

1961 年國際海上旅客運送統一某些規則公約

1961 年 4 月 29 日 訂於布魯塞爾，1965 年 6 月 4 日生效

International Convention for The Unification of Certain Rules Relating to The Carriage of Passengers by Sea, 1961

Signed At Brussels, on April 29, 1961 ; Entered into Force June, 4, 1965

Passenger 1961

The High Contracting Parties.

Having recognised the desirability of determining by agreement certain uniform rules relating to the carriage of passengers by sea,
Have resolved to conclude a Convention for this purpose, and to this end have agreed as follows :

各締約國，
承認有關海上客運若干事項有統一規定之必要，
為實現此一目的，經決議制訂公約，
協議如下：

Article 1

In this Convention, the following terms shall have the meanings hereby assigned to them :

- (a) "carrier" includes any of the following persons who enters into a contract of carriage : the shipowner, the charterer or the operator of the ship ;
- (b) "contract of carriage" means a contract made by or on behalf of a carrier to carry passengers, but does not include a charterparty;
- (c) "passenger" means only a person carried in a ship under a contract of carriage ;
- (d) "ship" means only a seagoing ship;
- (e) "carriage" covers the period while a passenger is on board the ship, and in the course of embarking or disembarking ; but does not include any period while the passenger is in a marine station or on a quay or other port installation. In addition "Carriage" includes transport by water from land to ship or vice-versa, if the cost is included in the fare, or if the vessel used for this auxiliary transport has been put at the disposal of the passenger by the carrier,
- (f) "international carriage" means any carriage in which according to the contract of carriage the place of departure and the place of destination are situated either in a single State if there is an international port of call in another State, or in two different States;
- (g) "Contracting State" means a State whose ratification or adherence to this Convention has become effective and whose denunciation thereof has not become effective. .

第 1 條

於本公約，下列用語意義如下：

- (a) 「運送人」包括與下列訂立運送契約之任何人：船舶所有人、租傭船人或船舶營運人。
- (b) 「運送契約」指運送人或其代表為載客所訂之契約，然不包括租傭船契約。
- (c) 「旅客」僅指依運送契約搭船之人。
- (d) 「船舶」僅指海船。
- (e) 「運送」包括旅客在船上及其上船或下船過程之期間。其在海運站或碼頭或其他港埠工作物期間，不包括在內。客票如包括往返船舶與陸地間水上運輸費用，或運送人備有輔助運送工具供旅客之用者，其往返船舶與陸地之期間，亦包括在內。
- (f) 「國際運送」指依運送契約之約定，其發航地及目的地均同一國境內而其中途之國際港係位於他國，或在不同之兩國國境內者。
- (g) 「締約國」指對本公約業經批准或加入生效，及其退出本公約尚未生效之國家。

Article 2

第 2 條

This Convention shall apply to any international carriage if either the ship flies the flag of a Contracting State or if, according to the contract of carriage, either the place of departure or the place of destination is in a Contracting State.

Article 3

1. Where a carrier is the owner of the carrying ship he shall exercise due diligence, and shall ensure that his servants and agents, acting within the scope of their employment, exercise due diligence to make and keep the ship seaworthy and properly manned equipped and supplied at the beginning of the carriage, and at all times during the carriage and in all other respects to secure the safety of the passengers.
2. Where a carrier is not the owner of the carrying ship, he shall ensure that the shipowner or operator, as the case may be, and their servants and agents acting within the scope of their employment exercise due diligence in the respects set out in paragraph (1) of this Article.

Article 4

1. The carrier shall be liable for damage suffered as a result of the death of or personal injury to a passenger if the incident which causes the damage so suffered occurs in the course of the carriage and is due to the fault or neglect of the carrier or of his servants or agents acting within the scope of their employment.
2. The fault or neglect of the carrier, his servants and agents shall be presumed, unless the contrary is proved, if the death or personal injury arises from or in connection with shipwreck, collision, stranding, explosion or fire.
3. Except as provided in paragraph (2) of this Article, the burden of proving the fault or neglect of the carrier, his servants or agents shall be on the claimant.

Article 5

If the carrier proves that the death of, or personal injury to the passenger was caused or contributed to by the fault or neglect of the passenger, the Court may exonerate the carrier wholly or partly from his liability in accordance with the provisions of its own law.

Article 6

1. The liability of the carrier for the death of or personal injury to a passenger shall in no case exceed 250,000 francs, each franc consisting of 65.5 milligrams of gold of millesimal fineness 900. The sum awarded may be converted into national currencies in round figures. Conversion of this sum into national currencies other than gold shall be made according to the gold value of such currencies at the date of payment.
2. Where in accordance with the law of the Court seized of the case

本公約適用於懸掛締約國國旗之船舶，或依運送契約其發航地或目的地有一在締約國境內所為之任何國際運送。

第 3 條

1. 運送人為運送船舶所有人時，於運送開始時及運送中，對使船舶具有並保持適航能力、配置適當人員、設備與供應，以及維護旅客安全之其他一切方面，均應為必要之注意，並確使其受雇人及代理人在其僱傭職務範圍內，亦均能為必要之注意。
2. 運送人非運送船舶之所有人時，應視情形，確使該船舶之所有人或營運人及其受雇人代理人於其僱傭職務範圍內，對於本條第 1 項所規定之事項，為必要之注意。

第 4 條

1. 運送人對於旅客死亡或身體傷害所生之損害，如其損害係發生於運送過程中，並為運送人或其受雇人、代理人在僱傭職務範圍內之過失或疏忽所致者，應負責任。
2. 如死亡或身體傷害係因或與船舶沈船、碰撞、擱淺、爆炸或失火所致或有關者，除另有反證外，運送人及其受雇人、代理人推定為有過失或疏忽。
3. 除本條第 2 項規定外，運送人或其受雇人、代理人之過失或疏忽，由請求權人負舉證之責。

第 5 條

如運送人能證明旅客之死亡或身體傷害係由該旅客所為或與有過失或疏忽所致者，法院得依其本國法之規定，免除運送人全部或一部之責任。

第 6 條

1. 運送人對於任一旅客死亡或身體傷害應負擔之責任，不得超過二十五萬金法郎。每一金法郎含黃金重量六五·五毫克，其成色為千分之九百。應給付之數額，得以國內貨幣折成整數。如折換成黃金以外之貨幣者，應依支付日該幣之黃金價額計算。
2. 依受審法院之法律，損害賠償係判

damages are awarded in the form of periodical income payments, the equivalent capital value of these payment shall not exceed the said limit.

3. Nevertheless the national legislation of any High Contracting Party may fix as far as the carriers who are subjects of such State are concerned a higher per capita limit of liability.
4. The carrier and the passenger may also agree by special contract to a higher per capita limit of liability.
5. Any legal costs awarded and taxed by a Court in an action for damages shall not be included in the limits of liability prescribed in this Article.
6. The limits of liability prescribed in this Article shall apply to the aggregate of the claims put forward by or on behalf of any one passenger, his personal representatives, heirs or dependants on any distinct occasion.

Article 7

The carrier shall not be entitled to the benefit of the limitation of liability provided for in Article 6, if it is proved that the damage resulted from an act or omission of the carrier done with intent to cause damage or recklessly and with knowledge that damage would probably result.

Article 8

The provisions of this Convention shall not modify the rights or duties of the carrier, provided for in international Conventions relating to the limitation of liability of owners of sea-going ships or in any national law relating to such limitation.

Article 9

Any contractual provision, concluded before the occurrence which caused the damage, purporting to relieve the carrier of his liability towards the passenger or his personal representatives, heirs or dependants or to prescribe a lower limit than that fixed in this Convention, as well as any such provision purporting to shift the burden of proof which rests on the carrier, or to require disputes to be submitted to any particular jurisdiction or to arbitration, shall be null and void but the nullity of that provision shall not render void the contract which, shall remain subject to the provisions of this Convention.

Article 10

1. Any claim for damages, however founded, may only be made subject to the conditions and the limits set out in this Convention.
2. Any claim for damages for personal injury suffered by a passenger may only be made by or on behalf of the passenger.
3. In case of the death of the passenger a claim for damages may be made only by the personal representatives, heirs or dependents of

令定期支付方式者，其分期支付等等之資本價值，不得超過該項限額。

3. 然無論如何締約國均得立法對其本國籍之運送人規定任一旅客較高之賠償限額。
4. 運送人與旅客間亦得特別約定任一旅客之較高賠償限度。
5. 本條所規定之責任限額不包括損害賠償訴訟中法院裁判及徵收之任何訴訟費用。
6. 本條所規定之責任限額，適用於任一旅客或其個人代表、繼承人、受扶養人，於任何不同時候由其本人提出或代為提出之各項請求之總額。

第 7 條

經證明運送人作為或不作為所致之損害，係出諸其故意造成損害，或輕率並明知其能發生損害者，運送人不得主張第 6 條所規定之責任限額之利益。

第 8 條

本公約規定不變更海船所有人責任限制國際公約，或有關責任限制之任何國內法對於運送人所規定之任何權義。

第 9 條

於造成損害之事故發生前，以任何契約約定，意在免除運送人對於旅客或其個人代表、繼承人、受扶養人之責任，或約定低於本公約所規定之限額，以及以任何約定，意在推卸運送人之舉證責任，或要求將爭端交任何特別法庭或仲裁者，該規定均為無效。然該無效並不使全部契約失效，而仍適用本公約之規定。

第 10 條

1. 損害賠償之各項請求，不論其依據為何，僅能依本公約所規定之條件及限額為之。
2. 旅客本身所受傷害之任何賠償請求，僅得由該旅客或代表該旅客之人為之。
3. 旅客死亡時，損害賠償請求僅得由死者之代表人、繼承人或其受扶養

the deceased, and only if such persons are permitted to bring an action in accordance with the law of the Court seized of the case.

Article 11

1. In case of personal injury suffered by a passenger, he shall give written notice of such injury to the carrier within fifteen days of the date of disembarkation. If he fails to comply with this requirement, the passenger shall be presumed, in the absence of proof to the contrary, to have disembarked safe and sound.
2. Actions for damages arising out of the death or personal injury of a passenger shall be time barred after a period of two years.
3. In case of personal injury, the limitation period shall be calculated from the date of the disembarkation of the passenger.
4. In the event of death occurring during carriage the limitation period shall be calculated from the date on which the passenger should have disembarked.
5. In the event of personal injury which occurs in the course of carriage and results in death after disembarkation the limitation period shall be calculated from the date of death, provided that this period shall not exceed three years from the date of disembarkation.
6. The law of the Court seized of the case shall govern rights of suspension and interruption of the limitation periods in this Article; but in no case shall an action under this Convention be brought after the expiration of a period of three years from the date of disembarkation.

Article 12

1. If an action is brought against a servant or agent of a carrier arising out of damages to which this Convention relates, such servant or agent, if he proves that he acted within the scope of his employment, shall be entitled to avail himself of the defences and limits of liability which the carrier himself is entitled to invoke under this Convention.
2. The aggregate of the amounts recoverable from the carrier, his servants and agents, in that case, shall not exceed the said limits.
3. Nevertheless, a servant or agent of the carrier shall not be entitled to avail himself of the provisions of paragraphs (1) and (2) of this Article if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.

Article 13

This Convention shall be applied to commercial carriage within the meaning of Article I undertaken by States or Public Authorities.

Article 14

This Convention shall not affect the provisions of any international Convention or national law which governs liability for nuclear

人為之，並以依受理法院之法律准其起訴者為限。

第 11 條

1. 於旅客身體傷害，該旅客應將傷害情形自離船之日起，十五日內書面通知運送人。怠於通知者，除另有反證外，推定其業已平安離船。
2. 因旅客死亡或身體傷害之損害賠償訴訟請求，經兩年期間未行使而消滅。
3. 旅客身體傷害之訴，其時效自旅客離船之日起算。
4. 運送過程中發生死亡之事件，其時效自該旅客應行離船之日起算。
5. 運送過程中受傷致離船後死亡者，其時效自其死亡之日起算。然自離船之日起，其期間不得超過三年。
6. 本條時效停止及中斷之權利由受審法院法律定之。然自離船之日起屆滿三年之期間者，不得依本公約提起任何訴訟。

第 12 條

1. 本公約損害賠償訴訟係對運送人之受僱人或代理人提出者，該受僱人或代理人如能證明其為僱傭職務範圍內之行為，得主張運送人依本公約所得援用之抗辯及責任限制。
2. 於前項情形下，自運送人及其受僱人及代理人可獲得賠償之總額，不得超過本公約所規定之限額。
3. 經證明受僱人或代理人之作為或不作為所致之損害，係出諸其故意造成損害，或輕率並明知其能發生損害者，該受僱人或代理人不得主張本條第 1 項及第 2 項之規定。

第 13 條

本公約應適用於政府或公務機關所經營符合於第 1 條意義之商業運送。

第 14 條

本公約不影響任何國際公約或國內法有關於核子損害賠償責任之規定。

damage.

Article 15

This Convention shall be open for signature by the States represented at the eleventh session of the Diplomatic Conference on Maritime Law.

第 15 條

本公約隨時得由參加第十一屆海商法外交會議之國家簽署。

Article 16

This Convention shall be ratified and the instruments of ratification shall be deposited with the Belgian Government.

第 16 條

本公約須經批准，批准書應存放於比利時政府。

Article 17

1. This Convention shall come into force between the two States which first ratify it, three months after the date of the deposit of the second instrument of ratification.
2. This Convention shall come into force in respect of each signatory State which ratifies it after the deposit of the second instrument of ratification, three months after the date of the deposit of the instrument of ratification of that State.

第 17 條

1. 本公約經兩國批准，自第二國批准書存放之日起三個月後，即在該兩國間生效。
2. 本公約對簽字國之批准於第二國批准書存放之後者，自該國批准書存放之日起三個月後生效。

Article 18

Any State not represented at the eleventh session of the Diplomatic Conference on Maritime Law may accede to this Convention. The instruments of accession shall be deposited with the Belgian Government.

The Convention shall come into force in respect of the acceding State three months after the date of the deposit of the instrument of accession of that State, but not before the date of entry into force of the Convention as established by Article 17, paragraph (1).

第 18 條

未參加第十一屆海商法外交會議之任何國家，亦得加入本公約。加入書應存於比利時政府。

自加入書存放之日起三個月後，本公約對加入國生效，然不得早於第 17 條第 1 項所定公約生效日。

Article 19

Each High Contracting Party shall have the right to denounce this Convention at any time after the coming into force thereof in respect of such High Contracting Party. Nevertheless, this denunciation shall only take effect one year after the date on which notification thereof has been received by the Belgian Government.

第 19 條

任一締約國在本公約生效後有隨時退出之權，然其退出須自比利時政府收到通知之日起一年後生效。

Article 20

1. Any High Contracting Party may at the time of its ratification or accession to this Convention or at any time thereafter declare by written notification to the Belgian Government that the Convention shall extend to any of the countries which have not yet obtained sovereign rights and for whose international relations it is responsible.

The Convention shall three months after the date of the receipt of such notification by the Belgian Government, extend to the countries named therein.

第 20 條

1. 任何締約國於其批准或加入本公約時，或其以後任何時間內，得以書面通知比利時政府，聲明將本公約適用範圍擴及任何未具獨立主權，而由其負責國際關係之領域。

本公約於比利時政府收到通知書之日起三個月後，即擴及適用於其所指定之領域。聯合國各組織為一

The United Nations Organisation may apply the provisions of this Article in cases where they are the administering authority for a country or where they are responsible for the international relations of a country.

2. The United Nations Organisation or any High Contracting Party which has made a declaration under paragraph (1) of this Article may at any time thereafter declare by notification given to the Belgian Government that the Convention shall cease to extend to such country.

This denunciation shall take effect one year after the date on which notification thereof has been received by the Belgian Government.

Article 21

The Belgian Government shall notify the States represented at the eleventh session of the Diplomatic Conference on Maritime Law, and the acceding States to this Convention, of the following :

1. The signatures, ratifications and accessions received in accordance with Articles 15, 16 and 18.
2. The date on which the present Convention will come into force in accordance with Article 17.
3. The notifications with regard to the territorial application of the Convention in accordance with Article 20.
4. The denunciations received in accordance with Article 19.

Article 22

Any High Contracting Party may three years after the coming into force of this Convention, in respect of such High Contracting Party or at any time thereafter request that a Conference be convened in order to consider amendments to this Convention.

Any High Contracting Party proposing to avail itself of this right shall notify the Belgian Government which, provided that one third of the High Contracting Parties are in agreement, shall convene the Conference within six months thereafter.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, whose credentials have been duly accepted, have signed this Convention.

DONE at Brussels, this 29th day of April, 1961, in the French and English languages, the two texts being equally authentic, in a single copy, which shall remain deposited in the archives of the Belgian Government, which shall issue certified copies.

領域之行政管理機關，或為一領域負責其國際關係時，亦得適用本條之規定。

2. 聯合國各組織或任何締約國已為本條第 1 項之聲明者，得於嗣後隨時以書面通知比利時政府，中止本公約擴及於該領域之適用。

該項終止自比利時政府收到通知書之日起一年後生效。

第 21 條

比利時政府應將下列事項通知出席第十一屆海商法外交會議及加入本公約之國家。

1. 依第 15 條、第 16 條及第 18 條所收到之簽署、批准及加入書。
2. 依第 17 條本公約之生效日期。
3. 依第 20 條關於本公約領域適用之通知。
4. 依第 19 條收到之退出書。

第 22 條

任何締約國在本公約對該國生效屆滿三年或其以後任何時間，得請求召開會議，以討論本公約之修訂。

任何締約國建議行使此項權利時，應照會比利時政府，如有締約國三分之一同意，比利時政府應於其後六個月內召開會議

為此各國全權代表，其證書均已審查合格，業於本公約簽字，以昭信守。

1961 年 4 月 29 日於布魯塞爾。本公約用法文及英文兩種文字做成並具同一效力。作成一份存放比利時政府檔案處，並由比利時政府發給簽證副本。