipping incident**

= Fault-based liability for the carrier

Proof of fault or neglect by the claimant

Shipping incident means shipwreck, capsizing, collision or stranding of the ship, explosion or fire in the ship, or defect in the ship

Cruise passenger claims: tourism law v maritime law

I. Reasons for hesitation

Maritime law

- **Limit of liability for death and personal injury** (Art. 7 Athens conv.)

In any case (shipping/non-shipping incident), the liability of the carrier by sea shall not exceed 400,000 SDR

- **Contributory fault** (Art. 6 Athens conv.)

The fault or neglect of the passenger can limit the carrier's liability

Cruise passenger claims: tourism law v maritime law

I. Reasons for hesitation

Combination of legal regimes

Personal injury sustained by a passenger as a result of the sea carriage itself

→ Application of maritime law principles

Personal injury sustained in the context of onboard services included in a package (accommodation, catering, leisure activities)

→ Application of tourism law principles

Cruise passenger claims: tourism law v maritime law

II. The European Court position

Circumstances of the preliminary ruling

- **Cass. Civ.1, 15 May 2024, n°23-10.324 + 23-13.383**

First case: MH v Costa Crociere = MH booked a cruise through a travel agent (Blue Passion). That cruise was to start in Valparaiso (Chile) and end in Melbourne (Australia) and was to be provided on a ship belonging to Costa Crociere between 15 February and 17 March 2017. During the night of 17 to 18 February 2017, MH got out of bed without turning on the light, fell, and fractured the head of her humerus. She was subsequently repatriated in France for treatment.

Second case: Costa Crociere v DI = DM purchased a holiday in the form of package travel from a travel agent (Croisière Club) for himself and his wife, DI. The cruise was departing from Marseille towards the Greek islands aboard a ship belonging to Costa Crociere. On 30 March 2016, DI fell and fractured her left humeral head after being struck by an unidentified person while she was at the buffet on board the ship, which was still docked in the port of Marseille. As a result of the accident, DM and DI did not travel on the cruise.

Cruise passenger claims: tourism law v maritime law

II. The European Court position

Questions referred to the ECJ

In C-629/24 of 4 June 2026

The French court asked, in essence,

1. whether the maritime liability regime applies when a passenger suffers personal injury during a cruise that qualifies at the same time as package
2. In the affirmative, whether the maritime liability regime applies only when the personal injury is connected with the carriage by sea function of the cruise or whether it also extends to injuries arising from other services provided on board (accommodation, catering, leisure activities)

Cruise passenger claims: tourism law v maritime law

II. The European Court position

Analysis of the ECJ ruling

1. **The ECJ expressly recognises that the cruise has the characteristics of a package as defined by the directive 90/314**

The sale of such a package is governed by this directive

This directive establishes a binding regime of contractual liability for package travel organisers/retailers

But compensation may be limited in accordance with the international conventions…

…one of such international convention is the Athens convention

The limits provided by the Athens convention are now binding on all the member States following entry into force of EC Regulation 392/2009 from 31 December 2012 at the latest = this cannot be disregarded anymore

Cruise passenger claims: tourism law v maritime law

II. The European Court position

Analysis of the ECJ ruling

2. A cruise also constitutes a maritime transport service

The conditions and limits set out in the Athens convention (at Articles 3 & 7) apply when a passenger sustains death/personal injury *while on board a cruise ship during carriage by sea*

= The court adopted a spatio-temporal criterion => it rejected the approach of the AG (i.e. distinction between carriage by sea and onboard services)

Carriage by sea is defined as: the period during which the passenger and/or his cabin luggage are on board the ship or in the course of embarkation or 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.

Cruise passenger claims: tourism law v maritime law

II. The European Court position

Analysis of the ECJ ruling

The Court then deducted two distinct causes of action:

- ✓ **An action for damages against the organiser of the cruise, in accordance with Article 5 of Directive 90/314**

  The organiser may rely on the limits of compensation to the passenger provided for in Articles 3 and 7 of the Athens Convention.

  Only the conventional provisions relating to monetary limits and conditions of liability are concerned – but presumably not all of the conventional provisions.

- ✓ **An action for damages against the carrier that actually carried out the carriage by sea, even where the latter is not the organiser of the cruise, on the basis of Regulation No 392/2009 + the Athens Convention**

  Pursuant to Article 14, the Athens Convention is exclusively applicable to the action against the carrier.

Cruise passenger claims: tourism law v maritime law

II. The European Court position

Analysis of the ECJ ruling

+ If the cruise participant brings each of those actions for damages, the compensation obtained as a result of one of those actions must be taken into account when assessing the compensation sought in the context of the other action.

This tends to prevent passenger from being compensated twice for the same loss.

Cruise passenger claims: an articulation of tourism law and maritime law

III. Significance of the ECJ ruling

Legal certainty

This ruling gives rise to a coherent relationship between the package travel directive and the carriage of passengers by sea regime provided by the Athens regulation, by:

- Offering passengers injured during a cruise, two different routes to obtain compensation
- Enabling cruises organisers to invoke limitation of liability set out in the Athens convention when their liability is sought for personal injury
- Confirming the specific maritime liability regime applicable to carriers by sea in case of personal injury sustained on board cruise ship during carriage by sea

Cruise passenger claims: an articulation of tourism law and maritime law

III. Significance of the ECJ ruling

Effectiveness of consumer's rights

By recognising the existence of a package for cruises, the ECJ did not decide to set aside the package travel directive

1. **This confirms the application of all provisions of this Directive to the contract when the cruise is sold as a package holiday to European consumers**

   Contractual clauses of the cruise contract should comply with provisions of the package travel Directive (e.g. clauses relating to information obligation, price increase, contract assignment, assistance, etc.)

   Liability clauses will be subject to conditions and monetary limits set out in Athens convention/regulation

Cruise passenger claims: an articulation of tourism law and maritime law

III. Significance of the ECJ ruling

Effectiveness of consumer's rights

2. **The ECJ now distinguishes two periods in the cruise:**

- **Onboard /carriage by sea period**

  When the passenger is on board, or embarking/disembarking => the maritime rules apply (conditions of liability, burden of proof, limits…)

- **On the ground /ashore period**

  Conversely, when the passenger is not (yet/anymore) on board (for example, during an excursion included in the package holiday, or a hotel stay before/after the cruise, or any other non-maritime service included in the package) => the specific liability regime of the package holiday fully applies to such travel services outside the carriage period but provided/included in the package

  e.g. TJ Paris 25 June 2026

Cruise passenger claims: an articulation of tourism law and maritime law

IV. Perspectives and future concerns

Scope of the exclusivity principle

The court relied upon Article 14 of the Athens convention: it establishes the principle that any liability claim against a sea carrier must be based exclusively on the Convention:

> *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*

This can be interpreted as excluding all alternative causes of action

The Court rather opted for a broader approach to set an alternative cause of action – against the organiser on the basis of travel Directive = to ensure better consumer protection

Claims are now opened against all organisers, whether or not, they are carriers

Exclusivity will apply to action against carriers + in recourse action by organisers

Effect on Montreal Convention ?

Cruise passenger claims: an articulation of tourism law and maritime law

IV. Perspectives and future concerns

Time limit or time limits?

Uncertainty remains regarding the limitation period applicable when the action is directed against the cruise organiser.

- This issue was not addressed by the Court.
- It did not refer to article 16 of the Athens Convention (limitation period of 2 years)
- The 90/314 Directive: no limitation period provision
- The 2015/2302 Directive: the limitation period cannot be less than 2 years, but member States can provide upon transposition, a longer period.

  In France, the limitation period is 2 years – except in case of personal injury = 10 years from the date of consolidation (Article L.211-17 VI of the tourism Code referring to Article 2226 of the civil Code).

A practical example: CA Paris, 19 Jan. 2023, n°19/21248

A package consisting of a cruise on a Costa Crociere ship was booked via a French travel agent.

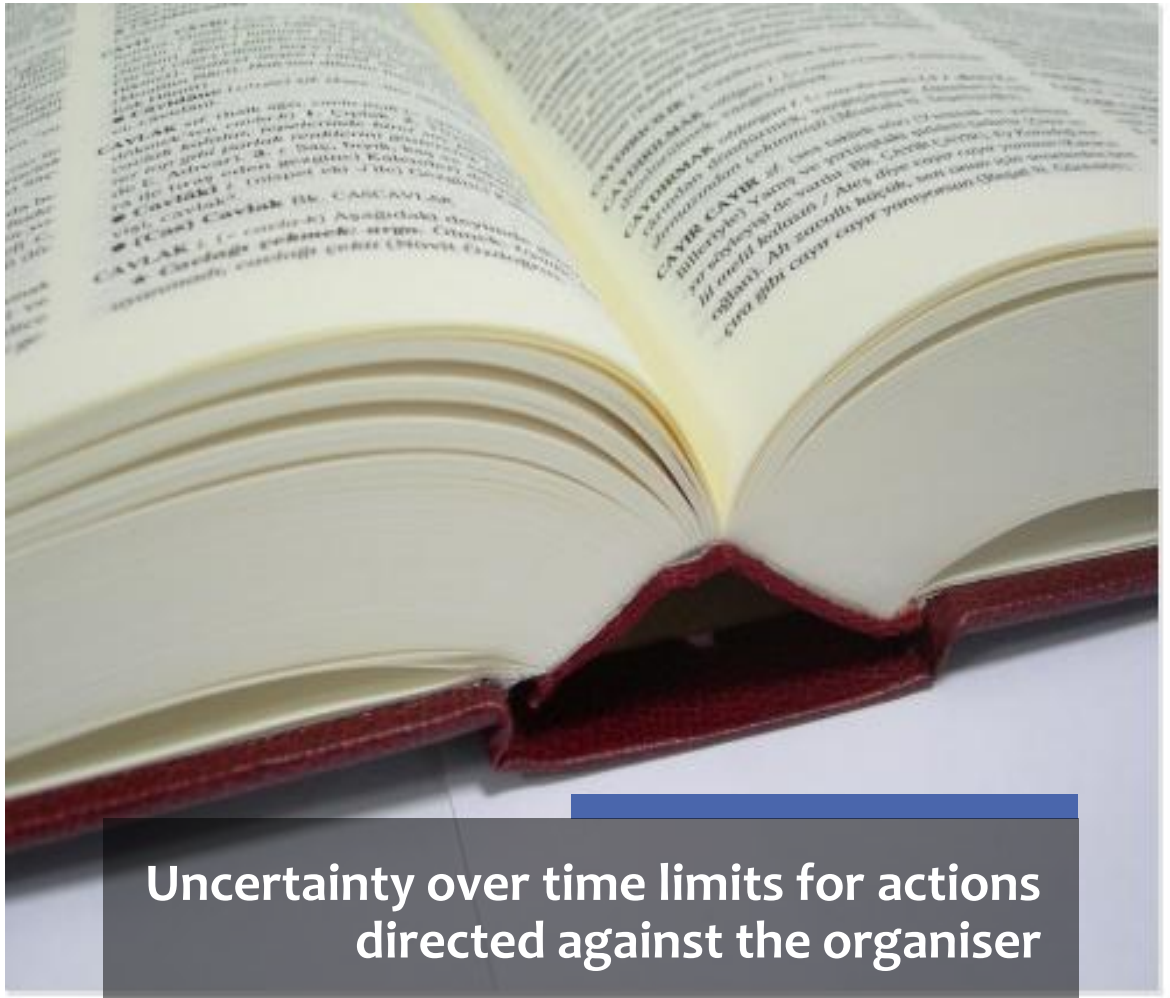
While on board, the husband fell on the deck and injured his shoulder. Despite his injury, he continued the cruise. Upon his return, he visited his doctor who diagnosed a fracture. He decided to bring an action against both the retailer and the cruise operator (ship owner).

The court of appeal considered he was time-barred against the cruise operator pursuant to Article 16.

The retailer and its insurer were also declared time-barred for their recourse action directed against the cruise operator pursuant to Article 14.

But the injured cruiser was not time-barred in his action against the seller of the package (cruise).

- **The cruise passenger could then find a certain opportunity by choosing to direct compensation claim against the cruise organiser/retailer.**
- **The organiser (or retailer) will bear the final risk.**



Uncertainty over time limits for actions directed against the organiser

Cruise passenger claims: an articulation of tourism law and maritime law

IV. Perspectives and future concerns

Insurance cover

Under the Athens Convention (Article 4bis) compulsory insurance is required to cover liability (ship registered in a State party + to carry more than 12 passengers + Athens conv. is applicable) – cover not less than 250,000 SDRs per passenger.

Policies are likely to be underwritten on the opinion that claims arising during a carriage by sea would be exclusively brought under the Athens convention.

These may not fully cover liabilities arising from travel arrangements pursuant to the travel Directive, if the carrier also acted as a cruise organiser.

This necessitates to review insurance policies to avoid uninsured liabilities and/or financial exposure in absence of full cover.



Thank you for your attention