

AERIAL TRANSPORT CONTRACT

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***Summary:** The air transport, was a motive for some issues regarding the security of each flight to be secure. It was necessary to elaborate some complete laws, for assuring the security of the people and the goods.*

Beginning with the discovery and launching in traffic of the first planes, aerial transport was a motiv for getting the attention of international community, because of some important advantages, like rapidity and confort.

At the same time, the air transport, was a motive for some issues regarding the security of each flight to be secure. It was necessary to elaborate some complete laws, for assuring the security of the people and the goods. In 1929, was adopted the Convention for the Unification of certain rules relating to International Carriage by Air, Warsaw¹. In 1924, to Chicago, in USA was adopted The International Civil Aviation Convention². Because of the evolution of air traffic, in 1955 there was a lot of changes and adding for 1929 Convention by The Haga Protocol, signed in 28 of September 1955 and by The Complementary Convention from Warsaw, signed in Guadalajara in 1961.

The Warsaw Convention 1929³ is available for all the air transport forms, people, luggages¹ and goods⁴.

The “international transport” expression, means by the Convention definition, each transport , in which, by the contract, de departures and the

¹ Convention for the Unification of certain rules relating to International Carriage by Air, Warsaw.

² Convention International Civil Aviation.

³ Warsaw Convention 1929.

⁴ Art.1 alin.1, Warsaw Convention 1929.

⁵ The Consignment Note

arrivals, no matter the interruptions, are stipulations between two contractual parts.

The transport that is performed by many airships successively is considered by The Convention, a unitary transport, if it was organized by contractual parts like “one operation form”. This transport may be the object of one contract or of a series of contracts, without losing its international character.

The rights, the obligations and the forwarder responsibility.

Each goods transporter has the right to ask the forwarder to present a document⁵, and each forwarder has the right to ask the goods transporter “to accept this document”.

The missing, the disorder or the losing of this document “does not affect the existence and the validity of the transport contract”, which is governed by the Convention stipulations (9 art.)

If – by the forwarder asking – the transporter made the document, if it’s necessary he should prove that he made it “in name of the forwarder”.

The forwarder is responsible of his declarations, which are written in the expedition document.

The forwarder is responsible for any of the damages provoked by his incomplete, incorrect or inexact declarations.

The Air Consignment Note is the first prove of concluding the contract, of receiving the goods and of the pointing the transport accomplishment conditions.

The forwarder has the right, on his responsibility, to dispose the unshipping of goods on the destination aerodrome or on one of the stop aerodrome on its way to destination. He may ask for the delivery of the goods to another person, not the recipient. He may dispose that the goods to be brought back on the shipping aerodrome.

The forwarder rights stop when the recipient rights begin. In case that the recipient doesn’t accept the expedition act of goods, or if he can not communicate with the forwarder, he has still the right to dispose of goods.

The rights, the obligations and the carter responsibility.

The rights, the obligations and the carter responsibility are:

- a. Doing the transport by the contract;
- b. Respecting the legal stipulations on guarantying the full security transportation.
- c. Assuring no lost of goods transportation from taking over till the destination.

The carter has the right to ask for the forwarder to issue and to confer the document named „air consignment note” or to ask for the forwarder to issue separate expedition documents when there is more than one package.

Also the carter is responsible for torts in case of death, injuring of a passenger, if the accident had place in airship or in the shipping or unshipping time.

The carter is responsible for destroying, losing or any damage of the luggages or goods.

The carter is responsible for all the losses which are provoked by delaying of aerial transport of passengers, luggages and goods.

The carter is not responsible in case that he proves that all the necessary measures were taken.

If the carter proves that the loss was provoked by the negligence or the guilt of some person, the court of law can – by The Convention – to exonerate the carter of responsibility.

In case that the transport is made by a few successive carters, each carter that has passengers, luggages and goods, and is a contractual part, the damage case is against the carter for the transport time when the accident or the delay were produced, exception: when the first carter carries the whole responsibility.

Specifications and developments brought by The Hagu Protocol on 28 of september 1955

In 1955, considering the evolutions in this area, were made some specifications and some improvements to the stipulations of The 1929 Convention.

The 1955 Protocol specifies that the transport certificate will contain:

- a. The departures and the destination places;
- b. If the departures and the destination places are situated on one contractual part territory, or if one or more arrival established places are on another contractual part territory, to indicate at least one of these places;
- c. A notification for the forwarder regarding the transport, which will be guided by the Warsaw Convention, 1929.

The responsibility limits stipulated in Warsaw Convention will not be applicable, if there is a proof that the loss was the carter omission result, the employees or the agents result, made with intention, to provoke loss or thoughtlessness, being conscious that the loss may take place, under the condition, in case of this omission act of employee or agent, to be proved that they were acting like carter employees.

Taking the luggage by the destination person, without complaining, is at the first sight, the proof that the goods were delivered in good conditions.