

**SOME ASPECTS OF LEGAL REGULATION OF INTERNATIONAL
TRANSPORTATION IN PRIVATE INTERNATIONAL LAW
STARPTAUTISKO PĀRVADĀJUMU TIESISKĀ REGULĒJUMA DAŽI
ASPEKTI STARPTAUTISKAJĀS PRIVĀTTIESĪBĀS**

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Abstract. *The article focuses on the legal framework, the interpretation of provisions on international road carriage of goods, and the use of administrative documents.*

Keywords: *international automobile carriage, legal regulation.*

Foreign trade cargo can be transported by different modes of transport. The determining factors for choosing the mode of transportation are the route, the nature of the transported cargo, its cost, and delivery time. The main challenge here is ensuring the safety of the cargo during its transportation, loading, unloading and responsibility of the participants.

International road carriage of goods is a carriage where the point of departure and the point of destination are located in the territories of different states (*Алешина, Косовская, 2014, с. 223*). In the field of legal regulation of international road carriage, an important role is played by agreements regulating the organization of road traffic. The applicable law for the international road carriage contract is determined based on the general conflict principles of civil law.

The article provides an analysis of regulatory legal acts of definitions in the field of international road carriage of goods. The goal is to explain the legal nature of international road carriage of goods in relation to the administrative documents. The tasks are to specify the legal basis, rules and criteria for referring to international supplies, to identify the specifics of ensuring the security of goods with the use of contractual and administrative documents.

The key legal sources of private international law in the field of legal regulation of international road carriage of goods are:

- Convention on the Contract for the International Carriage of Goods by Road (CMR), Geneva, dated 19.05.1959;
- Protocol to the Convention on the Contract for the International Carriage of Goods by Road (CMR) Geneva, dated 5 July 1978;
- Agreement on Dangerous Goods by Road (ADR), Geneva, dated 30 September 1957;
- Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage (ATP), Geneva, dated 1 September 1970;
- Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIR Convention) dated 14 November 1975;
- European Convention on the Punishment of Road Traffic Offences, Strasbourg, dated 30 November 1964
- Intergovernmental agreements on international road connections between the Russian Federation and foreign states (bilateral agreements). Including the agreements regulating the organization of traffic, which include, in particular, the Convention on Road Traffic of 1949, the Protocol on Road Signs and Signals, 1949, the Convention on Road Traffic, 1968, the European Agreement of 1979, supplementary Convention on Road Traffic, 1968 and others.

The following norms of Russian law are implemented or correlated with the above international provisions:

- Federal Law dated July 24, 1998 No. 127-FZ On the state control over the implementation of international road carriage and on liability for violation of the procedure for implementation thereof;
- Regulation of the Government of the Russian Federation dated June 26, 2008. No. 480 On the approval of the Rules for submission to the customs authorities at checkpoints across the state border of the Russian Federation of documents required for the implementation of other types of control other than customs control;
- Regulation of the Government of the Russian Federation dated February 2, 2005. No. 50 On the procedure for the use of means and methods of control during the crossing of the state border of the Russian Federation by persons, vehicles, cargo, goods and animals;
- Agreement on the masses and dimensions of vehicles engaged in international carriage on the roads of the states-members of the Commonwealth of Independent States;
- Order of the Ministry of Transport of the Russian Federation dated December 19, 2002. No. OC-1117-p On Measures for Implementing the Regulation of the Ministry of Transport of Russia No. ИС-920-p dated 15.10.2002 "On preparing for the experiment on the border crossing by vehicles travelling within international transportation using a simplified procedure for issuing special permits";
- Order of the Ministry of Transport of the Russian Federation dated April 17, 2007. No. 44 "On the approval of the procedure for issuing special permits for international road carriage of dangerous goods";
- Order of the Federal Transportation Inspection Service dated January 9, 2008. No. ГК-15фс "On the approval of the instruction on the procedure for issuing special permits for international road carriage of dangerous goods in the territory of the Russian Federation".

In order to simplify the customs clearance at the border crossing for vehicles under the Geneva Customs Convention on the International Transport of Goods under Cover of TIR Carnets (*Customs Convention on the International Transport of Goods under Cover of TIR Carnets, 1975*), holders of the TIR Carnet (single customs document) take advantage of the priority customs clearance and customs control for international road carriage of goods.

In general, it provides for the legal framework, governing rules, control and responsibility for the international carriage of goods.

Article 2 of Law No. 259-FZ covers the concepts of "cargo", "consignor", "consignee", "carrier", "perishable goods" (*Устав автомобильного транспорта и городского наземного электрического транспорта, 2007*). The Order of the Ministry of Transport of Russia, Part 2 sets out the types of transportation: "bilateral, transit or transportation from or to the territory of a third state" (*Об утверждении критериев и порядка определения вида выполняемой международной автомобильной перевозки груза, 2015*) with an indication in the consignment note. Finally, Article 1 of Law No. 127-FZ: "International road carriage is the transportation of goods or passengers along the territories of two or more states, as well as the travel of an unloaded vehicle through the territories of two or more states" (*О государственном контроле за осуществлением международных автомобильных перевозок и об ответственности за нарушение порядка их выполнения, 1998*). Finally, the legal nature of the definition "International road carriage of goods" is indicated.

Direct regulation of contractual legal relations between the carrier and the cargo owner, as well as the procedure for receiving the goods and its release at the destination point is carried out through the Geneva Convention on the Contract for the International Carriage of Goods by Road (CMR) (*Convention on the Contract for the International Carriage of Goods by Road (CMR), 1956*). It is needed to draw up a road consignment note in three copies, the absence, irregularity or loss of which don't influence anyhow on the existence or the validity of the contract of carriage. The signatures in the note can be printed typographically or replaced with stamps of the consignor and the carrier in the established order.

The consignment note serves as a document of title, which is expressed in the fact that the consignor has the right to dispose of the goods, in particular to require the carrier to stop the carriage, change the place provided for the delivery of the goods, or deliver the goods to a different consignee than the one specified in the consignment note. The consignor shall lose this right once the second copy of the consignment note is transferred to the consignee.

According to Clause 1, Article 17 of the CMR Convention, the carrier is responsible for the total or partial loss of the cargo or for its damage that occurred between the acceptance of the cargo for transportation and its delivery, as well as for the delay in delivery. At the same time, the Convention provides for a list of circumstances exempting the carrier from liability when the loss or damage of the cargo is the result of a special risk inextricably linked to:

- the use of open or uncovered vehicles, if such use was specifically indicated in the consignment note;
- the absence or damage of packaging of the goods, inherently prone to spoilage without packaging or with unsatisfactory packaging;
- the moving, loading, placing or unloading of the goods by the consignor or consignee or persons acting on behalf of the consignor or the consignee;
- the nature of some goods subject to complete or partial destruction or damage, in particular, breakage, rusting, sudden rotting, shrinkage, leakage, normal loss of rodent attack;
- the insufficient or unsatisfactory marking or numbering of packages;
- the transportation of animals.

The burden of proving these circumstances rests with the carrier.

The Convention provides for a claim procedure for resolving disputes between the carrier and the consignee of the goods. The claim shall be submitted to the carrier within the following period of time: at the time of acceptance, if it is a matter of apparent loss and damage; within seven business days from the date of delivery of the goods, if it is a matter of imperceptible external losses and damages, and within twenty-one days from the date of delivery of the goods to the recipient, if it is a delay in the delivery of the goods.

The limitation period is one year, and in case of intentional actions of the carrier, which caused damage, - three years. In the case of disputes arising from transport contracts governed by the CMR, the claimant may apply to the competent courts of the countries participating in the Convention and also to the court of the country in which territory the defendant's habitual residence, main office, rep office or agency is located, if through this rep office or agency the contract for carriage was concluded; or to the court of the country where the goods are accepted for carriage or at the place of goods delivery.

The applicable law for the international road carriage contract is determined based on the general conflict principles of civil law. According to Clause 1, Article 1210 of the Civil Code of the Russian Federation, the parties may, when concluding a contract or subsequently choose the applicable law to their relationship. In accordance with Clause 2, Article 1211 of the Civil Code of the Russian Federation, in the absence of an agreement between the parties on the applicable law, the law of the country where the carrier acts or has his place of residence, shall be applied (*Гражданский кодекс Российской Федерации часть 3, 2001*).

Conclusions and suggestions

Thus, the analysis of the legal norms of international and Russian law reveals the legal nature of the definition of "international road carriage of goods", the legal regime for ensuring security through the control by state and international bodies including the protection of the rights of parties to the contractual legal relations using also the claim procedure.

This article has considered the legal bases of the international and Russian private law, regulating rules, control and responsibility for the international carriage of goods.

Based on the legal analysis, the authors explained the legal nature of the definition: "International road carriage is the transportation of goods or passengers along the territories of two or more states, as well as the travel of an unloaded vehicle through the territories of two or more states".

The authors of the article described the legal regime for ensuring security through the control by state and international bodies including the protection of the rights of parties to the contractual legal relations using also the claim procedure, which allows to ensure the safety of goods.

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Kopsavilkums

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