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CIVIL LAW NATURE OF THE CONTRACT FOR MOTOR TRANSPORT LOGISTICS SERVICES AND ITS DIFFERENCE FROM OTHER TRANSPORT CONTRACTS

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Annotation

This thesis systematically highlights the civil law nature of the motor transport logistics services contract, its differences from contracts for freight transportation, transport forwarding, paid services, and warehousing (storage). In the practice of Uzbekistan, the so-called "logistics service" often combines such functions as transportation, forwarding, storage, packaging, marking, information exchange, and tracking within the framework of one contract; therefore, it should be legally substantiated as a "complex/mixed contract." This approach is based on the concept of freedom of contract and a mixed contract of the Civil Code of Uzbekistan and is reinforced by a comparative analysis with the criteria *typengemischter Vertrag* and "Schwerpunkt" (priority goal) in German law, the dominant purpose test in the USA. Also, a "single module-contract model" is proposed for the evidentiary significance of CMR and e-CMR documentation in international road transport, the distribution of responsibility by module, and the clear definition of regression (subrogation) mechanisms in the contract.

Keywords: logistics contract; mixed contract; motor transport; transport forwarding; carrier responsibility; warehouse responsibility; CMR/e-CMR; risk sharing; regression; evidence (POD, tracking).



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In the current economic environment, the transport logistics chain is not limited to "moving cargo from point A to point B": such stages as order acceptance, transportation planning, warehouse acceptance, repackaging/marketing, consolidation, last-mile delivery, reverse logistics, and electronic tracking are becoming increasingly complex. This "complex" feature causes the most disputes in contract law: who is a carrier, who is a freight forwarder, who is a warehouse keeper, and who is an integrator as a "3PL operator"? Each role entails different liability regimes, different statute of limitations, and different standards of evidence. In Uzbekistan's transport policy, the direction of digitalisation of the logistics market ("e-logistics") is also specifically defined, which makes documentation and proof issues even more relevant.

We combine three directions in the study: (1) the issue of "location" (classification) of logistics relations in the Civil Code of Uzbekistan and regulatory sources on transport; (2) providing a legal analysis of the advantages/disadvantages of the US and German models and proposing the concept of a "modular agreement" applicable to Uzbekistan. As a methodological basis, we use the approaches of normative-legal analysis and comparative law.

Legal nature of a logistics contract and the theory of a mixed contract

In the law of Uzbekistan, it is difficult to say that the logistics service contract is codified as a "specifically named (typical) contract"; in practice, it is often called "logistics services" in the contract and includes several classical contractual elements. In this case, our point of reference is the freedom of contract in the Civil Code and the construction of a mixed contract: the parties may conclude a mixed contract containing elements of different contracts; if the agreement or essence does not differ, the rules corresponding to the elements of the mixed contract



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apply to such a contract. It is this norm that serves as the most direct source of legal justification for a logistics contract as a "complex (mixed) contract."

This approach is also practically supported by national contract law literature: for example, some scholars emphasise that legal certainty in contractual obligations (preliminary determination of the subject of obligation, risk, and liability) reduces disputes; in particular, the incorrect determination of the type of contract in practice leads to errors in the "application of incorrect norms."

In German doctrine, the logistics contract has long been considered a "typengemischter Vertrag" (contract with mixed elements of different types). Thomas Wieske writes that in practice, logistics contracts arise from transport, forwarding, and warehouse activities, often being "closely integrated" with additional services (packaging, assembly/disassembly, customs, information flow management), and therefore, classifying them into a single classical type does not always work; he emphasizes that a logistics contract is usually mixed, and legal qualification depends on "which service is prioritized" ("Schwerpunkt") (Wieske, 2003).

Methodologically, this idea is consistent with the idea of "legal types are found in practice" in German legal theory: some scholars point out that most legal types are not "invented" in theory, but "found" (derived from practice) from the needs of economic circulation. This point explains why logistics practice in Uzbekistan is developing faster than legislation: the regulatory system may not have time to give the name "logistics contract" separately, but there is a possibility of legal adaptation through the mixed contract mechanism.

In Germany, even major consulting practice sources (simplifying the doctrine) say that the logistics contract often does not fit "fully" into one type of BGB or HGB, so the parties can agree in advance which parts of the contract will be covered by which provisions. In our opinion, this idea is also very "applicable"



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for the practice of Uzbekistan: within the contract, in a module/module, the transport part is linked to the rules of transportation; the warehouse part - to the rules of storage; packaging/marketing - depends on the result of the work, and the rules of the "result" model (werk).

Differentiation from transport contracts

If we consider the logistics services contract not as a separate "named" contract, but as a "complex service package," then the criteria for distinguishing it from classical contracts are clearer: (1) core obligations; (2) liability regime (strict/fault, burden of proof); (3) procedure and time limit of the claim; (4) documentation standard.

Firstly, the contract of carriage of goods is clearly defined in the Civil Code, the main obligation of the carrier: to deliver the cargo delivered by the consignor to the destination and hand it over to the consignee, and the consignor pays for it. This is a classical transport model focused on the result of "physical transfer."

In a logistics contract, however, transportation is usually not a "single service": it comes together with warehouse, consolidation, marking, order management, and return logistics. Therefore, a logistics contract is often a combination of "cargo transportation + storage + additional processing"; in such cases, the automatic application of the "only transportation" rule may not yield a fair result (Wieske, 2003).

Secondly, the freight forwarding contract is defined in the Civil Code as the freight forwarder's obligation to "organize the carriage of goods" at the expense of the client and for a fee or to perform the freight forwarding services specified in the contract; it may also include additional work on the shipment/receipt of goods, storage, loading and unloading, customs clearance, etc. Thus, although forwarding is the "classical type" closest to a logistics contract, the central point



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in it is often the "organization of transportation," and the logistics contract often assumes the "operational performance + KPI (term, temperature, completeness) result."

Thirdly, the contract for the provision of paid services is given in the Civil Code as a general model, where the service is provided by the contractor, and the customer pays for it; an important aspect is that such a contract provides for certain limitations on compensation for damages (for example, in some cases, liability within double the amount of payment). Qualifying a logistics contract as "only service," especially in the case of loss/damage to cargo, can undermine the victim's interests or, conversely, impose unfair risks on the operator. Therefore, in the logistics contract, it is necessary to distinguish which module is included in the "paid service" mode and which module is included in the "transportation/storage" mode.

Fourthly, the storage (warehouse) agreement is defined in the Civil Code as the custodian's obligation to safeguard and ensure the safety of the item and its return; there is also a separate norm for a commodity warehouse. In the logistics chain, the "warehouse" stage often carries the most risks, such as "shortages, completion errors, temperature regime violations." Therefore, within the logistics contract, the linking of the warehouse module to a separate legal regime (storage rules, warehouse receipts, inventory, temperature logs) is practically crucial.

Normative analysis based on the legislation of Uzbekistan

In our opinion, the legal system of Uzbekistan provides sufficient tools for the logistics contract to function as a "complex contract," but in practice, its correct "assembly" is required.

Freedom of Contract and Mixed Contract. Article 354 of the Civil Code declares freedom of contract, including allowing the conclusion of contracts not provided



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for by law and mixed contracts, and also determines the application of rules in accordance with a mixed contract. This norm serves to determine the normative regime for its internal modules, even without declaring the logistics contract an "independent type."

Transport expedition and forwarding activities. In the Civil Code, the freight forwarding agreement is regulated separately (the freight forwarder organizes transportation at the client's expense and can provide additional services), the requirement for written form and the connection of responsibility with general rules are indicated. In addition, in the procedure approved by the Resolution of the Cabinet of Ministers No. 348, forwarding services are defined as a "complex of intermediary and auxiliary-technological services," and freight forwarding services are defined as the organization of the process of sending/receiving cargo and carrying out work related to transportation; the freight forwarder-client relationship is determined by the freight forwarding agreement, and it is noted that the list of services (including mixed transportation) must be clearly indicated in the agreement. This document is the closest normative support for the "transportation organization" part of the logistics contract.

Cargo transportation and carrier responsibility. The Civil Code clearly defines the cargo transportation contract and the carrier's liability; for example, it provides for the carrier's liability for the loss, shortage, or damage of cargo, as well as joint and several liability for transportation by different vehicles in the same direction. There are also "procedural" elements, such as the statute of limitations and the one-year statute of limitations. If the question "who is the carrier?" is incorrectly written within the framework of the logistics contract, the application of these norms will be complicated.

Transport Law and Restrictions on Liability. The Law on Transport specifies the conditions of transportation and the conditions of freight forwarding services, as



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well as the establishment of liability in regulatory legal acts and contracts. One of the most important points is that agreements with passengers and cargo owners on limiting or terminating the carrier's liability to the extent established by law are invalid; the carrier ensures the safety of the cargo from the moment of acceptance until delivery; if it cannot prove its innocence, it is liable for loss/shortage/damage; the criteria for compensation for damage are also given in the norm. This norm dramatically increases the need for a clear distinction between who performs the "carrier role" in the logistics contract, because if the status of a carrier arises, it is impossible to reduce responsibility to "zero" with the contract.

Rules and Documents for Cargo Transportation by Road. The "Rules for the Carriage of Goods by Road," approved by Cabinet of Ministers Resolution No. 213, regulate the rights/obligations and responsibilities of participants in the cargo transportation process; in practice, these rules are important for standardizing cargo documents, loading-unloading, and acceptance-transfer procedures. In the logistics contract, the "POD" (proof of delivery) and the chain of goods and transport documents should be written separately, so that it becomes easier to link the responsibility module with the proof.

Digitalization and e-CMR. Uzbekistan has acceded to the e-CMR Protocol in the documentation of international transportation: by presidential decree, it was announced that it would accede to the Additional Protocol to the e-CMR, signed on February 20, 2008. This, in our opinion, provides a normative "leg" to enshrine electronic evidence (e-CMR, electronic signature, GPS/temperature logs) in logistics contracts as a contractual obligation.

Transport law and international transportation in national jurisprudence. Some scholars, analyzing the legal basis of international passenger and freight transportation, show the harmony of international treaties (conventions) and



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national laws in transport contracts. This approach confirms the need for preliminary management of conflict issues when there is a combination of "domestic transportation + international transportation (CMR) + warehouse" in the logistics contract.

Comparative analysis: US and German approaches

In the USA, the basic norm on the responsibility for the carriage of goods by road (interstate) is known as the Carmack Amendment 49 U.S.C. § 14706. This norm establishes the responsibility of the receiving and delivering carrier for "actual loss or injury" (real loss/damage) and also provides for a mechanism of recourse (apportionment). There is also a minimum standard for the statute of limitations: the carrier cannot establish a statute of limitations for filing a lawsuit within a period of not less than 9 months, or a statute of limitations for filing a lawsuit in court within a period of not less than 2 years.

The advantage of the US approach is that it is easier to predict the carrier's liability through a single federal liability regime; the carrier-to-carrier regression system is also explicitly written in the norm. The disadvantage is that when the roles of "carrier - broker - 3PL" are mixed in the logistics market, Carmack's coverage and preemption issues become significantly more complex: for example, in the C&D Trading case involving Total Quality Logistics, LLC (2020-Ohio-6905), the focus was on qualifying the contractual/broker role in a dispute over damage in the cold chain (rejection of perishable goods due to temperature disturbance), which federal norm or state norm applies. This gives us one conclusion: if the logistics contract does not specify "who is the carrier, who is the broker, who is the warehouse keeper" on the first page of the contract, then the choice of the norm itself becomes the arena of conflict.

In US court practice, the "predominant purpose" test is important in the



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qualification of a mixed contract: Bonebrake v. Cox (8th Cir. 1974) stated that the UCC is applicable/not applicable not because the contract is mixed, but because of its priority purpose (goods vs services). According to the logistics contract, if the priority goal is "transportation" - the transportation mode prevails; if the priority goal is "warehouse storage and processing" - the warehouse/bailee mode prevails.

For the warehouse component, the UCC § 7-204 also provides important criteria: the warehouse is liable for losses/damage if it does not comply with the "reasonably careful" standard; liability can be limited by contract, but the limit for "conversion" does not work; the deadline/procedure for filing a claim can also be optimally defined in the contract. This experience strengthens the idea of making "temperature logs, inventory, incoming-outgoing acts" mandatory as a documentary package in the warehouse module of the logistics contract in Uzbekistan.

German transport law provides a "divided but codified" approach: HGB clearly defines the types of § 407 freight (Frachtvertrag), § 453 expedition (Speditionsvertrag), § 467 warehouse (Lagervertrag); BGB provides service (Dienstvertrag) and result-oriented work (Werkvertrag) constructs. This structure creates a convenient platform for working with the logistics contract module question, "Which type is superior?."

Advantages of the German approach: (1) accuracy of "default" modes by type; (2) the culture of analysing a mixed contract in the context of modules in judicial practice. This is clearly demonstrated by the Bundesgerichtshof's decision I ZR 207/04 (13.09.2007): the legal regime determines "what role" packaging obligation plays in relation to transport (whether it is a side obligation or an independent primary obligation); the decision also discusses, based on Ingo Koller's "Transportrecht," that packaging can be assessed in certain cases within



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the framework of expeditionary legal provisions. In our opinion, this is very practical in cases of "packaging/marking error" disputes in Uzbekistan's logistics contracts: if packaging is the "main KPI" - a separate module and separate responsibility; otherwise, it becomes an additional obligation of the transportation module.

Disadvantage: it is precisely due to the large number of modules that contract design becomes more complex; legal costs for small operators increase. Ralph Dobischat also notes that in international contract logistics practice, typengemischter contracts are complex, and if they are not properly qualified, the liability system leads to situations where "the origin is unknown" (Dobischat, 2010).

Proposals: modular contract model, normative roadmap, standard clauses

The "single module-contract model" we propose retains the logistics contract in the same form, but separates legal regimes by module within it. The idea of the model is as follows: (1) **rol-module map** (in which module is the operator a carrier, in which a freight forwarder, in which a warehouse worker?); (2) liability-evidence link (list of evidence for each module); (3) internal recourse mechanism (subcontractor chain recourse and indemnity).

This model corresponds to the construction of a mixed contract in Article 354 of the Civil Code of Uzbekistan: within a mixed contract, the relevant provisions apply to each element, unless otherwise agreed. At the same time, considering that Article 39 of the Law on Transport does not allow limiting the carrier's liability by contract, restrictions on the "transportation module" are written in accordance with the law (for example, only permitted limits, limitation periods, declared value regime).



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Recommendations for implementation into legislation

First recommendation: In the Law on Transport or regulatory documents on freight forwarding, it may not be necessary to define a "logistics services contract" separately; however, it is advisable to introduce a norm recognizing the nature of a mixed contract and strengthening the "obligation to determine the role" (carrier/forwarder/warehouse) as a contract requisite. This, in our opinion, reduces the cost of qualification in disputes.

Second recommendation: taking into account the entry into force of the e-CMR protocol, develop minimum contract standards for e-CMR, electronic signature, electronic document management (POD, transport order) in international road transport and implement them as an experiment in pilot sectors (cold chain, pharmaceuticals, perishable products). This trend aligns with the digitalization policy in PQ-28.

Third recommendation: standardization of the "hierarchy of evidence" for freight transport documents, acceptance certificates, and accompanying logs as a methodological recommendation within the framework of the cargo transportation rules approved by Cabinet of Ministers Resolution No. 213. This is necessary for evidence to be clear in systems that do not rely on "case-law" (usually in our case).

Conclusion

The conclusion of our research is that although the contract of motor transport logistics services has not been codified separately in Uzbekistan as an "independent type," the construction of a mixed contract in Article 354 of the Civil Code fully allows us to substantiate its legal nature as a complex/mixed contract. Practical problems - especially role ambiguity, breaking of the chain of evidence, weakness of the recourse mechanism for subcontractors - often turn



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into a qualification dispute rather than a material one. Although the Carmack approach in the USA demonstrates the advantage of "single responsibility," it creates complexity in the role of a broker/3PL; The German approach is more precise with the module and the "Schwerpunkt" criterion, but places high demands on the contract design; The French model is distinguished by the fact that it holds the integrator accountable as a guarantor. Based on this experience, we have put forward proposals aimed at defining the "unified modular contract model" for Uzbekistan and its role in legislation/regulatory documents, as well as standardizing electronic evidence.

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