

Russia Practice

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Disputes arising from contracts on freight carriage and forwarding – New Digest of Current Case Law of the Supreme Court

On 20 December 2017 the Presidium of the Supreme Court of the Russian Federation approved a Digest of Current Case Law on Disputes Related to Contracts on Freight Carriage and Forwarding¹. It contains a number of positions of the Supreme Court that are relevant to the conduct of court proceedings on claims arising from transportation contracts.

Responsibility in the event of cargo loss, shortfall and damage

In their business activities, carriers are subject to a more stringent liability and are liable for non-performance of their obligations, regardless of fault. Only force-majeure circumstances release them from liability.

The Supreme Court has summarised the positions of commercial courts with regard to which events can be deemed force-majeure circumstances. Roadway accidents involving the carrier and the theft of cargo by third parties are not classified as force-majeure circumstances.

Liability of the forwarder for non-performance of a contract

The Supreme Court emphasises that when imposing liability for the loss of cargo to a forwarder, it is essential to consider its function under the agreement. The forwarder may act as:

- **the actual carrier**, if it performs the forwarding itself;
 - **the contractual carrier**, if it expresses the intention to assume liability for the forwarding of the cargo;
- in both cases the forwarder is fully liable for the loss, damage or shortfall of the cargo;
- **an agent of the consignor**, if it performs the function of an agent only, for example, by agreeing on forwarding schedules or performing settlements with the actual carrier via its own account. In this case liability cannot be imposed on the forwarder for the loss of cargo when being forwarded.

Exceptions to this rule apply only to situations where the forwarder has not shown sufficient diligence in choosing a carrier, or when it has guaranteed fulfilment of the forwarding obligation.

Other issues

In addition, the Supreme Court has summarised the case law of commercial courts on the following issues:

- insurance of the carrier or forwarder against liability;
- statute of limitations on claims arising from transportation contracts;
- specific aspects of agreements on the supply and removal of rail cars.



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¹ [Digest of Current Case Law on Disputes Related to Contracts on Freight Carriage and Forwarding.](#)