

Transport Logistics: Responsibility and Risk Distribution

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Abstract

This article examines the legal issues of liability and risk distribution in motor transport logistics, with particular focus on the Republic of Uzbekistan and international practice. Road transport plays a central role in modern trade, creating complex legal relations between carriers, consignors, freight forwarders, and insurers. The study analyzes national regulation under the Civil Code of Uzbekistan and the Law "On Transport," as well as international standards established by the 1956 CMR Convention. Special attention is given to the carrier's presumed fault model, limits of liability, and the role of contractual and insurance mechanisms in managing transport risks. Comparative analysis of the legal frameworks of the European Union and the United States highlights different approaches to carrier liability, compensation limits, and risk allocation. The article also explores practical challenges, including the unclear legal status of freight forwarders, insufficient documentation practices, and the absence of clear liability limits in domestic law. Based on this analysis, the author proposes legal and institutional reforms aimed at enhancing predictability, fairness, and efficiency in motor transport logistics in Uzbekistan.

Keywords: Motor transport logistics; carrier liability; risk distribution; CMR Convention; freight forwarder; cargo damage; transport contracts; insurance mechanisms.

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1. Introduction

In the modern economy, motor transport logistics is the most important branch of goods delivery. According to the World Bank, more than 70 percent of goods are transported by road. In this case, complex legal relations arise between many participants, such as the consignor, carrier, freight forwarder, and insurer. The question of how risks such as loss, damage, or delay of cargo are distributed has not only theoretical but also great practical significance.

After Uzbekistan gained independence, important reforms were carried out in the transport sector. The Law "On Transport," adopted in 2021, created a new legal framework in this area[1]. At the same time, in practice,

many problems remain regarding the limits of carrier liability, risk distribution mechanisms, and the procedure for compensation for losses.

The purpose of the article is to conduct a legal analysis of the issues of responsibility and risk distribution in motor transport logistics, compare national and international experience, and propose solutions to practical problems.

Regulation in the legislation of Uzbekistan

In the Republic of Uzbekistan, motor transport logistics is regulated by a number of legislative acts. First of all, the Law "On Transport," adopted on August 9, 2021, defines the general legal framework for the transport

sector. According to Article 16 of this law, the transportation of passengers, baggage, and cargo is carried out on the basis of contracts concluded between transport organizations and clients.

Articles 730-744 of the Civil Code contain general provisions on the contract of carriage. According to Article 731, under a cargo transportation contract, the carrier undertakes to deliver the cargo to its destination and hand it over to a person authorized to receive it. The sender assumes the obligation to pay the established fee[2].

An important aspect is that Article 738 of the Civil Code establishes the responsibility of the carrier: the carrier is responsible for the loss, shortage, or damage of the cargo from the moment of its acceptance until delivery to the recipient. This norm introduces the "presumed fault" model in relation to the carrier, that is, in the event of damage, the carrier must prove its innocence.

International legal regulation: CMR Convention

The main legal document in international road transport is the Convention on the International Road Transport Treaty, adopted in Geneva in 1956. The Republic of Uzbekistan joined this convention in 1995. According to Article 17 of the CMR Convention, the carrier is liable for losses and damages that occurred from the moment of acceptance of the cargo to the moment of delivery to the recipient[3].

An important feature of the CMR Convention is the limited liability model. According to Article 23, the carrier's liability is limited to the amount of 8.33 SDR (special weighing rights) per kilogram of lost or damaged cargo. This allows for the protection of border carriers from overloads and forecasting insurance costs.

As Professor Malcolm Clarke (Great Britain) noted, CMR standardizes the carrier's liability and creates a pre-calculated compensation system, which serves to ensure the stability of international trade[4]. However, the limited compensation model may deprive the cargo owner of adequate compensation for high-value goods (electronics, pharmaceuticals).

2. Responsibility Of The Carrier, Sender, And Expeditor

Carrier's liability and its limits

The carrier is a central figure in road transport logistics. As Professor A. R. Melnikov (Russia) noted, the carrier's liability is often close to the "presumed guilt" model: guilt is considered to exist, the carrier must prove the exceptions in order to be released[5]. This model maintains logistical discipline, as the carrier directly controls the cargo.

Chapter 8 of the Law of the Republic of Uzbekistan "On Transport" defines the responsibility of the carrier, the multimodal transport operator, when carrying out transportation.

Legal scholar R. Ismailova emphasizes that in international road freight transport, the carrier's obligation is of a "resultant" nature: in case of delay, liability arises, and a high standard of proof is required for exemption[6]. This approach strengthens discipline in the logistics chain.

2.1 Obligations and responsibility of the sender

The sender also assumes important responsibilities in road transport logistics. According to Article 7 of the CMR Convention, the shipper is responsible for the proper packaging, marking, and presentation of the necessary documents. The carrier may be released from liability if the sender provided false information or improperly packaged the cargo.

Professor Ingeborg Schwenzer put forward the principle "whoever controls - bears the risk." In road transport logistics, this principle is very important: the shipper controls the cargo at the stage of preparation and packaging, therefore it is logical for the shipper to be responsible for shortcomings at this stage [7].

2.2 Legal status and responsibility of the forwarder

An expeditor (freight forwarder) is an intermediary who organizes cargo transportation, and their legal status is one of the complex issues. In the legislation of Uzbekistan, the responsibility of the freight forwarder is regulated within the framework of the freight forwarding agreement. According to Article 728 of the Civil Code, for failure to fulfill or improper fulfillment of obligations under a freight forwarding agreement, the freight forwarder is liable on the grounds and in the amount determined in accordance with the provisions of Chapter 24 of this Code.

As A.I. Bazarenko noted, in many legal systems, the forwarder's responsibility towards the carrier is limited, with the main focus on the carrier's responsibility [8]. However, in practice, freight forwarders try to further limit responsibility through contracts. The Supreme Court of Uzbekistan makes decisions to lift such restrictions, which indicates the priority of legal guarantees.

3. Risk Distribution Mechanisms

3.1 Incoterms and risk transfer

In international commerce, Incoterms rules play an important role in determining transportation costs and the time of risk transfer between the seller and the buyer. As Professor Jan Ramberg (Sweden) notes, Incoterms standardizes risk transfer and cost allocation, but it does not fully regulate all aspects of carrier liability and compensation [9].

For example, under the FOB (Free on Board) condition, when the cargo is loaded onto transport, the risk is transferred from the seller to the buyer. In the CIF (Cost, Insurance and Freight) condition, the seller also pays insurance and freight. The 2020 version of Incoterms includes 11 different conditions, each of which clearly defines the point of risk transition.

However, as Professor Michael Bridge (UK) warns, Incoterms is often misused: it is a risk/cost model, mainly for a sales contract, not a shipping contract. Therefore, attempts to "turn off" the carrier's delikt or contractual liability, relying on Incoterms, are a practical error [10].

3.2 Insurance mechanisms

Insurance is one of the most effective tools for managing risks in motor transport logistics. In Uzbekistan, according to the Law "On Insurance Activities" and relevant regulations, carriers can insure their civil liability, and in some cases, this is mandatory.

CMR insurance is widely used in international cargo transportation. This type of insurance covers the carrier's liability under the CMR convention. As N. Islamova noted, CMR insurance protects the carrier from unforeseen losses, but the insured amount often does not cover the minimum limits of the convention [11].

Cargo insurance protects the interests of the cargo owner. This type of insurance allows you to cover losses

exceeding the CMR limits. In practice, it is recommended to combine cargo insurance and CMR insurance for high-value cargo.

4. Foreign Experience: Comparative Analysis

4.1 Experience of the United States of America

In the USA, road freight is regulated by the Carmack Amendment and Motor Carrier Act (1980). The Carmack Amendment places broad responsibilities on the carrier: the carrier is responsible for all losses and damages from the moment of receipt of the cargo to the moment of delivery, except for "Act of God" (natural disaster), enemy actions, actions of state bodies, the fault of the sender, or the natural characteristics of the cargo.

An important difference in the USA is the released value rate system. Carriers can offer lower tariffs by limiting the value of the cargo to "declared value." If the sender declares a higher value, they must pay additional insurance. This system serves to balance risks and costs.

U.S. courts strictly interpret the carrier's liability. For example, *ABF Freight System v. In the NLRB case*, the Federal Court of Appeal argued that the clauses limiting the carrier's liability in the contract should be interpreted narrowly. This approach is aimed at protecting the interests of cargo owners.

4.2 European Union experience

In the European Union, the CMR Convention serves as the main legal basis. However, each country has its own national rules. For example, in Germany, paragraphs 407-450 of the Handelsgesetzbuch (HGB) regulate road freight. As Professor N. Loewe (Austria) notes, consistent interpretation of CMR rules occupies a central place in the legal regulation of transport risks [12].

Elena-Cristina Savu believes that the CMR regime is close to "strict liability," but it is balanced by limits and exemptions. The carrier does not lose "automatically" in all cases, but must strengthen compliance (driver mode, security protocol, route control) so that exemption exceptions do not work [13].

The European Union is implementing e-CMR (electronic CMR waybill). This digital document exchange system serves to reduce conflicts and improve the preservation of evidence. It is advisable that Uzbekistan also use this

experience.

5. Scientific Positions Of Legal Scientists

There are various scientific schools on the issues of responsibility and risk distribution in motor transport logistics. Below, the positions of 5 well-known legal scholars are analyzed.

Firstly, Professor Malcolm Clarke (Great Britain) defines CMR liability as a "predictable, limited compensation system." In his opinion, this system will ensure market stability, since carriers and cargo owners know the limits of responsibility in advance. However, the author believes that this approach may not provide adequate protection for high-value cargo.

Secondly, Professor Jean Ramberg emphasizes that Incoterms standardizes risk transfer but does not fully resolve "responsibility." It indicates that the "skeleton" of liability in motor vehicles is defined by CMR or national regulations, while the Incoterms only explains the time of risk transition.

Thirdly, Professor I.B. Zakirov emphasizes that the establishment of shorter limitation periods in transportation relations in the doctrine of civil law serves to quickly resolve disputes and prevent the loss of evidence. However, along with the short deadlines, the contract must clearly specify a separate procedure for concealed damage[14].

Fourthly, M.V. Zubakina and L.A. Cherdakova (Russia) note that violations of obligations in international road transport are not only material liability, but also an important part of the issue of filing a claim, proof, and documentation (CMR waybill, protest procedure). Before "who is right?" the question "who executed the document correctly?" is of decisive importance[15].

Fifthly, S. Bakhodirova (Uzbekistan) notes that the legal basis for international freight transportation is conventions and international agreements, and national law provides mechanisms for their practical application [16]. This is true, but for the "muscle" (national mechanism) to work sufficiently, judicial practice should also be more transparent.

6. Practical Problems And Proposed Solutions

6.1 First problem: carrier's liability limits are unclear

The essence of the problem: The legislation of Uzbekistan does not define the limits of carrier liability as clearly as in the CMR Convention. The Civil Code defines liability in a general way, but does not specify specific quantitative limits. This increases disputes in practice and leads to the unpredictability of court decisions.

Proposed solution: It is necessary to amend the Civil Code and introduce a limited liability system similar to the CMR model for domestic transportation. For example, it is advisable to establish a limited liability for a certain amount (for example, the equivalent of 50,000 soums or 5 US dollars) per kilogram of lost cargo. This allows carriers to forecast insurance costs, and cargo owners to understand the need for additional insurance.

6.2 Second problem: The legal status of the forwarder is unclear

The essence of the problem: In practice, the difference between a freight forwarder and a carrier is not always clear. Some freight forwarders try to evade responsibility, presenting themselves only as "intermediaries." At the same time, freight forwarders will include clauses in contracts limiting liability below the legal limits.

Proposed solution: Firstly, it is necessary to add a separate law "On Transport and Expeditionary Activities" or a special chapter to the Civil Code. Secondly, the minimum mandatory liability of the forwarder should be established, and restrictive clauses at a lower level should be declared invalid. Thirdly, it is advisable to introduce mandatory civil liability insurance for freight forwarders.

6.3 Third problem: The problem of documentation and evidence

The essence of the problem: In many disputes, incorrect documentation is a decisive factor. Shipping certificates (CMR waybills), acceptance certificates, photo and video evidence are often incomplete or incorrectly filled out. This makes it difficult to prove who is right in court proceedings.

Proposed solution: First, it is necessary to implement the e-CMR (electronic CMR waybill) system. This digital document exchange allows you to preserve evidence and reduce conflicts. Secondly, the Ministry of Transport should develop a standard cargo acceptance protocol and make it mandatory for all carriers. Thirdly, it is advisable

to establish a requirement for logistics companies to store GPS tracking and telematics data.

7. Conclusion

Issues of responsibility and risk distribution in motor transport logistics require complex legal analysis. Based on the foregoing, the following conclusions were made:

Firstly, the legislation of Uzbekistan has created a legal framework for motor transport logistics, but it is necessary to clarify and systematize the boundaries of the carrier's liability, the legal status of the forwarder, and the procedure for documentation.

Secondly, the CMR Convention introduces a limited liability model in international road freight transport, and it is advisable to use this experience in domestic transportation.

Thirdly, the experience of the USA and the European Union shows that clear legal boundaries and effective insurance mechanisms ensure stability in the logistics chain.

Fourthly, the scientific positions of legal scholars confirm the following: for the fair distribution of risks, it is necessary to adhere to the principle "whoever controls - the risk bears," strengthen document discipline, and expand insurance mechanisms.

Fifthly, the three practical solutions proposed in the article - the introduction of a limited liability system, the definition of the legal status of the forwarder, and the creation of an e-CMR system - will contribute to the development of motor transport logistics in Uzbekistan.

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