

ABSTRACT
of the dissertation for the degree of Doctor of Philosophy (PhD) specialty
«6D030100 - Jurisprudence»
ALIPULY YERIK
«Legal regulation of certain types of transportation in the Republic of
Kazakhstan: national and international aspects»

Relevance and novelty of the topic. Currently, the transport system is the most important system of the economy of Kazakhstan. We know that transport and all related issues are the main chain of relations between subjects of international law and their regions for the exchange of tangible goods (cargo). The transport system is the most important system of the economy, contributing to the territorial division of the division of labor and the realization of the integrity of the world economic space.

Transport relations, which form the basis of civil legal relations, combine several resources. In particular, territorial-international, interregional and international economic and transport links, integrating issues of commodity, passenger and cargo transit, contributing to the direct participation of society and its population, individuals and legal entities in the socio-economic development of the country, contributing to the development of transportation relations and contributing to the development of civil turnover.

Currently, global energy security, social instability, depletion of natural resources determine new prerequisites for the joint socio-economic development of all states, determine the need for the development of translocation activities, logistics and transit activities in government programs.

While the sovereignty and independence of the country provided for the development of transport infrastructure, the national project of our state "strong regions-the driver of the country's development" is aimed at creating a favorable living environment for our citizens by providing transport communications, increasing the transport and transit potential of the country.

The main goal in the implementation of transport activities is the development of transport relations between subjects of national and international law is that the location of Kazakhstan at the junction of Europe and Asia with the vast territory of Kazakhstan is evidence that the transport infrastructure of Kazakhstan has a great impact on the development of the country's economy. The quality of transportation services is primarily determined by ensuring the current level of the international political and economic situation, improving the standard of living of the population, changing the cost of the main types of export-import consumer goods and transportation of strategically important natural resources.

This work is devoted to the problem of legal regulation of certain types of goods in the framework of transportation. A lot of work has been done on the legal regulation of cargo transportation.

However, at present, the Head of state stressed the need for the development of transport activities and the adoption of new regulations and interstate agreements for the development of the country. The problem of transportation, transit, logistics of passengers, cargo or associated cargo through transportation requires scientific

research. This is due to the fact that within the framework of this topic, several scientific papers and monographic studies are often devoted to the general problem of transport. However, they are fragmentary. Therefore, special attention should be paid to this issue. Scientific and theoretical substantiation of the legal origin of the current legislation and regulatory legal acts regulating transportation processes is necessary.

The current legislation of the Republic of Kazakhstan requires the adoption of legal acts, state programs for carriers engaged in international and national transportation, depending on the mechanism of protection and features of common cargo. Transportation is a complex relationship that requires constant legal regulation in the field of passenger, cargo and related cargo transportation services, and is also closely related to national security. Even during the transportation of goods, various cargoes, dangerous goods can be transported, and they can also affect the health of the population due to non-fulfillment of the necessary requirements as a result of the transportation of certain goods, the wrong choice of transportation technology. Therefore, the topic of the dissertation research is undoubtedly relevant and has great scientific and practical significance.

The degree of elaboration of the research topic. The state of scientific development of the topic. The theoretical basis of the dissertation was the works of outstanding and well-known authors B. K. Azanov, M. M. Agarkov, S. S. Alekseev, T. E. Abova, M. K. Alexandrov-Dolnik, B. G. Astanovsky, V. V. Bezbakh, M. I. Braginsky, S. P. Bratus, V. V. Vitryansky, G. S. Gurevich, V. A. Egiazarov, V. N. Izvolensky, T. N. Illarionova, O. S. Ioffe, A. G. Kalpin, A. A. Kormilitsina, JI.A. Lunts, V. B., Krasavchikov O.A., Lunts L.A., N. I. Marysheva N. I., B. V. Pokrovsky A. P. Sergeeva, M. K. Suleymanov, V. A. Tarkhova, G. Fedoseeva, K. V. Kholopova, V. A. Khokhlova. Lyandres, M. G. Masevich, G. K. Matveev, D. A. Medvedev, V. P. Mozolin, I. B. Novitsky, Ya. I. Rapoport, G. P. Savichev, P. D. Samoilovich, O. N. Sadikov, A. P. Sergeev, V. T. Smirnov, E. A. Sukhanov, M. A. Tarasov, V. A. Tarkhova, Yu. K. Tolstoy, P.O. Khalfina, B. L. Haskelberg, B. B. Cherepakhin, G. F. Shershenevich, K. K. Yaichkov, etc.

The disclosure of the topic can include V. Anson, M. Alter, G.A. Bonner, N. Oum Tae, B. Mercadal, R. Rodiere, W. Waters, K.D. Also influenced by the scientific work of Wittenb and other foreign authors. Among the Kazakh scientists are Suleimenov M. K., Zabikh Sh. A., Tulegaliev G. I., Omarova A. B., Myrzakhmetov A. I., M. A. Sarsembayev and others.

The purpose of the study is to differentiate and systematize accumulated regulations and experimental materials related to the legal regulation of relations arising from the conditions of cargo transportation.

In connection with this **goal**, the following tasks are set:

- Differentiation of Kazakhstan legislation and analysis of scientific developments on the concept, features of cargo transportation conditions;
- knowledge of the legal nature of cargo transportation conditions;
- determination of discipline and other elements of the conditions of cargo transportation by transport:
- study of the procedure for concluding contracts for the carriage of goods and determining the legal significance of its form;

- consideration of issues of liability of the cargo carrier for non-performance or improper performance of the contract and the possibility of applying mixed liability; development and elaboration of proposals related to the improvement of current legislation and law enforcement practice in the field of cargo transportation.

The object of the study. Legal relations that have arisen as a result of legal liability in the implementation of cargo transportation by various modes of transport.

The subject of the study. Kazakh and international legislation and regulatory legal acts regulating national and international cargo transportation of the state. The subject of the dissertation research is international conventions and bilateral agreements in the field of freight transport, national legislation.

Methodology and methods of research. The methodological basis of the study was dialectical, logical-legal, socio-legal, system-structural methods. Much attention is paid to the use of special methods of legal research- comparative law and historical law. The solution of the project tasks using the comparative legal method was aimed at searching in foreign as well as international law and introducing into Kazakh legislation and applying optimal models of legal regulation of the organization and functioning of transportation. The sphere of legal regulation of the rights of participants in transportation relations requires such a methodological approach in its implementation, in which all regulatory legal acts adopted in this area must undergo mandatory examination for compliance with the best foreign practices, generally recognized norms to prevent the autonomous development of national legislation without taking into account generally recognized universal standards.

The methodological basis of scientific research is the category of laws and materialistic dialectics and the system of philosophical knowledge. The research was conducted using the general scientific dialectical method of cognition of social processes and systemic approaches, individual methods of structural and functional, concrete historical and comparative legal analysis, as well as statistical methods.

Provisions submitted for protection:

1. The stages of development of transportation relations can be divided into three main stages: the development of Kazakhstan during its stay in the USSR; the period of development of transportation relations between 1991 and 2000; the period of development 2000-to the present.

2. The grounds for the emergence of transport relations are a complex legal structure. These are the conditions of carriage and the submission of an additional application in connection with cargo transportation between the parties.

3. A certificate of cargo transportation obligations has been issued. Cargo transportation obligations are contractual civil obligations arising between the customer and the carrier of cargo transportation, the object of which are the actions of the participants of transportation to transfer the vehicle to the point of loading, presentation and loading of cargo, presentation of transport and cargo transportation documents, cargo delivery (transfer of the capacity of the vehicle).

4. Conditions of cargo transportation are the most important element of the system of contracts aimed at the implementation and organization of cargo transportation. Conditions of cargo transportation an element of the system of contracts aimed at the implementation and organization of cargo transportation is a civil law institution,

which is a necessary component, interconnected with civil law contracts in this direction.

5. In case of violation by the counterparty of the terms of the contract regarding the payment of carriage, the carrier may exercise its lien right in respect of the transported cargo as a way to ensure the fulfillment of the obligation.

6. The necessity of harmonization of national legislation in the field of freight transportation with international legislation is proved.

7. The expediency of approving the legal role, rules for regulating certain types of cargo transportation is shown.

8. The conclusion of contracts for the carriage of goods is not based on the signing of documents by the parties, on the basis of the shipper's application and the bill of lading, which defines the essential terms of the contract.

9. Classification of cases of liability for violation of obligations for the carriage of goods, enshrined in legislation and established in law enforcement practice. The classification is based on a set of the following criteria: depending on the party that violated the obligations – the responsibility of the carrier or the customer of cargo transportation; liability in case of non-fulfillment or improper fulfillment of obligations; the period of transportation-liability arising during loading, departure to the destination or unloading; liability arising from the failure to ensure the safety of the cargo, non-compliance with the deadlines for the fulfillment of obligations or other offense. The most typical cases of liability are grouped into four groups: failure to provide a vehicle and liability for non-use of this vehicle-failure to provide a vehicle (transfer of a vehicle that does not comply with the terms of the contract or is unsuitable for the carriage of the relevant cargo); failure to provide cargo (presentation of cargo that does not comply with the terms of the contract or is not ready for transportation); liability for violation deadlines for the fulfillment of obligations for transportation-delay in the delivery of the vehicle to the point of loading; delay in cargo delivery; a vehicle that does not comply with the contract at the place of parking, loading, en route, unloading; delay in entering the transportation fee; liability for non-compliance with cargo-loss, shortage, damage (damage) of cargo; incorrect filling of transport documents, failure to submit or incorrect registration of cargo transportation, failure to provide information necessary for customs clearance and other documents; liability for loss (improper use) of transport or cargo accompanying documents; responsibility related to deviation from the customer's instructions (about the place of unloading, about shipment).

Regulatory and information base of research work. Main sources of information: information and reference materials of the Agency of the Republic of Kazakhstan on Statistics, statistical office, reports, reports of relevant state bodies, state programs, international standards.

The normative basis of the study was the provisions of the Constitution of the Republic of Kazakhstan, the legislation of the Republic of Kazakhstan in the field under study, and other political and legal documents. At the same time, the Message of the President of the Republic of Kazakhstan, the provisions of state plans and programs.

Theoretical and practical significance of the work. The significance of this

study is characterized by the fact that it lays the foundation for an integrated approach to the fundamental problems of legal regulation of the transport system in Kazakhstan, taking into account international standards, as well as based on the analysis of the dynamics of national reforms of the transport industry.

The practical significance is shown in the recommendations aimed at improving the content and structure of legislation on the transportation of goods. The results of the study can serve as a basis for regulatory activities in the field of legal regulation of cargo transportation, as well as a useful tool for optimizing law enforcement activities. The results obtained by the author can be used in the educational process when developing the content of the training course "transport law" and teaching methods.

Approbation of the results of the study. The dissertation research was prepared and discussed at the Higher School of Law and Economics of Zhetysu University named after I. Zhansugurov. The results of the dissertation research are published in the journal of the Scopus database, journals recommended by the Committee for Quality Assurance in the Field of Science and Higher Education of the Ministry of Science and Higher Education of the Republic of Kazakhstan, and in collections of materials of international scientific conferences held in the Republic of Kazakhstan and foreign countries.

The structure and scope of the dissertation work. The dissertation work is presented on 140 pages, consists of an introduction, three main sections, a conclusion and a list of references.