

Liability according to the Commercial Code “Handelsgesetzbuch” §451g HGB

Area of application

The carrier (called firm in the following text) is liable under the removal contract and the Commercial Code Handelsgesetzbuch (HGB). For the transportation of removal goods with the destination outside of Germany, the same liability principles apply. This is also valid if various means of transportation that used.

Liability Principles

The removal firm is liable, for any damages arising from loss or damage to goods from the time of hand-over for delivery up to drop off or resulting from late deliveries (Responsibility of care).

Exemption From Liability

The removal firm is not liable, as long as the loss or damage of the goods or the late delivery is based on circumstances which the removal firm could not avoid in spite of exercising utmost care and the consequences of which the removal firm could not prevent (unavoidable occurrence).

Maximum Amount of Liability

The liability of the removal firm due to losses or damages is limited to an amount of EURO 620,00 per cubic meter of loading space required to fulfill the contract. If the delivery deadline is exceeded, removal firm liability is limited to the figure, equalling three times the value of the shipping costs. If the removal firm is responsible for damages in conjunction with the execution of the removal due to a breach of one of his contractual obligations, which have not arisen due to losses or damages to the removal goods or through late delivery, and the matter involves other damages than personal injury and damages to property, then liability in this case is limited to three times the value of the amount, which would be payable upon the loss of the goods.

Special Reasons For Exclusion From Liability

The removal firm is exempted from liability, as long as the loss or damage can be attributed to one of the following dangers:

1. Transportation of precious metals, jewellery, precious stones, money, stamps, coins, securities or documents
2. Insufficient packaging or labelling by the consignor
3. Handling, loading or unloading of removal items by the consignor
4. Transportation of goods in containers which were not packed by the removal firm
5. Loading or unloading of removal goods whose size or weight do not correspond with the spatial conditions at the loading or unloading site, as long as the removal firm previously notified the consignor of the danger of damages and the consignor insisted on the service being carried out.
6. Transportation of live animals or plants.
7. Natural or faulty condition (inherent vice) of the removal goods that easily result in damages caused in particular by breakage, functional faults, rust, internal damage or spillage.

If damages have occurred which could have arisen from one of the described in figures 1-7 according to the circumstances of the case, then the assumption is made that the damage resulted due to these dangers. The removal firm may apply the Special Reasons for Exclusion from Liability if they have undertaken all the measures they were instructed to carry out and have observed special instructions.

Compensation for lost value

If the removal firm have to compensate for lost value due to the loss of goods, then the value of the time and place of hand-over for transportation must be replaced. In case of damage of goods, the difference in value between the undamaged items and the damaged items must be replaced. In this case, this depends on the time and place of the hand-over of the moving items. As a rule, the value of removal items is based on their market price.

In addition, the costs for ascertaining the damage must also be replaced.

Non-contractual claims

Liability exemptions and liability restrictions also apply for claims outside of the contract by the consignor or consignee against the removal firm, due to losses or damages to the transported goods or due to the late delivery.

Cessation of liability and exemptions and restrictions

The liability exemptions and restrictions do not apply, if the damage can be attributed to the removal firm acting or failing to act which the removal firm has done wilfully or recklessly, while being conscious that there was a high level of probability that damages could be incurred.

Liability of staff

If claims for damages due to extra-contractual liability due to loss or damage of the removal goods or late delivery are made against one of the removal firm's staff, then that party can also plead to the exempted from the liability and restrictions. This does not apply however if he / she has acted wilfully or recklessly or has been aware that damages were likely to be incurred.

Performing Removal Firm

In the event of the removal that carried out in its entirety or in part by a Third Party (performing removal firm), then they will be responsible for the damages resulting from loss or damages to the goods or through late delivery occurring while they are performing the shipment in a similar fashion as the removal firm. The performing removal firm can enforce all pleas to which the freight forwarding company is entitled under the freight agreement.

If persons belonging to the performing removal firm are used, then the clauses concerning liability of persons apply for them.

Liability Agreement

The removal firm will draw the consignor's attention to the possibility of agreeing coverage over and above that required by law subject to appropriate payment for this

Transportation Insurance

The removal firm will draw the consignor's attention to the possibility of insuring the goods subject to a separate premium to be paid.

Notification of claims

The following must be observed to avoid the lapsing of any claims for damages: Inspect the goods upon delivery for recognisable external damages or losses. Please note this on 'the delivery note' or on a 'damage report', specifying same or show these to the removal firm no later than the day after the delivery is made. The removal firm must be informed of any unrecognisable damages or losses within 14 days after the delivery. General (unspecified) notifications of damages do not suffice under any circumstances. Claims due to the late delivery lapse (if the consignee does not notify the removal firm of the late delivery within 21 days) after the agreed delivery date. To eliminate any loss of entitlement to the claim, notification must always be made in writing after the delivery of the shipment and must occur within the specified time period. Notification of the claim for damages can also be done via telecommunication device. Signature is not required, if the issuer of the notification is known.

Dangerous Removal Goods

If there are dangerous items included in the removal good (e.g. gasoline or oil), then the consignee is obliged to inform the forwarder of the nature of the danger relating to the goods (e.g. danger of combustion, caustic liquids, explosive materials, etc.).

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