# The l976 Athens Convention on the Carriage of passengers and their luggage by sea

### Scope of application (art.2)

### England

*Davis v. Stena Line Limited - The “Koningin Beatrix”* - Queen's Bench Division 17 March 2005 ([2005] 2 Lloyd's Rep. 12)

Mr and Mrs Davis and their two young children were passengers on *Koningin Beatrix* when it sailed at 1040 from Rosslare on the morning of 29 October 2000. The scheduled sailing time from Rosslare was 0900, but departure had been delayed because of particularly bad weather. Although the weather had begun to moderate by the time Koningin Beatrix actually sailed, conditions still remained poor with gale force south-westerly winds and rough seas. Wave heights were about 4 metres and there was a 1.5 metre swell.

Shortly after Mr Davis had left one of his sons and gone outside, a number of passengers saw him in the sea and raised the alarm. Until Mr Davis was actually spotted from the bridge, the bridge team gave no consideration as to how Mr Davis was to be rescued. Thereafter the master decided to recover him to his ship and ignored the alternative of using the rescue boat of another ship in the vicinity, the *Celtic King*, which was ready to be launched.

It was, however, well known that it was virtually impossible to rescue a man overboard by recovering him to a high-sided vessel like *Koningin Beatrix*, when its own rescue boats could not be launched because of bad weather.

Unfortunately the attempt to rescue Mr Davis alive failed.

The widow of Mr Davis brought then a claim against Stena Line Ltd., the owners of the *Koningin Beatrix,* in the Queen's Bench Division.

Held, by the Queen's Bench Division, that:

*[1] A passenger who fell overboard a ro-ro ferry travelling from the Irish Republic to England and drowned owing to the negligent manoeuvre conducted by the master in order to rescue him is governed by the Athens Convention 1976 since the passenger died during the course of carriage within the meaning of the Convention.*