

Contracts and liability on the river

*Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland), Solicitor (Hong Kong),
Solicitor (England & Wales)*

The carriage of goods on the Rhine is governed by a combination of international conventions, national law and standard terms. The Budapest Convention on the Contract for the Carriage of Goods by Inland Waterway (CMNI), concluded in 2001 under the auspices of the CCNR, the Danube Commission and the UN Economic Commission for Europe, entered into force in 2005. It regulates the rights and duties of the carrier and the shipper, the documents of carriage and the liability of the carrier for loss of or damage to the goods, with limits per package or per kilogramme.¹ Besides the major Rhine states, Switzerland has also become a contracting state, so that the CMNI applies to most international carriage on the river to and from Basel. Status to be verified.

Where the CMNI does not apply, Swiss domestic law governs. The Swiss Code of Obligations regulates the contract of carriage in Articles 440 ff. and the forwarding contract in Article 439, together with the general rules of agency. In practice, the general conditions of the Swiss forwarding association, SPEDLOGSWISS, form the basis of most contracts concluded by Swiss forwarders and limit their liability in amounts considerably below the value of high-value goods such as medicines.² Shippers of valuable goods therefore insure them separately or negotiate higher liability limits.

The liability of shipowners for collisions and other incidents on the river can be limited under the Strasbourg Convention on the Limitation of Liability in Inland Navigation (CLNI), concluded in 1988 and revised in 2012. The revised convention increased the limits and extended them to the carriage of dangerous goods, a significant change for the tanker traffic to Basel.³ Collisions on the Rhine are also governed by the Geneva Convention of 1960 on the unification of certain rules concerning collisions in inland navigation, while claims may be brought before the Rhine navigation courts described earlier.

Liability in the port itself follows the general law and the specific port regulations. The Swiss Rhine Ports, as the landlord, are responsible for the maintenance of quays and navigation channels, while terminal operators are liable for the handling of goods under their contracts and under the general provisions on tort. The liability of a public institution for damage caused by its organs is governed by cantonal law on state liability. For pollution of the river, the strict liability rules of the Environmental Protection Act and the Water Protection Act apply, which since Schweizerhalle have been an essential element of the risk assessment of every operator handling dangerous substances.⁴

1 Notes

1. Budapest Convention of 22 June 2001 on the Contract for the Carriage of Goods by Inland Waterway (CMNI), in force since 1 April 2005; on the Swiss ratification and the Swiss text (SR 0.747.206.1 or similar), see the Classified Compilation of Federal Legislation. Swiss status and SR number to be verified. ↩
2. On the contract of carriage (Articles 440–457 CO) and the forwarding contract (Article 439 CO) and the General Conditions of SPEDLOGSWISS (Association of Swiss Forwarding and Logistics Companies), see the commentaries on the Code of Obligations and the current version of the General Conditions. To be verified. ↩
3. Strasbourg Convention on the Limitation of Liability in Inland Navigation (CLNI) of 4 November 1988, revised by the CLNI 2012 of 27 September 2012, in force since 1 July 2019; on the Swiss status, see the Classified Compilation. Swiss status to be verified. ↩
4. On the strict liability of operators of installations posing particular environmental risks (Article 59a Environmental Protection Act, SR 814.01) and the liability for water pollution under the Water Protection Act of 24 January 1991 (SR 814.20), and on cantonal state liability law, see the commentaries. To be verified. ↩

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