UDK DOI 10.7251/AKPR2601062K
Review Scientific Article

CARGO INSURANCE AND CARRIER LIABILITY AS MECHANISMS OF LEGAL PROTECTION IN INTERNATIONAL TRANSPORT

Boro Krstić[1], Miroslav Miškić[2], Milica Kastratović[3]

Abstract

International transport entails the exposure of goods to numerous risks that may result in their loss, damage, or delay in delivery, which reasonably raises the question of the legal protection of cargo owners. Although international and national regulations prescribe carrier liability for damage occurring during transport, this liability is in certain cases limited or excluded, which is why cargo insurance plays a significant role in ensuring comprehensive legal protection for participants in the transport of goods. The authors give particular attention to cargo insurance, carrier liability, and the international conventions governing this field. The differences between the protection achieved through insurance contracts and carrier liability based on international conventions are highlighted. The aim of this paper is to analyze their mutual relationship and significance for the protection of transport participants, and to point out the need for cargo insurance as a supplement to the principle of carrier liability. The paper applies the normative and dogmatic-legal method, as well as the method of analyzing relevant international conventions, legal regulations, and professional literature. The analysis shows that carrier liability provides a certain degree of legal protection for the injured party; however, cargo insurance provides more complete compensation and reduces the risk of financial loss. It is concluded that contractual cargo insurance represents an important institution of legal certainty and protection for participants in international trade in goods.

Keywords: *cargo insurance, carrier liability, international transport, damage compensation, international conventions.*

Introduction

International transport represents one of the fundamental elements of modern international trade, as it enables the unimpeded movement of goods between producers, distributors, and consumers located in different countries. The development of global supply chains and the intensification of international trade in goods have further increased the importance of transport as a factor of development and the interconnection of national markets. In addition,

[1] Boro Krstić, redovni profesor, Univerzitet Bijeljina, Pavlovića put 24, 76300 Bijeljina, Republika Srpska, BiH, E-mail: direktor@ubn.rs.ba
[2] Miroslav Miškić, vanredni profesor, Univerzitet u Novom Sadu, Fakultet tehničkih nauka, Trg Dositeja Obradovića 6, 21102 Novi Sad, Srbija, E-mail: miroslav.miskic@outlook.com
[3] Milica Kastratović, asistent, Univerzitet „Union-Nikola Tesla“, Fakultet za poslovne studije i pravo, Jurija Gagarina 149a, Staro sajmište 29, 1107'0 Beograd, Srbija, E-mail: milica.kastratovic@fpsp.edu.rs

the transport of goods entails exposure to various risks that may result in its loss, damage, or delay in delivery. For these reasons, legal protection mechanisms occupy a particularly important place in the international trade of goods, among which carrier liability and cargo insurance stand out.

The nature and intensity of the risks present in the process of international trade of goods depend on the type of goods, the mode of transport, the length of the transport route, and the conditions under which the carriage is carried out. In the professional literature, transport risks are most commonly classified into natural, traffic-related, technical, and criminal risks, the realization of which may cause significant material consequences for the owners of the goods[4]. A particularly significant risk is the loss, damage, and delay in delivery of goods during international road transport, which is why the Convention on the Contract for the International Carriage of Goods by Road (CMR) regulates carrier liability for goods from the moment of their receipt until delivery to the consignee[5]. International transport of goods involves the participation of a number of subjects, among which the consignor, the carrier, the consignee, the freight forwarder, and the insurer stand out. Given the complexity of the transport of goods and the possibility of various harmful events occurring, there arises a need to establish certain legal protection mechanisms for transport participants. The aim of legal protection is to ensure security, define the rights and obligations of participants, and enable the effective exercise of the right to compensation for damage in the event of an insured event (risk) occurring. Accordingly, the rules on carrier liability and cargo insurance hold a particularly important place. These institutes contribute to the protection of the property interests of participants in international trade in goods. International regulations govern carrier liability for goods from the moment of receipt until their delivery to the consignee, thereby seeking to ensure legal certainty in international transport[6].

The subject of this paper is the consideration and analysis of the legal aspects of cargo insurance and carrier liability in international transport.

The aim of this paper is to analyze the mutual relationship between cargo insurance and carrier liability and their significance for the protection of transport participants, while pointing to the need for adequate cargo insurance as a supplement to the system of carrier liability.

The starting assumption of this paper is that carrier liability in international transport does not always ensure complete protection of the cargo owner, due to the existence of statutory limitations and grounds for exemption from liability, and that cargo insurance therefore represents a necessary mechanism of legal protection in international transport.

The paper applies the normative and dogmatic-legal method, as well as the method of content analysis of relevant international conventions. Through this approach, the legal aspects of cargo insurance and carrier liability are analyzed, as well as their mutual relationship within the system of protection of participants in international transport.

---

[4] Jovanović, D. (2018). Osiguranje i upravljanje rizicima u saobraćaju [Insurance and Risk Management in Transport]. Beograd: Saobraćajni fakultet, 45–47.

[5] Convention on the Contract for the International Carriage of Goods by Road (CMR). Official Gazette of the Federal People's Republic of Yugoslavia (FPRY) – Supplement, No. 11/58. Available at: https://komorabih.ba/wp-content/uploads/2019/01/cmr-konvencija.pdf, article 17.

[6] Ibidem.

The Concept and Types of Cargo Insurance in International Transport

Transport insurance represents a form of property insurance that provides protection against the risks to which goods and other assets are exposed during transport. This insurance covers the loss, damage, and delay in delivery of goods occurring during carriage by any means of transport (road, rail, sea, and air), in both international and domestic carriage, resulting from insured risks. Transport insurance is of particular importance in international transport due to the increased number of participants, the length of transport routes, and the different legal regimes applicable to the carriage of goods. In this way, insurance contributes to legal certainty and the protection of the property of participants in international trade. Transport insurance is based on the transfer of risk from the insured to the insurer, whereby the insurer, in return for payment of the premium, undertakes to compensate for damage arising from the occurrence of the insured event within the limits of the agreed coverage[7].

Transport insurance is a form of property insurance, characterized by certain particularities that distinguish it as a separate category of insurance. These particularities relate to the form of concluding the contract, which, in this type of insurance, is not mandatory — that is, the contract is not required to be concluded in written form. In addition, the policy is issued at the request of the policyholder and may be drawn up in several originals, and the amount of the insurance premium need not be entered in the policy, provided it contains a clause stating that the premium has been paid. What makes transport insurance specific is the fact that the contract may be concluded after the occurrence of the insured event, even in cases where the contracting parties were aware of this, but did not know the extent and amount of the damage[8]. The specificity of transport insurance is also reflected in the fact that the property values involved are very high, as the risks against which insurance is taken cover not only the goods being insured but also the means of transport, which leads to an accumulation of risk[9].

The basic classification of transport insurance is made on the basis of whether the transport is carried out within a state or beyond its borders. In view of this criterion, it may be either domestic transport insurance or international transport insurance. In the practice of international transport, various forms of insurance are applied in order to provide protection against the numerous risks to which goods are exposed during carriage. The most significant types of insurance include cargo insurance, which covers the risks of loss, damage, and delay in the delivery of goods during transport; liability insurance, which provides protection against claims for damages raised by third parties; and transit insurance, which provides protection for goods during their movement from the place of dispatch to the final destination. These forms of insurance share a common objective which reduces the material consequences of the occurrence of harmful events and enhances the safety of transport and logistics operations.

[7] Radišić, J. (2008). Pravo osiguranja [Insurance Law]. Beograd: Pravni fakultet Univerziteta Union, 15–18.
[8] Mrkšić, D., Petrović, Z. (2004). Pravo osiguranja [Insurance Law]. Beograd: Fakultet za poslovno pravo, 210.
[9] Šulejić, P. (1998). Saobraćajno pravo [Transport Law]. Novi Sad: Centar za privredni konsalting, 430.

Subject and Role of Cargo Insurance in International Transport

The subject matter of transport insurance is the insurable interest of the insured party connected with the goods being carried from the place of dispatch to the place of destination. The subject of insurance may be various types of goods, regardless of their nature, value, or the type of means of transport used to carry them. In certain cases, the subject of insurance may also be other assets connected with the transport, such as freight costs, expected profit, or other interests provided for by the contract. The basic condition for concluding a contract of insurance for goods during transport is the existence of an insurable interest of the insured in preventing the loss or damage of the goods, from which it follows that if no insurable interest exists, there is likewise no legal basis for exercising rights under the insurance. Unlike cargo insurance, which protects the property interest of the owner of the goods or another authorized person, carrier liability is based on the carrier's obligation to preserve the goods received for carriage and to deliver them to the consignee in the condition in which they were received. It is precisely because of these different subjects of protection that these two institutes differ in legal nature, while nevertheless jointly contributing to the protection of participants in international transport.

Cargo insurance plays a significant role in protecting the property of participants in international transport, given the numerous risks to which goods are exposed during carriage. Its basic role is reflected in providing compensation to the insured in the event of the occurrence of an insured event, thereby contributing to the preservation of the financial stability of participants in international trade. The particular importance of insurance stems from the fact that carrier liability, arising from the contract of carriage of goods, is not absolute but may, in certain cases, be limited or even excluded, meaning that the owner of the goods cannot always count on full compensation from the carrier. Accordingly, cargo insurance represents an additional form of protection that ensures greater legal certainty and more effective compensation for the injured party. In addition to this protective role, cargo insurance in transport also contributes to the safer conduct of international trade flows, the strengthening of trust between contracting parties, and the reduction of business risks associated with international transport. Considering all above, it could be said that insurance is an important risk-management instrument in modern international trade[10].

Rights and Obligations of the Contracting Parties

The insured is the person whose property interest is protected by the insurance contract. In cargo insurance in international transport, this is most often the owner of the goods, the consignor, the consignee, or another person who has a legal interest in the goods being preserved from damage or destruction during carriage. By concluding the insurance contract, the insured acquires the right to compensation for damage in the event of the occurrence of an insured event, under the conditions and within the limits established by the contract and the insurance policy. However, in order to exercise the right to compensation, the insured is obliged, when concluding the contract, to disclose all circumstances relevant to the assessment of risk, regarding the type of goods, their value, the manner of packaging, the means of transport, and other facts that may influence the extent of the risk[11]. In addition,

[10] Ibidem, 25–28.

[11] Law on Obligations (Zakon o obligacionim odnosima). Official Gazette of the SFRY, Nos. 29/78, 39/85, 45/89 and 57/89; Official Gazette of the Republic of Srpska, Nos. 17/93, 3/96, 37/01 and 39/03., article 907. до 909.

the insured is obliged to pay the agreed insurance premium and to take reasonable measures to prevent the occurrence of damage should a harmful event occur[12]. In the event of the occurrence of an insured event, the insured is obliged, without undue delay, to notify the insurer of the damage that has occurred and to enable the determination of its cause, extent, and consequences. Furthermore, the insured has the right to claim compensation for damage in accordance with the agreed insurance terms, whereby they are obliged to provide the necessary evidence of the occurrence and amount of the damage[13].

The rights and obligations of the insurer are directed toward achieving the purpose of insurance, which is providing effective protection against the consequences arising from the occurrence of an insured event. The insurer is a legal entity which, on the basis of the insurance contract and against payment of the premium, undertakes to pay the insured the compensation or sum determined by the contract, arising from the occurrence of the insured event, within 14 days of the date on which it received notification from the insured that the insured event had occurred[14]. The insurer shall make payment of the compensation on the basis of the assessed damage and after examining the circumstances of the occurrence of the insured event, the cause and extent of the damage, and after verifying that the conditions for exercising rights under the insurance have been met. Among the most important rights of the insurer is the right to collect the insurance premium, as well as the right to refuse or reduce the amount of compensation if the insured has failed to fulfill their contractual obligations or has provided inaccurate information for the assessment of risk. In addition, upon payment of compensation to the insured, the insurer acquires the right to claim reimbursement of the amount paid from the party responsible.

An insured event represents a future and uncertain occurrence, independent of the will of the contracting parties, the occurrence of which gives rise to the insurer's obligation to pay compensation to the insured. Unlike the insured event, which represents a concrete occurrence (the materialization of a risk), risk represents the possibility that a particular harmful event may occur. For example, goods in transport are subject to the risk of being stolen (which occurs particularly in maritime transport), whereas a situation in which the goods are actually stolen during transport means that the insured event has occurred[15]. Risk management represents a systematic process of identifying, assessing, and controlling risk in order to reduce the likelihood of damage occurring and to mitigate its consequences. In the field of insurance, catastrophic risks are of particular importance, as their occurrence may cause major material losses and jeopardize the stability of the insurer[16]. Before concluding an insurance contract, the insurer carries out a risk assessment based on the information submitted by the policyholder. This assessment relates to the probability of the occurrence of the insured event and the potential extent of the damage, and serves as the basis for determining the terms of insurance and the amount of the premium[17].

The insurer is obliged to compensate for damage arising by chance or through the fault of the policyholder, the insured, or the beneficiary of the insurance, unless this obligation has

[12] Ibidem, article 912.
[13] Ibidem, article 918.
[14] Ibidem, article 919.
[15] Ibidem, article 930 i 931.
[16] Kilibarda, M. (2020). Međunarodni transport, špedicija i osiguranje [International Transport, Freight Forwarding and Insurance]. Bar: Fakultet za poslovni menadžment, 70-72.
[17] Ibidem.

been expressly excluded by the insurance contract with respect to particular damage. However, the insurer shall not be liable for damage to the insured property arising from its own inherent defects, unless otherwise agreed. Likewise, the insurer is not obliged to compensate for damage caused by acts of war or insurrection, nor for damage caused intentionally[18].

Legal Framework and Carrier Liability for Damage to Goods in International Transport

The carrier is obliged to deliver the goods received for carriage, at a specified place, to the consignor or to a specified person (the consignee). Accordingly, the consignor is obliged to provide the carrier with accurate information regarding the consignment, its nature, quantity, destination, and consignee, as well as to notify the carrier of any valuable, dangerous, or other goods requiring special conditions of carriage. The consignor is liable for damage arising from inaccurate, incomplete, or untimely information. In transport law, the rule has been adopted that, in the event of loss or damage to goods, only actual damage is compensated, and not lost profit. Furthermore, the principle of limitation of carrier liability has been established, together with the special drawing right as a new unit of account. In addition, damage caused by delay in the delivery of goods is limited to the amount of the transport costs. A rule has also been introduced whereby the carrier may not invoke the limitation of the extent and amount of damage where the damage was caused intentionally or through the carrier's gross negligence. In road transport, the general rule has likewise been adopted that the carrier is liable for the acts and omissions of its employees[19].

In international transport, the carrier is obliged to preserve the goods received for carriage and to deliver them to the consignee in the condition in which they were received. If loss, damage, or delay in the delivery of goods occurs during transport, the carrier may be held liable for the damage incurred, under the conditions established by the contract of carriage and international regulations. The basis of carrier liability arises from its obligation to handle the goods with care and to take all reasonable measures for their preservation during transport. In international road transport, carrier liability is governed by the CMR Convention.

The Convention on the Contract for the International Carriage of Goods by Road (CMR) was adopted in 1956 in Geneva, under the auspices of the United Nations Economic Commission for Europe, with the aim of unifying the rules governing the international carriage of goods by road and carrier liability. Under this Convention, the carrier is liable for total or partial loss of the goods, as well as for damage occurring between the time of taking over the goods and the time of delivery to the consignee. The carrier may be relieved of liability if it proves that the damage was caused by the fault of the injured party, by their instructions, by the inherent nature of the goods, or by circumstances which the carrier could not avoid or prevent. In addition, carrier liability is excluded in the case of special risks, such as inadequate packaging, handling of the goods by the consignor or consignee, the nature of the goods, inadequate marking, and the carriage of live animals. However, the carrier may

[18] Law on Obligations (Zakon o obligacionim odnosima). Official Gazette of the SFRY, Nos. 29/78, 39/85, 45/89 and 57/89; Official Gazette of the Republic of Srpska, Nos. 17/93, 3/96, 37/01 and 39/03, article 929.

[19] Vilus, J., Carić, S., Šogorov, S., Đurđev, D., & Divljak, D. (2012). Međunarodno privredno pravo [International Commercial Law]. Novi Sad: Pravni fakultet u Novom Sadu, 345.

not be relieved of liability by invoking the defective condition of the vehicle or the conduct of the person from whom the vehicle was hired[20].

The Hague Rules (International Convention for the Unification of Certain Rules of Law relating to Bills of Lading, 1924) were adopted on 25 August 1924 in Brussels, as the International Convention for the Unification of Certain Rules of Law relating to Bills of Lading, with the drafting having been initiated by the International Maritime Committee. The Convention defines the carrier as the ship-owner or the person commissioning the carriage of goods, who concludes the contract of carriage with the shipper. Despite the existing uncertainties within the Hague Rules as to whether the carrier is exclusively the ship-owner, the prevailing view has been that the decisive factor for the status of carrier is the existence of a contractual relationship with the shipper, rather than ownership of the vessel. For this reason, a charterer who concludes a contract of carriage in its own name and issues a bill of lading may likewise be regarded as a carrier. Although the Hague Rules were modernized by the Hague-Visby Rules and the SDR Protocol[21], question of the carrier's identity has not been fully resolved, which was one of the reasons for the adoption of the Hamburg Rules, which regulated the position of the contractual and the actual carrier more precisely[22].

The Hamburg Rules (United Nations Convention on the Carriage of Goods by Sea, 1978) expanded the concept of carrier in relation to the Hague Rules, so that the carrier is considered to be any person who concludes a contract of carriage of goods by sea, regardless of that person's relationship to the vessel. Unlike the contracting carrier, the actual carrier was also introduced, to whom the contracting carrier entrusts the performance of the whole or part of the carriage, and who is liable for the part of the carriage that it has performed. The contracting carrier is liable for the carriage as a whole. In cases where the actual carrier bears liability, the liability of the actual carrier and that of the contracting carrier are joint and several. This solution represents an advance in relation to the Hague Rules, as it corresponds better to modern forms of maritime transport and facilitates the identification of the liable party in the event that damage occurs[23].

The Rotterdam Rules (United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea) represent the most recent attempt at reform in international maritime transport law. They were adopted in 2008 and signed in Rotterdam in 2009, with the aim of modernizing and consolidating the solutions contained in the Hague, Hague-Visby, and Hamburg Rules. Their particular value lies in the fact that they regulate not only carriage by sea but also certain forms of multimodal transport[24] provided that at least part of the carriage is performed by sea. The Rotterdam Rules apply to international

---

[20] Convention on the Contract for the International Carriage of Goods by Road (CMR). Official Gazette of the Federal People's Republic of Yugoslavia (FPRY) – Supplement, No. 11/58, article 17.

[21] Special Drawing Rights (Специјална права вучења), назив за Протокол из 1979. године којим су измјењена Хашко-висбијска правила у погледу ограничења одговорности превозника.

[22] International Convention for the Unification of Certain Rules of Law Relating to Bills of Lading (Hague Rules). 1924. Available at: https://jusmundi.com/en/document/treaty/en-international-convention-for-the-unification-of-certain-rules-of-law-relating-to-bills-of-lading-monday-25th-august-1924, (viewed 21. 6. 2026.)

[23] United Nations Convention on the Carriage of Goods by Sea (Hamburg Rules). 1978. Available at: https://uncitral.un.org/sites/default/files/media-documents/uncitral/en/hamburg_rules_e.pdf (accessed 21 June 2026)

[24] Multimodal transport refers to "door-to-door" transport

contracts of carriage of goods that have a connection with a contracting state, while, as a rule, they do not apply to charter-party contracts. Their basic aim is to create a unified system of liability in the international carriage of goods by sea and to overcome legal inconsistencies arising from the parallel application of the Hague, Hague-Visby, and Hamburg Rules[25].

The Montreal Convention for the Unification of Certain Rules for International Carriage by Air was adopted in Montreal on 28 May 1999, under the auspices of the International Civil Aviation Organization. This Convention established a unified system of air carrier liability for passengers, baggage, and cargo in international air transport, thereby modernizing the previous system based on the Warsaw Convention[26].

The Convention concerning International Carriage by Rail (COTIF), adopted in Bern in 1980, represents the primary international source regulating the carriage of goods and passengers in international rail transport. With regard to the carriage of goods, the Convention prescribes objective liability of the carrier for loss, damage, or delay in the delivery of goods. In order for the question of carrier liability to arise, the existence of damage and a causal link between the damage and the carriage is required. Under the Convention, the carrier's fault needs not be proven; however, the carrier may be relieved of liability in cases prescribed by the Convention[27].

In addition to international regulations and the Law on Obligations, a significant role in the regulation of transport insurance is also played by the regional legal framework, among which the legal system of the European Union stands out in particular. Namely, through directives and regulations, the European Union regulates matters of solvency, risk management, and transparency of insurance companies. Unlike international conventions, which provide a universal framework, regional regulations contain more detailed rules adapted to the specific characteristics of a given market. In practice, international and regional norms are frequently applied simultaneously, which is why knowledge of both is of particular importance for the proper assessment of risk and the selection of an appropriate insurance model in the international transport of goods[28].

Thus, in relation to the international conventions governing carrier liability, European Union regulations such as Directive (EU) 2022/2555 (NIS2), Regulation (EU) 2020/1055, Regulation (EC) No 1071/2009, and Regulation (EC) No 1072/2009 regulate the conditions for carrying out road transport activities and access to the transport services market, thereby indirectly contributing to the improvement of safety and risk management in transport. With respect to cargo insurance, EU regulations are of indirect significance, as they contribute to reducing transport risk and improving the organization of carriage. In this way, the Directive leads to a reduction in the likelihood of an insured event occurring. Of particular importance

---

[25] United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (Rotterdam Rules). 2008. Available at: https://uncitral.un.org/sites/default/files/media-documents/uncitral/en/rotterdam-rules-e.pdf (accessed 21 June 2026).

[26] Convention for the Unification of Certain Rules for International Carriage by Air (Montreal Convention). Montreal, 1999. Available at: https://www.iata.org/contentassets/fb1137ff561a4819a2d38f3db7308758/mc99-full-text.pdf?utm_source=chatgpt.com (accessed 21 June 2026).

[27] Đurđev, D. (2008). Pravna priroda odgovornosti prevozioca [The Legal Nature of the Carrier's Liability]. Zbornik radova Pravnog fakulteta u Novom Sadu, 1–2, 267–289.

[28] Petrovska, I., Petrovska, M. (2025). Osiguranje robe u međunarodnom transportu [Cargo Insurance in International Transport]. Trendovi u poslovanju, 13(26), issue 2, 159.

for international transport is Directive (EU) 2022/2555 (NIS2), which establishes an obligation to manage cyber risks, given that international transport shows an increasing tendency toward dependence on digital platforms, vehicle tracking systems (GPS), electronic transport documents (e-CMR), and logistics information systems[29].

The Relationship between Cargo Insurance and Carrier Liability for Damage to Goods

Distinction between Cargo Insurance and Carrier Liability

Based on the analysis conducted regarding the insurer's liability for damage and carrier liability as regulated by international conventions, it is evident that cargo insurance and carrier liability share a common goal, namely, the protection of the material assets of participants in the international transport of goods. Nevertheless, these are two distinct legal institutes. Cargo insurance is based on the insurance contract, under which the insurer, in return for payment of the premium, assumes the obligation to compensate for damage arising from the occurrence of the insured event. In contrast, carrier liability arises from the contract of carriage and the carrier's obligation to preserve the goods received for carriage and to deliver them to the consignee in the condition in which they were received. In addition, a significant difference also exists with respect to the conditions for exercising the right to compensation, since, in the case of cargo insurance, the basis for payment is the occurrence of an insured event covered by the insurance contract, whereas the exercise of a claim against the carrier depends on the carrier's liability for the damage incurred and the circumstances of the specific case. Furthermore, carrier liability in international transport is not unlimited, since as has been shown, the CMR Convention provides for certain grounds for exemption from liability, as well as limitations on the amount of compensation. Accordingly, the owner of the goods cannot always obtain full compensation for the actual destruction of the goods. For this reason, as can be observed, cargo insurance represents a supplementary protective mechanism that enables more effective compensation and greater legal certainty for participants in international transport.

Situations in Which Carrier Liability Is Insufficient for Full Compensation of Damage

Although carrier liability represents an important protective mechanism for the owner of the goods, it does not ensure full compensation for the damage sustained. In international transport, carrier liability is often limited by international conventions that prescribe maximum amounts of compensation regardless of the actual value of the goods. Thus, the CMR Convention limits compensation for lost or damaged goods to a specified amount per kilogram of the gross weight of the goods, unless a special value of the consignment has been agreed or the damage was caused intentionally or through the carrier's gross negligence[30]. In relation to this provision set out in Article 23, paragraph 3, of the CMR Convention, paragraph 4 provides that the carrier shall, in addition to the amount calculated

[29] Directive (EU) 2022/2555 of the European Parliament and of the Council on measures for a high common level of cybersecurity across the Union, amending Regulation (EU) No 910/2014 and Directive (EU) 2018/1972, and repealing Directive (EU) 2016/1148 (NIS 2 Directive). Available at: https://eur-lex.europa.eu/eli/dir/2022/2555/oj?locale=en (accessed 18 July 2026).

[30] Convention on the Contract for the International Carriage of Goods by Road (CMR). Official Gazette of the Federal People's Republic of Yugoslavia (FPRY) – Supplement, No. 11/58, artilcle 23.

under paragraph 3, also reimburse the carriage charges, customs duties, and other costs incurred in connection with the carriage of the goods, in full in the case of total loss and in proportion in the case of partial loss. It follows from the foregoing that paragraph 4 does not abolish the limitations set out in paragraph 3, but merely extends them to certain additional costs[31]. In addition to the aforementioned limitations on the amount of compensation, the Convention also provides for situations in which the carrier may be relieved of liability altogether, namely cases in which the damage arose from circumstances that the carrier could not avoid or the consequences of which it could not prevent, due to inadequate packaging of the goods by the consignor, the inherent nature of the goods, or acts of the consignor or consignee[32].

Although Article 23, paragraph 3, of the CMR Convention defines the limitation of carrier liability at 8.33 SDR (Special Drawing Rights)[33] per kilogram of the gross weight of the goods with the aim of establishing a balance between the interests of the carrier and those of the owner of the goods, the question arises as to its adequacy under contemporary conditions of international trade. Indeed, a significant portion of the goods carried today, such as electronic devices, medical equipment, pharmaceutical products, and other high-value goods, has a considerably greater market value in relation to its mass. Accordingly, in the event of loss or damage, the compensation calculated under Article 23, paragraph 3, of the CMR Convention may be many times lower than the value of the consignment. It follows from the foregoing that the owner of the goods, although having obtained the right to compensation from the carrier, will not be compensated to a fair extent. For example, the international transport of goods frequently involves goods of high value but low weight, such as pharmaceutical products. In the event of their loss or damage, the compensation calculated according to the aforementioned limitation (8.33 SDR per kilogram) may be considerably lower than the actual value of the consignment. This circumstance represents one of the essential reasons why, in the practice of international transport, there is an increasing insistence on concluding cargo insurance contracts as a supplementary mechanism for the protection of the material assets of participants in the process of transporting goods. Cargo insurance thus acquires particular importance, as it enables more complete protection of the material assets of the owner of the goods in transport. It may be concluded that carrier liability and cargo insurance perform different functions, yet both institutes contribute to the effective protection of participants in the international transport of goods.

The Insurer's Right of Recourse against the Carrier following Payment of Compensation

When the insurer, pursuant to the cargo insurance contract, pays the insured compensation for damage arising during the international transport of goods, the insurer acquires the right to claim reimbursement of the amount paid from the person liable for the damage. This right to reimbursement is based on the institute of subrogation. The institute of subrogation enables the rights that the insured held against the liable person to pass to the insurer, up to the amount of the compensation paid. Under the Law on Obligations, if damage to the goods arose through the fault of the carrier, the insurer, after paying compensation to the insured, may claim reimbursement from the carrier within the limits of the carrier's liability as established by the contract of carriage and the applicable international convention

[31] Ibidem.
[32] Ibidem, article 17.
[33] Special Drawing Rights (SDRs) are an international unit of account established by the International Monetary Fund (IMF).

(depending on the mode of transport concerned). In this way, it is prevented that the burden of the damage should ultimately fall upon the insurer in situations where a person responsible for its occurrence exists[34].

The right of recourse plays a significant role in establishing a balance between cargo insurance and carrier liability, in that, on the one hand, it enables the insured to obtain prompt and effective compensation without the need to pursue a lengthy dispute against the carrier, while, on the other hand, it enables the insurer to recover from the liable carrier the amount it has paid under the insurance. In this way, the basic purpose of insurance is achieved, namely, the protection of the insured from the consequences of the damage incurred, while at the same time ensuring the liability of the person who caused the damage.

Complementarity of Cargo Insurance and Carrier Liability

Cargo insurance and carrier liability share a common goal, namely, the protection of the property interests of participants in international transport. Their complementarity is reflected in the fact that each of these institutes provides protection in a different manner and to a different extent. While carrier liability enables the injured party to obtain compensation from the person responsible for the loss, damage, or delay in the delivery of goods, cargo insurance provides protection against the agreed transport risks independently of the question of liability for the damage incurred. The particular importance of cargo insurance becomes evident in situations where carrier liability is limited or excluded by international regulations. In such cases, insurance enables the owner of the goods to obtain more effective compensation and to protect their property interests independently of the possibility of pursuing a claim against the carrier. In this way, cargo insurance supplements the system of carrier liability and contributes to greater legal certainty for participants in international transport.

Conclusion

The international transport of goods represents an important segment of modern international trade, yet as such it is exposed to numerous risks that may lead to the destruction, damage, or delay in the delivery of goods during carriage. For these reasons, ensuring effective legal protection for participants in the transport of goods is of great importance for secure international trade flows.

The analysis conducted in this paper has shown that cargo insurance and carrier liability represent two distinct legal institutes that share the same goal, namely, the protection of the material assets of participants in international transport. While cargo insurance is based on the insurance contract and enables compensation for damage upon the occurrence of the insured event, carrier liability arises from the contract of carriage and the carrier's obligation to preserve the goods received for carriage and to deliver them to the consignee in proper condition and within a specified period.

Particular attention in this paper has been devoted to the limitation of carrier liability as regulated by international conventions, and in particular by the CMR Convention. It has been pointed out that the limitation of compensation, determined according to the gross weight of the goods, does not always ensure adequate compensation in the event of

[34] Law on Obligations (Zakon o obligacionim odnosima). Official Gazette of the SFRY, Nos. 29/78, 39/85, 45/89 and 57/89; Official Gazette of the Republic of Srpska, Nos. 17/93, 3/96, 37/01 and 39/03, article 939.

destruction, damage, or delay in delivery, particularly in the case of goods of high value but low weight, such as pharmaceutical products. When goods of this type are destroyed or damaged during transport, the owner of the goods will not be compensated to an adequate extent, which further underscores the importance of cargo insurance in international transport.

The research conducted in this paper has confirmed the initial assumption that carrier liability does not ensure full legal protection for the owner of the goods, owing to the existence of limitations and grounds for exemption from liability. For these reasons, cargo insurance constitutes a necessary additional mechanism of legal protection that ensures more effective compensation for the owner of the goods.

The right of subrogation is likewise of particular importance, as it enables the insurer, after paying compensation to the insured, to claim reimbursement of the amount paid from the person responsible for causing the damage. In this way, a balance is established between the interests of the insured, the insurer, and the carrier, while at the same time preserving the principle of liability for damage caused.

On the basis of all the foregoing, it may be concluded that cargo insurance and carrier liability do not represent competing mechanisms, but rather complementary mechanisms of legal protection. Their joint application ensures a higher degree of legal certainty, more effective protection of the material assets of participants in the transport process, and more stable functioning of international trade in goods.

References

1. Jovanović, D. (2018). Osiguranje i upravljanje rizicima u saobraćaju [Insurance and Risk Management in Transport]. Beograd: Saobraćajni fakultet.
2. Kilibarda, M. (2020). Međunarodni transport, špedicija i osiguranje [International Transport, Freight Forwarding and Insurance]. Bar: Fakultet za poslovni menadžment.
3. Mrkšić, D., Petrović, Z. (2004). Pravo osiguranja [Insurance Law]. Beograd: Fakultet za poslovno pravo.
4. Radišić, J. (2008). Pravo osiguranja [Insurance Law]. Beograd: Pravni fakultet Univerziteta Union.
5. Vilus, J., Carić, S., Šogorov, S., Đurđev, D., & Divljak, D. (2012). Međunarodno privredno pravo [International Commercial Law]. Novi Sad: Pravni fakultet u Novom Sadu.
6. Šulejić, P. (1998). Saobraćajno pravo [Transport Law]. Novi Sad: Centar za privredni konsalting.
7. Đurđev, D. (2008). Pravna priroda odgovornosti prevozioca [The Legal Nature of the Carrier's Liability]. Zbornik radova Pravnog fakulteta u Novom Sadu, 1–2.
8. Panjee, P., Amornsawadwatana, S., Vongmanee, V. (2021). Risk Factors Affecting Cargo Damage in Road Transportation. Turkish Journal of Physiotherapy and Rehabilitation, 32(3).
9. Petrovska, I., Petrovska, M. (2025). Osiguranje robe u međunarodnom transportu [Cargo Insurance in International Transport]. Trendovi u poslovanju, 13(26), issue 2.

10. Convention on the Contract for the International Carriage of Goods by Road (CMR). Official Gazette of the Federal People's Republic of Yugoslavia (FPRY) – Supplement, No. 11/58.
11. United Nations Convention on the Carriage of Goods by Sea (Hamburg Rules). 1978.
12. United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (Rotterdam Rules). 2008.
13. International Convention for the Unification of Certain Rules of Law Relating to Bills of Lading (Hague Rules). 1924.
14. Convention for the Unification of Certain Rules for International Carriage by Air (Montreal Convention). Montreal, 1999.
15. Law on Obligations (Zakon o obligacionim odnosima). Official Gazette of the SFRY, Nos. 29/78, 39/85, 45/89 and 57/89; Official Gazette of the Republic of Srpska, Nos. 17/93, 3/96, 37/01 and 39/03.
16. Directive (EU) 2022/2555 of the European Parliament and of the Council on measures for a high common level of cybersecurity across the Union, amending Regulation (EU) No 910/2014 and Directive (EU) 2018/1972, and repealing Directive (EU) 2016/1148 (NIS 2 Directive).

Pregledni naučni članak

OSIGURANJE ROBE I ODGOVORNOST PREVOZNIKA KAO MEHANIZMI PRAVNE ZAŠTITE U MEĐUNARODNOM TRANSPORTU

Boro Krstić[1], Miroslav Miškić[2], Milica Kastratović[3]

Apstrakt

Međunarodni transport podrazumjeva izloženost robe brojnim rizicima koji mogu dovesti do njenog gubitka, oštećenja i zadocnjenja u isporuci, pa se opravdano postavlja pitanje pravne zaštite vlasnika robe. Iako međunarodni i nacionalni propisi propisuju odgovornost prevoznika za štetu nastalu tokom transporta, ona je u određenim slučajevima ograničena ili isključena, zbog čega osiguranje robe ima značajnu ulogu u obezbjeđenju potpune pravne zaštite učesnika u transportu robe. Autori posebnu pažnju daju osiguranju robe, odgovornosti prevoznika i međunarodnim konvencijama koji uređuju ovu oblast. Ukazano je na razlike između zaštite koja se ostvaruje putem ugovora o osiguranju i odgovornosti prevoznika zasnovane na međunarodnim konvencijama. Cilj ovog rada je analiza njihovog međusobnog odnosa i značaja za zaštitu učesnika u transportu i ukazivanje na potrebu osiguranja robe kao dopune principu odgovornosti prevoznika. U radu su primijenjeni normativni i dogmatsko-pravni metod, kao i metoda analize relevantnih međunarodnih konvencija, zakonskih propisa i stručne literature. Analiza pokazuje da odgovornost prevoznika obezbjeđuje odrđeni stepen pravne zaštite oštećene strane, međutim, osiguranje robe pruža potpunije obeštećenje i smanjenje rizika od finansijskih gubitaka. Zaključuje se da ugovorno osiguranje robe predstavlja važan isntitut pravne sigurnosti i zaštite učesnika u međunarodnim robnom prometu.

Ključene riječi: *osiguranje robe, odgovornost prevoznika, međunarodni transport, naknada štete, međunarodne konvencije.*

[1] Boro Krstić, redovni profesor, Univerzitet Bijeljina, Pavlovića put 24, 76300 Bijeljina, Republika Srpska, BiH, E-mail: direktor@ubn.rs.ba

[2] Miroslav Miškić, vanredni profesor, Univerzitet u Novom Sadu, Fakultet tehničkih nauka, Trg Dositeja Obradovića 6, 21102 Novi Sad, Srbija, E-mail: miroslav.miskic@outlook.com

[3] Milica Kastratović, asistent, Univerzitet „Union-Nikola Tesla“, Fakultet za poslovne studije i pravo, Jurija Gagarina 149a, Staro sajmište 29, 1107'0 Beograd, Srbija, E-mail: milica.kastratovic@fpsp.edu.rs