



Cruise ship safety – overview of international and European regulatory framework

Maritime transport and cruising in particular are heavily regulated industries. International and European legislation applies to cruise ships in a large number of policy areas including safety, security, liability, consumer rights and the environment.

The purpose of this note is to briefly present the key pieces of legislation regulating cruise ship safety at the global and the European level.

1. Global rules

The global body responsible for regulating maritime transport is the International Maritime Organisation (IMO), which is located in London. The IMO is a technical body, which belongs to the United Nations. Since its creation in 1948, the IMO and its 170 Member States have actively developed a regulatory framework addressing all aspects of maritime transport.

The IMO regulates by means of Conventions. These Conventions are subsequently ratified and applied by its Member States. Key conventions addressing maritime safety include the Convention on Safety of Life at Sea (SOLAS) and the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW).

SOLAS addresses the international standards for the construction, equipment and operation of ships. It includes specific design and stability requirements for cruise ships, in order to reflect this special type of ship. Furthermore, it regulates the standards and availability of life saving equipment. In addition it incorporates and makes mandatory the International Safety Management Code (ISM Code), which provides an international standard for the safe management and operation of ships and for pollution prevention. Significantly, SOLAS also addresses ship security through the International Ship and Port Facility Security Code (ISPS Code). This code stipulates strict security related criteria for ships and ports including passenger access controls, the nomination of ship security officers, and the drawing up of ship security plans.

The STCW Convention focuses on training standards and working procedures for seafarers, including officers and captains. It includes specific training requirements for crew on passenger ships, such as training in crowd management, for use in emergency evacuation.

As regards the environmental impact of shipping the Convention for the Prevention of Pollution from Ships (MARPOL) is key. It covers prevention of

pollution of the marine environment by ships from operational or accidental causes. For example MARPOL contains provisions on air pollution and waste management. It also contains provisions on the location of fuel tanks in protected locations of a ship, with the purpose to minimise the risk of spills in case of an accident.

The liability for carriers in relation to passenger claims is manifested in the Athens Convention. This convention has not yet been ratified by many of the EU Member States and has not yet entered into force internationally. Every cruise ship is however insured by the international system of P&I clubs, which provides substantial financial coverage.

Environmental damage caused by a ship is also insured by the international system of P&I clubs. Additional levels of coverage are guaranteed by the Convention on Limitation of Liability for Maritime Claims (LLMC) and the Convention on Civil Liability for Bunker Oil Pollution Damage.

Finally, the United Nations Convention on the Law of the Sea (UNCLOS) puts forward the rights and obligations for ships engaged in international voyages.

List of most relevant international rules

- International Convention for the Safety of Life at Sea (SOLAS)
- International Convention on Load Lines
- International Safety Management (ISM) Code
- United Nations Convention on the Law of the Sea (UNCLOS)
- International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW)
- Athens Convention relating to the Carriage of Passengers and their Luggage by Sea
- Convention on Limitation of Liability for Maritime Claims (LLMC)
- International Convention on Civil Liability for Bunker Oil Pollution Damage
- International Convention on Civil Liability for Oil Pollution Damage (CLC)
- International Fund for Compensation for Oil Pollution Damage (FUND)
- International Convention for the Prevention of Pollution from Ships (MARPOL)

2. European rules

Following the sinking of the tankers Erika and Prestige in 1999 and 2001 and the tragic accident of the passenger ferry Estonia in 1994 the European Union has established itself as a dominant regional regulator affecting most areas of operations of a cruise ship.

The EU acts on the basis of powers (competences) transferred to it by its Member States, which are enshrined in the treaties. The most recent transfer of powers took place with the entering into force of the Lisbon Treaty on 1st

December 2009. It specifies a competence for the EU to legislate in important areas, such as transport, environment and competition.

On the basis of these competences the EU has adopted a comprehensive regulatory framework for maritime safety. The EU typically puts forward legislation, which its 27 Member States are obliged to transpose into national law. Many EU laws seek to implement at European level rules agreed at international level, including rules agreed by the IMO. The EU has however in many cases adopted legislation which goes beyond IMO requirements, in order to reflect the high standards generally expected in Europe. As a regional organisation the EU has significant powers of enforcement vis-à-vis its Member States, including ultimately taking them to the Court of Justice of the EU if they fail to transpose EU legislation into national law.

The most recent package of maritime safety legislation is a package of 8 Directives and Regulations commonly referred to as the Third Maritime Safety Package (3MSP). Adopted in 2009, this package of measures is now fully applicable, with the exception of the legislation on carrier liability for passenger claims (Athens Convention), which will enter into force no later than the 31st of December 2012.

The application of the 3MSP manifests maritime safety legislation in Europe, which is generally understood to be among the strictest globally. The 3MSP implements a thorough system of Port State Control at EU level, which mandates risk-based inspections of ships calling at EU ports. The European system of Port State Control is based on the Paris Memorandum of Understanding (Paris MoU) and is widely seen as the world's most stringent inspection regime. If a Port State Control inspector finds deficiencies on a ship calling at a European port, he or she can mandate the correction or ultimately ban the ship from operating in the Europe. In addition to Port State Control the 3MSP also provides for thorough quality requirements of the European Flag States and makes third party liability insurance compulsory for ships operating in the EU.

Significantly, the 3MSP also puts forward precise rules on the organisation of marine accident investigations. According to the corresponding Directive, these investigations have the purpose to analyse the causes of an accident and are separate from criminal investigations. The investigation is to be carried out by an impartial investigative body at Member State level, which must come forward with a report on the investigation within 12 months of the date of the accident. Such an accident investigation is currently being carried out in relation to the Costa Concordia.

Another piece of legislation of the 3MSP concerns quality criteria for Classification Societies, which play an important role in the design of ships, with a particular focus on the safety of a ship.

In addition to the 3MSP the EU has adopted legislation which is specific to cruise ships and Ro-Ro passenger ferries. The legislation on passenger ship safety concerns ships operating on domestic voyages as this is an area, which is not regulated by the IMO. In concrete terms this legislation applies the IMO standards applicable to ships on international voyage to those ships

which sail domestically. As regards legislation for Ro-Ro passenger ferries the EU specifies specific stability requirements.

List of most relevant European rules

- Directive 2009/45/EC on safety rules and standards for passenger ships
- Council Directive 98/41/EC on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community
- Regulation 336/2006/EC on the implementation of the International Safety Management (ISM) Code within the Community
- Directive 2009/21/EC on compliance with flag State requirements
- Directive 2009/15/EC on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations
- Regulation 391/2009/EC on common rules and standards for ship inspection and survey organisations
- Directive 2009/16/EC on port state control
- Directive 2009/17/EC establishing a Community vessel traffic monitoring and information system
- Directive 2009/18/EC establishing the fundamental principles governing the investigation of accidents in the maritime transport sector
- Regulation 392/2009/EC on the liability of carriers of passengers by sea in the event of accidents
- Directive 2009/20/EC on the insurance of shipowners for maritime claims
- Council Directive 96/98/EC on marine equipment
- Directive 2003/25/EC on specific stability requirements for ro-ro passenger ships

3. Conclusion

In summary, the cruise industry is a heavily regulated industry and meets the highest safety standards. Cruise ships in operation today are subject to numerous laws covering every aspect of ship construction and operation. The IMO has decades of experience in putting forward globally applicable standards for the maritime industry. The EU, as an important regional organisation, completes the global regulatory framework by ensuring the proper implementation of the international rules in Europe and by adding European requirements where appropriate.

The European Cruise Council and its members are fully committed to complying with all international and European rules.