

Questionnaire on Classification Societies

	Question	Answer
1	Is there any legislation (or regulation) specifically dealing with the classification activities of Classification Societies in your country?	No
2	<p>On what basis does your court retain jurisdiction in respect of a third-party claim against a Classification Society:</p> <ul style="list-style-type: none"> • domicile of the defendant, • Locus delicti, • joinder with other defendants. • Rules of the Society • Others? 	<ul style="list-style-type: none"> • Domicile of the defendant • Locus delicti (the place where the harmful event occurred or may occur) • Joinder with other defendants (joint proceedings due to closely connected claims) <p>Note that the rules may vary depending on whether the Lugano Convention applies. E.g. joinder with other defendants applies only for defendants domiciled in countries covered by the Lugano Convention.</p>
3	How many cases – if any – concerning the liability of Classification Societies to third parties, have been decided in your country?	No cases have been decided by the Norwegian Supreme Court (precedent court), but one was decided by the Court of Appeal (second instance) in 1995, se Q no. 4.
4	<p>On which of the following subject matters were these decisions rendered:</p> <ul style="list-style-type: none"> • sinking or damage to a ship including pollution damage? • action by cargo owners or their insurers or by charterers? • sale of a secondhand ship? • others? 	<p>Others:</p> <p>The judgement from the Court of Appeal (LB-1995-2649) concerned a claim for damages in tort raised by a shipping company and its insurer against DNV after a life boat designed for the evacuation of divers under pressure exploded. The Court found for DNV, and concluded that DNV had not acted negligently when carrying out its classification assignment(s).</p>

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5	<p>What is the legal basis used or considered in the decisions rendered, in your country, in cases of third-party claims against Classification Societies:</p> <ul style="list-style-type: none"> • tort • duty of care, • negligent misrepresentation, • reliance on the classification certificate, • others? 	Tort
6	Has a court of your country imposed liability on a Classification Society on the basis of insufficiency or incompleteness of their Rules?	No
7	Is a certificate of classification considered in your country as a certificate of seaworthiness? If so, what is the reasoning?	No, a certificate of classification as such is not construed as a warranty/certificate of seaworthiness in Norway.
8	What is the importance given, by your courts, in their reasoning on the liability of classification societies towards third parties, to the rules and regulations of the Society?	N/A
9	What are the defences available to a Classification Society sued in tort by a third party (assuming that the facts of the matter are not disputed)?	<p>It may be argued:</p> <ul style="list-style-type: none"> • That the surveys conducted does not constitute negligent behaviour as the survey obligations pursuant to the Rules has been complied with in light of the role of class: E.g. class does not give any guarantees that the ship is built according to class' Rules. • That there are no causal connection between the potential wrongful survey and the defect that later has caused the third party claim (i.e. that that a correct survey would not have identified the defect).

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		<ul style="list-style-type: none"> • That a third party's economic loss arising out of classification services performed does not enjoy legal protection under Norwegian tort law. • That the limitation of liability in the certificate of classification and/or the agreement of class applies for the Classification Society's liability towards third parties. • That, if the parent company of a Classification Society is sued even though the act giving rise to entailing liability was committed by (employees of) a subsidiary, there is no legal basis for identification between the parent and the subsidiary's liability. There is no clear legal precedent for piercing the corporate veil in Norway, but it may apply in special circumstances.
10	<p>Have Classification Societies the possibility to invoke, in your country, the limitation of liability inserted in their rules or in the classification certificates as a defence against a tort action of a third party? If so please expand.</p>	<p>Potentially. Legal literature argues that the limitations of liability towards the yard should be extended to apply towards the Owner. However, there is no clear legal precedent.</p>
11	<p>Is, on one hand personal injury or death allegedly caused by negligence of a Classification Society and, on the other hand, economic loss, treated by your courts according to the same principles of law or different ones? In such a case please explain the differences.</p>	<p>Firstly, that depends on whether the case of personal injury/death is raised as a criminal case by the prosecuting authority, or as a civil case by the injured party.</p> <p>In a criminal case, the Classification Society will be indicted according to criminal procedure and may be imposed a penalty fine if the court finds that a person who acted on behalf of the Classification Society violated a penal provision.</p> <p>In a civil case, a case of personal injury or death and a case of purely economic loss are subject to more or less coincident principles of law. Yet, the Norwegian Compensatory Damages Act contains certain statutory rules regarding the measure of damages in cases of personal injury and death (e.g. compensation for permanent injury and damages for loss of future income) and liability for non-economic loss.</p>
12	<p>Please explain briefly the rules of procedure applied and of investigations carried out in your country in</p>	<p>There are no rules for procedures or investigations for matters concerning Classification Societies' liability specifically.</p>

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	<p>such matters concerning Classification Societies liability with particular emphasis on the role of:</p> <ul style="list-style-type: none"> • private or court experts; • witnesses 	<p>In legal procedures in Norway, the parties are entitled to present such evidence as they wish (including on-site inspection). All persons have a duty to testify about factual circumstances and to grant access to objects etc. that may constitute evidence. A party may call witnesses to give expert testimony, and request expert lay judges, with expertise suited to the cause, in addition to the professional judge(s).</p>
13	<p>Would a third-party claim against a Classification Society be subject to any time limitation or time bar in your country?</p>	<p>Yes. Claims for damages which do not arise from a contract – as third-party claims) – are subject to limitation period of 3 years from the date on which the injured party obtained, or should have himself acquired, necessary knowledge of the damage and the person responsible, cf. the Norwegian Limitation Period Act § 9.</p>