

Today's topics:

The German legal concept regarding multimodal transport

The new Minimum Wage Act and its impact on the transport sector



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Logistic industry in Germany

- 3rd largest sector of economy after automobile and trade but before electronics and manufacture of machinery
- 60.000 companies
- € 235 billion turnover in 2014



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The German legal concept regarding multimodal transport

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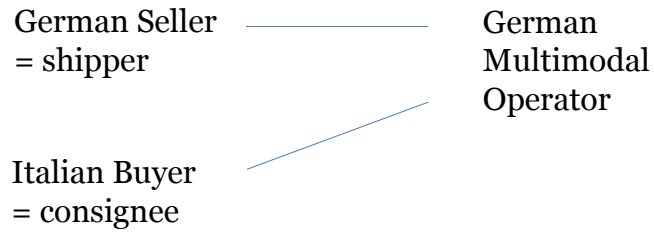
containerized shipment of machinery



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Multimodal transport



Scenario 1

The place where the damage occurred is unknown.

German land transport law will apply.

Multimodal transport

German land transport law is similar to CMR provisions

Carrier's liability in case of loss or damage is

- limited to 8.33 SDR / kg
- unlimited in case of recklessness

can be deviated from by way of individual agreement or
in standard terms and conditions within a corridor
between 2 and 40 SDR / kg

Scenario 2

The place where the damage occurred is known.

„Network system“

Multimodal transport

The liability of the carrier is governed by the legal provisions which would apply if a separate contract had been made in respect of the relevant transport leg.
„Hypothetical law of the individual transport leg“

To be established on the basis of the statutory law, disregarding contractual provisions of the multimodal transport agreement.

Multimodal transport

Items to be considered when establishing the relevant regime:

- international conventions that may take precedence
- private international law (art. 5 Rome I)
- choice of law clause in multimodal transport agreement

Multimodal transport

Notice of damage may be given at the time of delivery to the consignee even if the damage is known not to have occurred during the last transport leg.

German Minimum Wage Act (MiLoG)

- effective as of 1 January 2015
- all industries incl. forwarding / transport
- € 8,50 / hour
- mandatory provisions

German Minimum Wage Act (MiLoG)

- all employees who live in Germany
- all services performed in Germany

German Minimum Wage Act (MiLoG)

driver must be paid € 8,50 min/hour for working time spent in Germany

- cabotage in Germany
- transports to destination or from pick-up places in Germany
- transit through Germany (presently exempted)

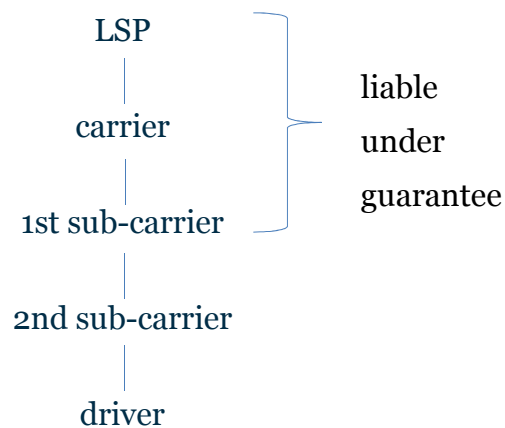
German Minimum Wage Act (MiLoG)

primary addressee of MiLoG → employer

in case of chain of sub-contractors:

each and every contractor as guarantor

German Minimum Wage Act (MiLoG)



German Minimum Wage Act (MiLoG)

MiLoG provides for

- strict civil liability towards driver
- fines up to € 500 k

if contractor is aware that its subcontractor employs or allows to be employed drivers who are not paid the minimum wage

German Minimum Wage Act (MiLoG)

How do you escape liability?

You don't!

Any contractual provisions which aim to exclude or limit the exercise of the right to claim the minimum wage are invalid.

Compliance and indemnification agreements might offer a certain level of protection.

German Minimum Wage Act (MiLoG)

Query: Can the shipper become (i) obligated under MiLoG to pay compensation to a driver or (ii) subject to fines?

Thank you for your attention!

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