

SEAFARER SUBJECT GUIDE

PERSONAL INJURIES AND DEATHS IN GREECE

This Guide explains national law when seafarers are injured or killed in a port in Greece or on a Greek flagged ship. This document is not intended to be legal advice, nor does it constitute legal advice. If a seafarer is injured or killed, then the seafarer or his relatives are strongly advised to consult a lawyer qualified to practise in Greece.

*A full text version of this Subject Guide including footnotes will become available for subscription in due course. In the meantime if there is a specific inquiry on any Subject Guide, please contact SRI.

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- 1. If a seafarer is injured or killed in a work related incident, does Greek law allow a claim for compensation to be brought?**
 - 1.1 If a seafarer is injured or killed in a work related incident, Greek law allows a claim for compensation to be brought.
 - 2. What is the basis for recovery of compensation for personal injury or death claims?**
 - 2.1 If a seafarer suffers injury or death, there are two different legal grounds for the compensation of the seafarer. First, there is vicarious liability that is established in cases of work injury or death regardless of any shipowner's negligence. That kind of liability leads to compensation with a sum fixed by law and is provided in cases of death, complete and permanent work disability, partial and permanent work disability, complete and passing work disability, and partial and passing work disability. Compensation is granted if the death or the personal injury has occurred after a violent incident at work or is closely related to the work. There are also provisions that dictate payment of medical costs and sickness wages to an injured seafarer. According to case law, if a seafarer works on board under exceptional and abnormal living and working conditions and because of them falls ill, then he is also entitled to compensation since those conditions are considered to constitute a violent incident.
 - 2.2 Second, there is tort liability, which occurs if the death or the personal injury can be attributed to a negligent shipowner, who has violated the special terms and conditions which are set by law and are related to safety onboard; provided always that the violation of those terms and conditions is the cause of the seafarer's death or body injury. The compensation adjudicated in tort cases is established freely by the court and usually includes the income lost after the death or injury, all medical costs and expenses, and higher moral damages.

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3. Are Greek laws for compensation for personal injury or death of a seafarer applicable only to Greeks, or are the laws applicable to foreigners also?

3.1 There is no distinction between Greek seafarers and foreign seafarers in terms of their civil rights and both parties have the right to apply to a Greek Court, provided that the Court has international jurisdiction to hear the case in respect of the foreign seafarer. Given these principles, Greek Law does not discriminate between Greek seafarers and foreign seafarers in tort in cases of personal injury or death.

3.2 Nevertheless, Greek law does discriminate in cases of vicarious liability. Compensation is granted to non-Greeks in cases of death, complete and/or partial and passing work disability only, provided that: (a) they are domiciled in Greece at the time of the incident; or (b) there is in force a bilateral convention that attributes to foreigners the same rights as to Greeks; or (c) the law of the foreign state, whose subject is the seafarer, provides in favour of the foreigner seafarer in the same way that Greek Law does.

3.3 In recent years Greek case law provides that discrimination is no longer in force after the implementation of the Rome 1980 European Convention on the applicable law in contractual relations.

4. Is Greek law the same throughout the country, or does it change from state to state or from province to province or for any other political or geographical area?

4.1 Greek Law is the same throughout the country. Greece is not a federal state.

5. Is Greek law the same for all types of seafarers, such as blue water seafarers engaged in international trade, seafarers employed in coastal waters, or fishers?

5.1 There is no distinction between seafarers working on ocean-going or coastal or passenger ships. All seafarers, fishers included, may claim compensation based on vicarious liability or tort liability.

6. Which court would have jurisdiction over a claim for compensation by a seafarer who was injured or killed: (1) on a Greek vessel, or (2) on a foreign flagged vessel in a local port of Greece or in the territorial seas of Greece?

6.1 As a rule, the international jurisdiction of a Greek Court is not determined by the flag of the vessel (national or foreign), but by the place of business of the defendant

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shipowning company. In labour disputes, including seafarers' claims, there are more jurisdictional bases: (a) court jurisdiction based on the place where the employment contract has been concluded; (b) court jurisdiction based on the place where the assets of the defendant, who is a non-resident of Greece, are located; (c) court jurisdiction based on the place where the seafarer works or has been dismissed from (port of sign-off). Further bases for international jurisdiction are set by European Regulation 44/2001.

- 6.2 Assuming that the defendant shipowning company does not have its place of business in Greece or in a European Union member state, the court of the Greek registry port has international jurisdiction.
- 6.3 Assuming again that the defendant shipowning company does have its place of business in Greece or in a European Union member state, the Greek court that is the closest to the ship is considered to have international jurisdiction to hear the seafarer's claim.
- 6.4 In both cases the flag of the vessel has nothing to do with the international jurisdiction of the Greek Courts.

7. Would the Greek court uphold a jurisdiction and/or law clause in the employment contract of a seafarer who had been injured or killed in a work related accident?

- 7.1 European Regulation 44/2001 governs this issue, provided that the actual place of business of the defendant shipowning company is within a European Union member state that has ratified the same regulation. It stipulates that a jurisdiction clause concluded in an employment contract binds the parties only if it is concluded after the formation of the labour dispute or facilitates the worker in applying to courts other than those provided in the regulation.
- 7.2 As far as a law clause is concerned, the European Regulation 593/2008 ('Rome I') sets barriers for the principle of freedom of parties to choose the applicable law on employment contracts, barriers that are in favour of, and aim to protect, the weaker party to the contracts. It rules that even if the applicable law has been freely chosen a seafarer will be protected by a European court that will have to apply not the chosen law but the most favourable for him; '*jus cogens*' provisions of the law of the country that is closer to the employment contract; or of that country where the engagement business is located or of the country where a seafarer usually works.

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8. What is the time limit for bringing a claim after the occurrence of an incident?

- 8.1 As far as the concept of vicarious liability is concerned, it is provided that the shipowner is obligated within 15 days from the incident to announce it in writing (and under oath) to the local port magistrate together with a full description of the circumstances of the death or injury of the seafarer. The same obligation applies to any medical practitioner who treats the injured seafarer. If the shipowner adheres to these prerequisites, then the time bar of the seafarer's claim is three years from the incident. If not, the time bar period is extended to 20 years. In practice, Greek shipowners frequently fail to adhere to these prerequisites.
- 8.2 For a tort claim, the time bar is five years starting from the day when the claimant seafarer became aware of the damage and of the entity that is liable to make compensation. Otherwise, the time bar is 20 years from the incident.

9. Is a seafarer's claim for compensation for injury or death a maritime claim that can be secured by arrest of a ship? If so: (1) which ship can be arrested; and (2) in what circumstances can the ship be arrested?

- 9.1 A ship can be arrested to provide compensation for the injury or death of a seafarer. Such a claim is also a preferential maritime claim and ranks second in the ship's auction. It is secured by the arrest of the ship on board which the seafarer suffered the labour accident or of any other ship or asset that is owned by the same registered shipowner.
- 9.2 Provided that the seafarer can roughly evidence his claim and the health consequences of the labour accident, a Greek court will easily order the provisional arrest of the ship, more particularly if she flies a flag of convenience.
- 9.3 The merits of the claim will be heard by the labour disputes bench of the court.
- 9.4 Greek Law does not recognize the legal concept of arresting a 'sister ship.'

10. What types of damages are recoverable?

- 10.1 Damages to be recovered are loss of income, sickness wages, medical costs, costs for extra food and health care, and moral damages.

11. What are the principles for calculating compensation for a claim by a seafarer or his next of kin for: (1) a work related injury; and (2) a work related death?

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11.1 See paragraphs 2, 3, 5, 10 and 12.

12. What damages might be awarded in the following circumstances:

(1) 30 year old seafarer, injured aboard a vessel, who is now totally disabled. Medical expenses of US\$15,000 per year for the remainder of his life?

12.1 The base for any damages compensation in Greek Law is the monthly income of the seafarer. We assume that in the above noted cases the monthly income is 2,000 euros and we have to distinguish between claims based on vicarious liability and those that constitute a tort claim.

(2) 30 year old seafarer, who dies as a result of an accident on board a vessel, who is survived by a 29 year old wife and 2 children, ages 2 years and 4 years old?

12.2 Under a vicarious liability claim, the compensation to be paid by the shipowner is for permanent and complete disability and amounts to 38,201 euros. The medical expenses are to be paid until the injured person has been cured or until the incapacity has been declared to be of a permanent character. Sickness wages up to four months are also to be paid by the shipowner. Any moral damages for the accident suffered are freely fixed by the court at rather low levels. The seaman is also covered by the Seafarers' National Fund and may be awarded a disability pension.

12.3 Under a tort claim, the loss of income that will be roughly set by the court amounts to 560,000 euros. All medical costs and moral damages will be also adjudicated. If the health condition of the seafarer demands life assistance by a nurse, the court may also adjudicate her costs.

12.4 Under a vicarious liability claim, the death compensation after a work accident is also fixed by law and in this case amounts to 32,201 euros. That sum is inherited by the wife by 2/5 (12,880 euros) and the balance is equally divided and inherited by the two children (9,660.50 euros each). The widow may be entitled to a pension. Moral damages will be also awarded to the widow and the children.

12.5 Under a tort claim, the loss of family income would be around 392,000 euros. The widow will get 98,000 euros and each of the two children 147,000 euros. The moral damages will be also distributed in the same way, unless the deceased has differently ordered in his will.

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13. How efficient are the local courts and what would be an average estimated time for hearing and ruling on a seafarer's claim for compensation for injury or death?

- 13.1 By law a seafarer's claim for compensation for injury or death is to be heard by the special labour disputes section of a Greek court. The Supreme Court also runs such a special section. The hearing procedure is shorter, cheaper and simpler compared to the ordinary procedures. The labour disputes sections of the Piraeus Courts, both of First and of Second Instance, are usually manned with judges holding a postgraduate degree in shipping law who are fluent in English, German, Spanish or Italian. The Piraeus Courts hear 95% of the seafarers' claims for compensation for injury or death that arise in Greece.
- 13.2 The Piraeus First Instance Court normally hears the claim within four months and rules over it within six to eight months after the hearing. If there are questions of a medical nature, the court usually appoints an expert to reply to the questions. This prolongs the procedure for a further year.
- 13.3 The case is usually appealed by the litigants unless a compromise is reached. A hearing before the Court of Appeal normally lasts for 12-15 months. After that, the compensation will be collected.
- 13.4 Hearing of the case by the Supreme Court may last from one to two years.
- 13.5 Hearing and ruling time for a seafarer's claim for compensation by the provincial courts varies significantly and cannot be estimated.

14. On what basis will a lawyer generally charge a seafarer for handling a claim for compensation?

- 14.1 Lawyers' fees are usually established freely with the seafarer. In practice all lawyers work on a 'no cure no pay' basis and charge 20% of the sum to be collected. This is the maximum percentage the law allows; but if the case is handled by more than one lawyer their fees may reach the 30%. As for the court costs, they are usually paid in advance by the lawyer, who also has to pay any expert appointed by the court, and are deducted from the compensation, if it is adjudicated.