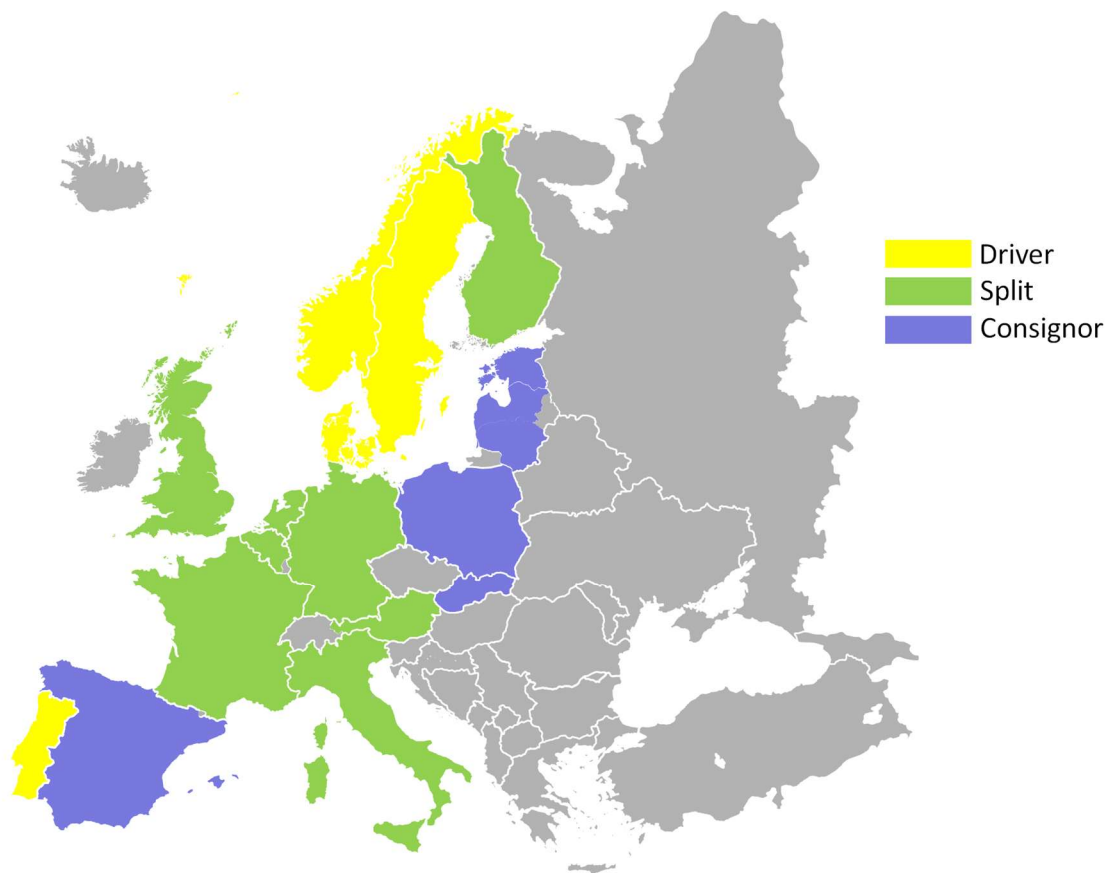


Summary of liability rules for cargo securing in different countries

Introduction

During the year 2022, MariTerm AB has tried to find out relevant rules regarding the responsibility for cargo securing through a search on the internet and by mailing questionnaire to various people and organizations in Europe who are familiar with cargo securing issues. The result shows that it differs from one extreme that the driver has the entire responsibility that prevails in Sweden, Norway, and Denmark to the other end that the sender is responsible for the correct securing of the cargo as prevails in the Baltic States, Poland, and Spain. In between, there are several countries where responsibility is divided between the various parties in the transport chain, where each party takes responsibility for its part, see map below. In the legislation of all countries, it is the driver of a vehicle who is ultimately responsible for the roadworthiness of the vehicle at the start of the journey.



Responsibility for cargo securing in different European countries in 2022

If all or part of the cargo consists of classified dangerous goods, the transport is regulated by the regulations on dangerous goods by road – ADR. 54 countries, mainly in Europe, are affiliated and have put ADR into force in domestic legislation for both domestic and international shipments. The ADR specifies the responsibilities of different parts of the transport chain, and it states that in addition to the driver, the sender and loader are also responsible for ensuring that the cargo securing is carried out correctly. This means that it is not only the driver of the vehicle who can be sanctioned during a traffic inspection due to deficiencies in the cargo securing, but also other parties involved such as senders, loaders, and fillers.

Please note - Some of the material is translated with AI tools and the interpretations are made to the best of our knowledge and it should be emphasized that MariTerm AB does not have sufficient legal knowledge to be able to vouch for the interpretations to be completely correct.

One of the more difficult problems of interpretation is the meaning of the English words "sender", "shipper" and "consignor". In some cases, these three expressions have the same role but in other cases they point to different roles in the transport chain. Therefore, in this text has the terms "sender" and "consignor" a more administrative role and usually stands for the party who prepares and delivers a shipment according to the transport contract. "Shipper" is used for the person who physically loads the goods which in some cases also is called "loader".

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Austria

Relevant laws regarding liability for inadequate cargo securing - Austria

In Austria, the driver is responsible for checking the roadworthiness of the vehicle before commencing the transport. However, if deficiencies in cargo securing are discovered during a flying inspection, other parties in the transport chain can also be punished, in addition to the driver.

- *Road Traffic Act: Österreichische Kraftfahrzeuggesetz*
<https://www.ris.bka.at/GeltendeFassung.wxe?Abfrage=Bundensnormen&Gesetzesnummer=10011384>

The 101 § Paragraph 1a clearly says that the driver is responsible, if there is no other person particularly made responsible. There are also responsibilities of the vehicle owner. But most of the responsibility remains with the driver since he must check the vehicle upon compliance to all rules before starting a journey.

Comment from *Martin Winkelbauer KFV* (Kuratorium für Verkehrssicherheit), Wien Austria:
In the court cases, where I am as an expert witness from time to time, discussion is more about general responsibilities which ought to be laid down in the transport contract (but are frequently not). In the cases I see, there are no rules on change of responsibility (we recommend using Incoterms) and nothing about who must do the loading and unloading. CMR has no rules on that, but there is a fall back in Austrian law (mainly high court decisions), which says that in case nothing is appointed, loading is on the sender and unloading on the recipient. Even if the driver assists, but the process is governed by sender or recipient, the driver acts as their assistant.

Penalties assessed at roadside inspections - Austria

1. The vehicle is prevented to carry on with the transport if illegal situation remains in case of severe deficiencies.
2. The vehicle can be escorted to a near terminal for shifting the load/re-secure depending on situation and the decision of the police.
3. Involved parties can be fined.
4. Driver's license can be revoked but not upon first offence. Inadequate cargo securing is one of 14 offences to earn a penalty point with. 3 points within 2 years make you lose your license for 3 months.
5. Daily fines but based on income is not normal, but you may contradict a penalty, and, in the lawsuit, you may call for reduction of the fine to fit your income.

Belgium

Relevant laws regarding liability for inadequate cargo securing - Belgium

The Belgian Road Traffic Act KB 01/12/1975 provides a very clear description of how responsibility for different tasks is divided between different parties in the transport chain.

- *Road Traffic Act: KB 01/12/1975*. Article 45bis specifically deals with cargo securing in heavy transport. Article 45bis§3 about the responsibility particularly the 6th paragraph.
<https://wegcode.be/wetteksten/secties/kb/wegcode/2146-art45bisvg>
- *Law of 15 July 2013 on the carriage of goods by road*, dated 15 July 2013.
<https://wegcode.be/wetteksten/secties/wetten/wet150713-gv/2096-wet-15-07-2013-gv>
- *Royal Decree of 22 May 2014 on carriage of good by road*.
<https://www.wegcode.be/nl/regelgeving/2014014302~bzzko3vgtl>

Extract from the Belgian Road Traffic Act KB 01/12/1975:

Article 45 §3

Unless otherwise agreed in advance and in writing, all the following conditions must be fulfilled:

1° the carrier meets the following conditions:

- a) he provides a vehicle suitable for the load for which he has been contracted;
- b) he presents at the place of loading a vehicle that is clean and without structural damage
- c) he shall ensure that the container is secured to the chassis;
- d) he secures the load in accordance with this article;

2° the packer complies with the following conditions:

- a) he describes the goods. This description contains at least the information mentioned in paragraph 3; (see below in blue colour)
- b) if there is a risk that the goods will be damaged by straps, he shall describe an alternative method of securing the goods. If this alternative method imposes specific requirements on the vehicle used, these shall be mentioned;

3° the shipper complies with the following conditions:

- a) he guarantees the spreading of the load over the loading floor;
- b) he complies with the maximum permissible mass and the axle loads of the vehicle
- c) he shall provide the information mentioned in paragraphs 3 and 4;
- d) he shall make possible a correct securing;

4° the consignor shall provide all necessary documents, which shall include at least:

- (a) a correct description of the goods;
- b) the mass of the total load
- c) all information necessary for the correct packaging;
- d) the notification to the packer and/or carrier of unusual transport parameters for individual packages.

Art 45 §3, 3rd paragraph:

The shipper shall give to the carrier on whom it relies, in advance and in writing, all information which the carrier considers necessary to stow the goods. Such information shall consist of at least:

1. the nature of the loading unit.
2. the mass of the load and each loading unit.
3. the position of the centre of gravity of each loading unit if it is not in the middle.
4. the external dimensions of each loading unit.
5. the stacking restrictions and direction to be applied during transport.
6. the friction factor of the goods, if it is not included in Annex B of EN 12195:2010 or in the Annex of the IMO/UNECE/ILO standards.
7. any additional information required for the correct fuse.

Penalties assessed at roadside inspections - Belgium

The fines are followed as prescribed in the directive 47/2014. Here, a classification is made according to its severity:

1. Minor deficiency 75 €
2. Major deficiency without immediate danger 350 €
3. Dangerous deficiency with immediate danger 1000 €

Accumulation is possible up to a maximum of 2000 €.

In cases 2 and 3, the violation must cease to exist on the spot.

Denmark

Relevant laws regarding liability for inadequate cargo securing - Denmark

In Denmark, the driver is responsible for ensuring that the goods are properly loaded in accordance with the Danish Road Traffic Act. The driver may be penalised for failing to secure the goods satisfactorily or for failing to check that the shipper has adequately secured the goods.

In Denmark, the haulage company is responsible for ensuring that the vehicles are in good condition.

- *Road Traffic Act: Færdselsloven LBK nr. 1324 af 21/11/2018 - § 82*
<https://www.retsinformation.dk/eli/lta/2018/1324>
- *Regulations for cargo securing inspection: Föreskrift BEK nr 1306 av den 07/09/2020*
Bekendtgørelse om udførelse af syn af erhvervskøretøjer ved vejsiden
<https://www.retsinformation.dk/eli/lta/2020/1306>
- *Regulations for driver license: BEK nr 906 av 27/08/20*
Bekendtgørelse om kørekort
<https://www.retsinformation.dk/eli/lta/2019/906>

Extract from the Danish *Road Traffic Act*:

Paragraph § 82

§ 82(1): Goods must not be placed in such a way that the driver does not have an unobstructed view and sufficient opportunity to manoeuvre the vehicle. Goods must not hide from signs, mandatory lights, and license plate.

§ 82(3): Goods must be placed in such a way that they cannot endanger persons or cause damage to property. Furthermore, it must not be able to tow or fall off on the roadway, cause disturbing dust formation or similar inconvenience, impede traffic, or cause unnecessary noise.

In Denmark, the driver is responsible for ensuring that the goods are properly load-protected according to the Danish Road Traffic Act. The driver may be punished for not having secured the goods adequately or for not having checked that the sender has secured the goods sufficiently.

In Denmark, the haulier is responsible for ensuring that vehicles are in proper condition.

The cargo securing is inspected according to the EU directive 2014/47/EU according to regulation BEK nr. 1306 of 07/09/2020 § 15 and Annex III:

Paragraph § 15

During an initial inspection under section 8 or during a detailed inspection under sections 10 to 13, a vehicle may be subjected to checks on the attachment of its load in accordance with Annex III to ensure that the load is secured in such a way that it does not impede the safe driving of the vehicle or poses a threat to life, health, property, or environment.

Penalties assessed at roadside inspections - Denmark

Minor deficiency: Stop until the deficiencies are adjust. Year 2019 were 17.7 % of the vehicles that were checked for load securing banned from use.

Major deficiency: If the right to drive is suspended pursuant to section 129b (4), the driver must, within a specified period, complete the course in load securing and overloading and the courses in driving and rest time rules and use of the tachograph in accordance with section 60a (11), (2) and (3).

At dangerous deficiencies: The violation can lead to a revoked driver's license and in these cases, the driver must complete a new driving licence test and participate in a cargo-securing training. In addition, the driver will be fined in accordance with Section 118 of the Road Traffic Act. The level of fines for inadequate or insufficient cargo securing in Denmark starts at DKK 1,000.

The driver may also be penalized for repeated offenses during the same trip. However, this is unusual as the deficiencies must be corrected at the first checkpoint before continuing the journey. The carrier, the owner of the vehicle, the haulier, the loader, and the shipper can be held liable if the defects are attributable to them. If dangerous goods are involved, these operators may also be liable under the ADR rules.

In the event of an accident, both the driver and the carrier can be sanctioned, but normally no other part of the transport chain is affected.

Estonia

Relevant laws regarding liability for inadequate cargo securing – Estonia

In Estonia, it is mainly the consignor who is responsible for ensuring that the goods have been properly secured unless otherwise agreed in the transport contract.

- *Road Traffic Act: Liiklusseadus*
<https://www.riigiteataja.ee/en/eli/ee/Riigikogu/act/515072022005/consolide>

Paragraph § 34

- (6) The cargo must be placed, fastened, and covered in accordance with its characteristics and packaging in such a manner that it does not jeopardise the people or the environment, does not cause pecuniary harm or obstruct traffic.
 - (13²) The equipment used for fastening the cargo must comply with the requirements applicable to fastening equipment, correspond to the purpose of use, and be intact, in a working order and sufficiently strong to hold the cargo in place and together.
 - (14) Dangerous goods are carried in accordance with the procedure established based on the Road Transport Act.
 - (15) Towed equipment must be hauled in accordance with the procedure specified in § 63 of this Act.
 - (16) More detailed conditions of and procedure for the placement, fastening and covering of cargo and methods of inspection used by the person exercising traffic supervision are established by a regulation of the minister in charge of the policy sector.
- *Road Transport Act: Autoveoseadus*
<https://www.riigiteataja.ee/en/eli/518012019007/consolide>

34 §. Requirements for consignors of goods and carriage of goods by road for the stowage, securing and covering of goods

- (1) The road transport undertaking shall provide the consignor of the goods with information on the lorry and its trailer which is necessary to comply with the requirements of Paragraph 34(6), (8), (11) and (12) of the Road Traffic Code, drawn up based on Paragraph 16 of that law.
- (2) The freight forwarder shall submit to the road transport undertaking with which it concludes a contract for the carriage of a container or swap body a certificate of the weight of the container or swap body transported.
- (3) The consignor of the goods shall load, secure, and cover the goods in a safe manner, taking into account requirements laid down on the basis of subsections 6, 8, 11, 12 and 131 of Section 34 of the Road Traffic Code and determined on the basis of subsection 16 thereof.
- (4) The consignor of goods ensures that the actual weight and dimensions of the goods loaded correspond to those indicated in the accompanying documents and that the actual weight and dimensions of the loaded motor vehicle, its trailer or vehicle combination comply with Section 80 of the Road Traffic Code and meet the requirements established on the basis thereof.
- (5) Subsection 3 of this Section does not apply to the consignor of goods if the road haulier loads, secures, or covers the goods under a contract of carriage.

- (6) If the road transport undertaking loads, secures or covers the goods, the consignor shall provide the road transport undertaking with the information necessary to comply with the requirements of Paragraph 34(6), (8), (11) and (12) of the Road Traffic Code, drawn up pursuant to Paragraph 16 of that law.
- (7) For the classification of infringements of the requirements laid down for the stowage, securing and covering of goods as dangerous, major and minor, Table 1 of Annex III to Directive 2014/47/EU of the European Parliament and of the Council on the technical roadside inspection of the roadworthiness of commercial vehicles circulating in the Union and repealing Directive 2000/30/EC (OJ L 127, 29.04.2014, pp. 134-218) is invoked.

Penalties for roadside checks - Estonia

The police have the right to stop the transport and check road transport documents, cargo securing and compliance with road transport requirements (Transport Act § 49 (6)). The police also have the right to detain the vehicle until defects have been rectified. The penalty for breach of requirements for the stowage, securing and covering of goods depends on who is liable under the contract of carriage. If there is nothing in the agreement, it is the sender's responsibility.

<i>Serious deficiencies in cargo securing:</i>	100 penalty points ¹
<i>Dangerous deficiencies in cargo securing:</i>	Up to 200 penalty units
<i>If the consignor or freight forwarder has provided false information:</i>	up to 200 points of fines;

If the offences are committed by a legal person, a fine of up to 13,000 € is imposed.

Autonomous vehicles - Estonia

Since 2017, Estonia has a legislation that sets requirements and sets traffic rules for self-propelled robots that to some extent can be compared to an autonomous vehicle, see Appendix B – Regulations for autonomous vehicles in Estonia.

¹ Price from 4 €

Finland

Relevant laws regarding liability for inadequate cargo securing - Finland

The driver is responsible for ensuring that the vehicle is driven in a safe manner, but according to the Road Traffic Act, the responsibility for ensuring that the goods are properly secured is divided between different parties in the transport chain.

- *Road Traffic Act: 10.8.2018/729*
<https://www.finlex.fi/sv/laki/ajantasa/2018/20180729>
- *Regulations for cargo securing: TRAFICOM/149639/03.04.03.00/2019*
<https://www.finlex.fi/sv/viranomaiset/normi/454001/46875>
- *The Act on the Transport of Dangerous Goods: 2.8.1994/719*
<https://www.finlex.fi/sv/laki/ajantasa/1994/19940719>
- *Criminal Law: 19.12.1889/39*
<https://www.finlex.fi/sv/laki/ajantasa/1889/18890039001>

The driver (road user) is responsible for the vehicle being driven safely according to the Road Traffic Act 2018/729 § 3, 8 and 107-113.

The responsibility for cargo securing of commercial transport is divided according to the Road Traffic Act 2018/729:

Paragraph § 114

- The driver must ensure before the start of the voyage journey that the vehicle is loaded in accordance with the applicable rules and regulations.
- The driver shall ensure during the transport that the cargo is kept positioned and secured in accordance with the requirements of Road Traffic Act.
- The person who loaded and secured the cargo in a vehicle or a person who, by reason of his position, has given instructions on the loading and securing of the cargo is responsible for ensuring that the cargo is correctly cargo secured.
- The shipper (consignor) is responsible for ensuring that the person loading the goods has accurate and sufficient information about the vehicle.
- The carrier is responsible for that a vehicle is equipped with the usual equipment for lashing the cargo and which is also otherwise suitable for the transport of the actual cargo for safety purposes.
- For an already loaded cargo transport unit (CTU), the person who has put the CTU into service or agreed to put into service before loading is responsible.
- The loader and the carrier shall ensure that employees involved in loading and transport are sufficiently familiar with the cargo securing regulations relating to their duties.

Penalties assessed at roadside inspections - Finland

- a. The Police has right to stop the transport and bring it to the halt (the road traffic act section 182).
- b. The Police has right to order the driver to re-secure the cargo or remove the unlawful cargo (the road traffic act section 182).
- c. Police can impose administrative sanctions (traffic violation; the road traffic act paragraph 6) or fines (the endangerment of traffic safety; the penal code paragraph 23 section 1) if the cargo is inadequately secured.
- d. The driver's licence can be revoked if the driver's act indicates severe recklessness (the driver's license act (386/2011) section 64).
- e. Inadequately secured cargo can also be investigated as an occupational safety issue and occupational safety felony.

France

Relevant laws regarding liability for inadequate cargo securing - France

The responsibility for securing goods on vehicles in France is based on what is stated in the transport contract. In the standard agreement, the driver is responsible for securing cargo on vehicles under 3 tonnes, while on vehicles over 3 tonnes, it is the sender's responsibility to secure the goods on the vehicle.

- *INRS Ed 6145 – Information of securement of loads on road vehicles*
<https://www.boe.es/eli/es/rdlg/2015/10/30/6/con>
- *Standard transportation contract*
https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000043864485
- *Information of road transports from French government*
<https://www.ecologie.gouv.fr/politiques/securite-et-transport-routier>
- *Stowage: Overview and applicable guidelines/standards*
<https://www.crtl.fr/en/stowage-overview-and-applicable-guidelines-standards/>

The loading and securing of goods on board vehicles are the responsibility of the carrier, the principal (shipper, for example), the consignee or their representatives who must be familiar with the principles of securing loads. Many legal obligations are there to define the missions of the various actors in the securing of loads; the driver of the vehicle is not necessarily responsible for its realization.

Standard contracts

Developed in consultation with professional organizations within the framework of the National Transport Council, the standard contract used by road freight transport professionals includes requirements relating to transport safety.

The standard contracts define the uses and customs of the transport sector, identifying on the one hand the exact data of the transport operation envisaged and, on the other hand, the obligations incumbent on the instructing party and the carrier.

Extract from standard contract – Article 7 – Loading, securing, unloading

[...] For shipments of less than three tonnes: the carrier carries out the loading, securing, and unloading operations under his responsibility [...].

[...] For shipments equal to or greater than three tonnes: the loading, stowing, and securing of the goods are carried out by the client or by his representative under his responsibility. The carrier provides the client with all useful information for a balanced distribution of the goods to ensure the stability of the vehicle and compliance with the maximum axle load.

The carrier checks that the loading, wedging or stowage does not compromise traffic safety. Otherwise, he must request that they be redone in satisfactory conditions or refuse to accept the goods [...].

In view of these different texts, it is essential that all the parties involved are aware of their respective undertakings. It cannot be said in all circumstances that the driver is the only person responsible for loading his vehicle.

Summary of liability rules for cargo securing in different countries

Germany

Relevant laws regarding liability for inadequate cargo securing - Germany

In Germany, the responsibility for proper cargo securing can fall on everyone involved in the transport – the driver, the haulier, the company that has loaded the vehicle. The police will assess which body is primarily responsible for inadequate cargo securing.

The driver for not securing the goods adequately. The transport may only commence if the vehicle combination is safe and in good condition.

The haulage company for not providing a suitable vehicle, as well as appropriate cargo securing equipment. Or for not having fulfilled the duty to instruct the driver. In some countries, the haulage company is obliged to supervise the cargo securing of the driver.

The consignor/consignee for not having prepared/packed the goods well enough for transport or for not having unloaded the vehicle correctly.

- *Road Traffic Act (StVG)*
<http://www.gesetze-im-internet.de/stvg/>
- *Road Traffic Regulations: Straßenverkehrs-Ordnung (StVO)*
<http://www.verkehrsportal.de/stvo/stvo.php>
- *Road Traffic Licensing Regulations: Straßenverkehrs-Zulassungs-Ordnung (StVZO)*
<https://germanlawarchive.iuscomp.org/?p=1290>
- *Criminal Law: Gesetz über Ordnungswidrigkeiten (OWiG)*
https://www.gesetze-im-internet.de/owig_1968/_130.html

StVO § 22 Load

- (1) The load, including cargo securing equipment and loading equipment, shall be stowed, and secured in such a way that it cannot slip, fall, roll back and forth, fall, or generate avoidable noise, even during emergency braking or sudden evasive movements. The recognized technical rules must be observed.

"The recognized technical rules must be followed"

CEN 12195-1:2011

- European Technical rules for cargo safety from the Comité Européen de Normalisation (CEN).
- The revised standard CEN 12195-1:2011, in contrast to VDI 2700, lowers the requirements to some extent.

Note: The CEN 12195-1 only applies to vehicles with a maximum permissible mass of more than 3,500 kg

VDI 2700

- National technical rules for cargo safety from the Verein deutscher Ingenieure (VDI).
- The CEN 12195-1:2003 was based on the VDI 2700, so that there are hardly any differences.
- Vehicles with a total mass lower than 3,500 kg are thus subject to the regulations of VDI 2700.

StVO § 23 Other obligations of vehicle drivers

- (1) The person driving a vehicle is responsible for ensuring that their vision and hearing are not impaired by the occupants, animals, cargo, equipment, or condition of the vehicle. The person driving a vehicle must also ensure that the vehicle, train, combination, load, and occupants are in accordance with the regulations and that the vehicle's road safety is not impaired by the load or occupants. Furthermore, it must be ensured that the prescribed signs are always legible. Mandatory lighting systems shall also be in place and operate on motor vehicles and their trailers during the day.

StVZO § 30

- (1) Vehicles must be so constructed and equipped that person, especially in the event of accidents, are protected from injury and that the extent and consequences of injuries remain as insignificant as possible.

StVZO § 31- Responsibility for the operation of the vehicles

- (1) Any person driving a vehicle or train of vehicles connected to each other shall be suitable for independent management.
- (2) The holder shall not order or permit commissioning if he knows or ought to know that the driver is not suitable for independent management or that the vehicle, train, team, load, or coating is not in compliance with the regulations or that the road safety of the vehicle suffers as a result of the load or coating.

Penalties assessed at roadside inspections - Germany

The level of fines for lack of or insufficient cargo securing in Germany will be assessed on a case-by-case basis. Typically, the actual fine for the lack of load securing will be a minimum of 35 €. However, the German control authorities may request that the carrier be charged a fee for having operated in unequal competition with its competitors. This is called "vermögensabschöpfung". The fee is set based on an estimated gain per kilometer for the entire route. The estimated tariff is then multiplied by the number of kilometers transported from the loading point to the unloading point.

Overall, a lack of load securing can result in a remarkably high cost.

The securing of loads must be put in order before transport can continue from the inspection post.

Autonomous vehicles - Germany

Germany has introduced traffic rules for autonomous vehicles, see Appendix A - Regulations for autonomous vehicles in Germany.

Italy

Relevant laws regarding liability for inadequate cargo securing - Italy

In Italy, it is primarily the driver who is responsible for securing the cargo. However, according to national legislation, in the event of violation of certain road traffic regulations, in addition to the driver, the customer, the shipper, the owner of the goods will also be obliged to participate. It will be these subjects who will have to demonstrate that the violation found is attributable exclusively to negligent behaviour by the driver, and not to a transport commissioned or loaded incorrectly.

- Webpage with information about cargo securing in Italy:
<https://sicurezzadelcarico.it/index.php/en/home-en/>
- Legislative Decree 21 November 2005, n. 286 - Provisions for the regulatory reorganization about regulated liberalization of the exercise of the haulier's activity
<https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2005-11-21;286!vig=>

In Legislative Decree 21 November 2005, n. 286 - Provisions for the regulatory reorganization about regulated liberalization of the exercise of the haulier's activity, particular importance assumes what is reported in article 7, "Liability of the carrier, of the client of the shipper and of the owner of the goods".

Article 7, Paragraph 3 reads:

In the presence of a contract for the transport of goods by road stipulated in written form, where the driver of the vehicle with which the transport was carried out has violated the rules on road traffic safety, referred to in paragraph 6, the carrier, the customer, as well as the loader and the owner of the goods being transported who have provided instructions to the driver regarding the return of the same, are obliged to cooperate with the same driver, pursuant to article 197 of the legislative decree of 30 April 1992, n. 285, and subsequent amendments, if the methods of execution of the service, provided for in the contractual documentation, are incompatible with the respect, by the driver, of the violated road traffic safety rules, and their responsibility, within the limits and with the methods established by this legislative decree, is ascertained by the bodies responsible for carrying out the traffic police services, pursuant to article 12 of the legislative decree of 30 April 1992, n. 285. Acts and behaviours aimed at burdening the carrier with the economic consequences of the sanctions applied to the client, the shipper and the owner of the goods as a result of the violation of traffic safety regulations are null and void.

Penalties assessed at roadside inspections – Italy

- Fines for the driver 87 – 344 €.

Latvia

Relevant laws regarding liability for inadequate cargo securing - Latvia

Unless otherwise agreed, it is the shipper's responsibility to load and secure the goods onto the vehicle. The driver must check that the goods are sufficiently secured and have the right to refuse to carry out the transport if they do not meet the requirements.

- *Road Traffic Law*: <https://likumi.lv/ta/en/en/id/45467>
- *Road Traffic regulation: Ceļu satiksmes noteikumi*
<https://likumi.lv/ta/en/en/id/274865-road-traffic-regulations>

Section 20. Carriage of cargo

191. A cargo shall be placed in a vehicle and, where appropriate, fixed in conformity with the requirements laid down in the laws and regulations regarding placement and fixing of piece goods in road transport so as:

- 191.1. not to endanger road traffic participants, not to fall and drag along the road;
- 191.2. not to limit visibility for a vehicle driver;
- 191.3. not to influence vehicle stability and disturb control thereof;
- 191.4. not to cover external lighting devices, light reflectors, number plates and recognition signs, and also not to disturb to perceive signals given manually;
- 191.5. not to cause noise, make ash and pollute or litter environment.

- *Law on carriage by road: Autopārvadājumu likums*
<https://likumi.lv/ta/en/en/id/36720-law-on-carriage-by-road>

Section 11. Obligations of a Carrier when Transferring a Road Vehicle

- (1) A carrier shall transfer a road vehicle at a previously coordinated time which shall be in good technical condition, suitable for the carriage of the relevant type of goods and comply with sanitary requirements.
- (2) The suitability of the road vehicle for the carriage of a relevant type of goods (commercial readiness) shall be determined by a consignor.
- (3) If deficiencies in the road vehicles, which may affect the safekeeping of goods, are disclosed during carriage, a consignor is entitled to refuse the loading of the goods into such road vehicle.

Section 12. Duties of a Consignor and Carrier upon Receipt and Transferring Goods for Carriage

- (1) A consignor has the obligation to transfer goods for carriage in such tare or packaging which is necessary for the safekeeping of the goods.
- (2) The goods must be grouped, and the necessary documents must be prepared for each consignee separately.
- (3) When accepting goods for carriage, a carrier shall, upon the request of a consignor, present to him or her documents confirming the right of carriage. A carrier must verify whether the goods has been loaded into and fixed in a road vehicle in compliance with the requirements of traffic safety and the operation of the road vehicle. If the carrier, upon performance of an external inspection, has determined that the goods has been

loaded and fixed incorrectly and the safekeeping thereof is threatened, its duty shall be to notify the consignor thereof. Upon request of the carrier, the consignor must eliminate the deficiencies determined during loading and fixing of the goods. Regulations for the placement and fixing of goods shall be issued by the Cabinet.

- (4) If a consignor refuses to eliminate the deficiencies determined when loading and fixing goods or if the goods fail to comply with the provisions of Paragraph one of this Section, the carrier is entitled to refuse the carriage of such goods and to consider the goods not to be transferred for carriage. A note in the transport documentation of the goods shall be made regarding thereof.

Section 15. Allocation of Loading and Unloading Duties, as well as Duties of Cleaning up a Road Vehicle

- (1) The devices and ancillary materials necessary for loading and unloading goods shall be allocated and installed by a consignor, but removed by a consignee, unless otherwise specified in the contract.
- (2) Resources for covering and fixing the goods shall be allocated by the carrier, unless otherwise specified in the contract.
- (3) A carrier shall transfer to a consignee all devices which belong to the consignor together with the goods or deliver back to it in accordance with the consignor's instruction in the consignment note.
- (4) Accounts for the abovementioned operations are performed according to the procedures specified in the contract.
- (5) Goods shall be loaded into, fixed, covered, and fastened in a road vehicle by the consignor, but the coverings and fastenings shall be removed, and the goods shall be unloaded by the consignee.
- (6) A carrier, upon agreement with a consignor or consignee, may undertake loading and unloading of goods. The contract shall specify the provisions for providing ancillary services.

Penalties assessed at roadside inspections - Latvia

Section 54 of the Road Traffic Act states the following about penalties in the event of deficiencies in the placement of goods and cargo securing:

For violation of the provisions on the location and securing of goods, and for the carriage of goods by a vehicle that is not specifically intended for this purpose and is not registered accordingly, a fine of eleven units of fines shall² be imposed on the driver.

² Price from 5 €

Lithuania

Relevant laws regarding liability for inadequate cargo securing - Lithuania

The liability rules in Lithuania are like those in Latvia, i.e. unless otherwise stipulated in the contract, it is the shipper's responsibility to load and secure the goods on the vehicle. The driver must check that the goods are sufficiently secured and have the right to refuse to carry out the transport if they do not meet the requirements.

- *Law on road Traffic Safety: Ceļu satiksmes likums*
<https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/823575a0ec1811e5820eec7ea316d20a?jfwid=j4afzs93>
- *Road Traffic Rules:*
<https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.203613/asr>

Section 28 – Cargo Carriage

208. Cargo in vehicles of categories N and O must be positioned and/or secured in accordance with the requirements for positioning and/or securing cargo in vehicles of categories N and O established by the Director of the Lithuanian Transport Safety Administration. Loads in all categories of vehicles must be stowed and, if necessary, secured and covered in such a way that:
- 208.1. would not impair the driver's visibility;
 - 208.2. would not damage the stability of the vehicle and would not interfere with its driving;
 - 208.3. uncovered external light devices, light reflectors, license plate signs, distinguishing signs and signals;
 - 208.4. would not fall, drag, make noise, pollute the road and the environment;
 - 208.5. would not pose a danger to people or material values, would not damage road facilities and technical traffic regulation measures.
209. The driver must immediately eliminate the defects in the placement and/or fastening of the load, and if this cannot be done, stop driving.

- *Road Transport Code: Ceļu satiksmes noteikumi*
<https://likumi.lv/ta/en/en/id/274865-road-traffic-regulations>

Article 32. Loading and Unloading of Goods

1. Unless otherwise specified in the contract, the goods shall be loaded by the consignor and unloaded by the consignee. The carrier shall check whether the fastening and stowage of the goods meets the road safety requirements and other terms and conditions of carriage of goods.
2. The devices required for fastening the goods, which belong to the consignor shall be delivered to the consignee together with the goods or, following the consignor's instruction given in the consignment note, the carrier shall deliver the fastenings to the consignor on the latter's account.

Article 36. Marking and Packing of Goods

1. According to their technical conditions and standards, the goods must be prepared, packed, and marked in the appropriate manner so as not to endanger during their carriage the crew, third persons, the environment, the goods carried or the vehicles.
2. The goods shall be marked in the manner prescribed by road traffic rules and other regulations.

Article 51. Relieving of Liability or Reducing the Extent of Liability

1. The carrier shall be relieved of liability for total or partial loss of or damage to the luggage, goods, or postal parcel, unless there is proof that all necessary measures have been taken to avoid damage or that he could not apply such measures. If the carrier proves that damage was caused or influenced or increased by the acts of the consignor or consignee of the goods, taking into account the person's culpability, the extent of liability may be reduced, or the carrier may be relieved of liability.
 2. The carrier shall be relieved of liability for total or partial loss of or damage to the goods if the consignor (consignee) fails to prove his fault in the following circumstances:
 - 1) the goods are delivered by a vehicle without mechanical defects and with the consignor's seals intact or there is no insufficiency or inadequacy of the consignor's or producer's security markings, seals on the delivered packages;
 - 2) there is partial loss of or damage to the goods due to natural causes through the carriage of goods by vehicles (desiccation, rust, wastage, etc.);
 - 3) the goods have been accompanied by the consignor's or consignee's agent;
 - 4) partial loss of the goods does not exceed natural wastage rates or allowable error limits of measuring devices applicable in cases of carriage of goods by road vehicles.
- *Code of Administrative Offences: Autopārvadājumu likums*
<https://www.e-tar.lt/portal/lt/legalAct/4ebe66c0262311e5bf92d6af3f6a2e8b/asr>

Penalties assessed at roadside inspections - Lithuania**Article 459. Violation of traffic safety requirements on roads**

1. Violation of the requirements for the arrangement of cargo and /or its attachment in vehicles of classes N2, N3, O3 and O4 imposes a fine on drivers from sixty to one hundred euros and/or on the persons who delivered and loaded the cargo, and/or on managers of legal entities or other responsible persons entrusted with the management of cargo transportation activities, from one hundred to 300 €.

Norway

Relevant laws regarding liability for inadequate cargo securing - Norway

In Norway, the driver is responsible for ensuring that the goods are properly loaded in accordance with the Norwegian Road Traffic Act. The driver may be penalised for failing to secure the goods satisfactorily or for failing to check that the consignor has adequately secured the goods.

In Norway, the carrier is responsible for ensuring that the vehicles are in good condition.

Please note – Norway has in January 2024 made an amendment to the legislation that increase the responsibility of the vehicle owner (haulage company) to ensure that the goods are sufficiently cargo secured by loads with high-risk potential, such as concrete elements, paper and steel rolls.

The amendment in the *Road Traffic Act* § 23 is in force since 2024-01-01 that states that transport company (haulage company) is responsible that the driver can fulfil his obligation to secure the cargo. In March 2024 the changes in the *Regulations for Cargo Securing* have not yet been made that specify more exactly the transport company's responsibilities for the cargo securing.

- *Road Traffic Act: Lov om vegtrafikk (vegtrafikkloven)* -1965-06-18-4
<https://lovdata.no/dokument/NL/lov/1965-06-18-4?q=sikring%20av%20last>
- *Regulations for use of vehicles: Forskrift om bruk av kjøretøy* FOR-1990-01-25-92
<https://lovdata.no/dokument/SF/forskrift/1990-01-25-92?q=FOR-1990-01-25-92>
- *Regulations for inspection of road vehicles: Forskrift om kontroll av kjøretøy langs veg* FOR-2017-10-13-1615 <https://lovdata.no/dokument/SF/forskrift/2017-10-13-1615>

The driver (road user) is responsible for the vehicle being driven safely and loaded and secured according to Road Traffic Act: Lov om vegtrafikk (vegtrafikkloven) LOV-1965-06-18-4 § 23:

Paragraph § 23. Responsibility for the condition of the vehicle etc.

Before the start of the voyage the driver shall assure that the vehicle is a proper condition and loaded according to the regulations. The driver shall also during the transport see that the vehicle is in a proper condition and the cargo secured.

The Norwegian Regulations for use of vehicles (Forskrift om bruk av kjøretøy FOR-1990-01-25-92):

Paragraph §§ 3-2 and 3-3

- §3-2(1): Goods must be positioned in such a way that the driver has the necessary visibility to be able to maneuver safely. No compulsory lights or signs shall be covered.
- §3-2(2): The weight of the goods must be appropriately distributed among the axles. At least 20 % of the total weight shall rest on the steering wheels.
- §3-2(3): The goods must be secured so that they do not cause hazard for health properties or environment. The securing shall ensure that the cargo cannot:
 - a) impede the driving of the vehicle,
 - b) fall off or drag behind the vehicle,
 - c) disturb other road users, or
 - d) cause disturbing dust or unnecessary noise,

§3-3(1): During transport must the goods be stowed and secured so that the load units only move minimal in position to each other, against the boundaries and nor move outside the vehicle platform.

§3-3 (2) para 2:

Calculation of load securing forces must be carried out according to the latest version of EN 12195-1. Another method of calculation may be accepted if it can be proved or otherwise demonstrated that the load securing withstands at least the specified forces.

The following forces shall be ensured as a minimum:

1. Direction of travel: 0.8 times the weight of the goods
2. Lateral and direction of travel: 0.5 times the weight of the goods
3. The goods must be secured so that they cannot slip, tip, or fall over.

Penalties assessed at roadside inspections - Norway

Insufficient cargo securing found in an inspection.

- The Police has right to stop the transport and order the driver to re-secure the cargo or remove the unlawful cargo.
- The Police can escort the vehicle to other place for reloading and securing.
- Police can impose administrative sanctions to the driver.
- The driver's licence can be revoked if the drivers act indicates severe recklessness.

The level of fines for lack of or insufficient cargo securing in Norway starts at NOK 10,000. In the case of serious infringements with insufficiently secured goods, the level of fines will be higher.

Cargo securing must be in order before transport can continue from the inspection post.

Poland

Relevant laws regarding liability for inadequate cargo securing - Poland

In Poland, the shipper is responsible for loading, securing and documentation. The shipper may hire a third party for loading (e.g. logistics centers) but remain liable. The sender knows everything about the goods, knows how to load them, knows the centre of gravity, and so on. This means that the consignor must order a suitable cargo carrier for the goods and develop a proper cargo securing arrangement. The shipper is responsible for using appropriate equipment to load the goods and secure. The driver of the vehicle can monitor and assist in assessing whether the goods are well secured or not. After signing the transport documentation, the driver is responsible for road safety during transport.

- *Road Traffic Act: Ustawa Prawo o ruchu drogowym z dn. 22 czerwca 1997 roku* (Dz. U. z 2012 poz. 1137)
<https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20120001137>
 - *Art 61 – Main regulation about lashing: mass, axis, stability...*
 - *Art 129 – The Police right to do roadside inspections of driver and vehicle*
- *Carriage of goods by road Act: Ustawy o transporcie drogowym z dnia 6 września 2001 r.* (Dz. U. 2001 Nr 125 poz. 1371)
<https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=wdu20011251371>
 - *Chapter 9 – Roadside inspections*
- *Transport Act: Ustawa Prawo Przewozowe [U.P.P] z dn. 15 listopada 1984 r.* (Dz. U. z 2015 poz. 915)
<https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20150000915>
 - *Art 41 – Shipper is responsible for that the packaging of the cargo is sufficient if needed.*
 - *Art 42 – The driver can refuse to carry insufficient packed goods or damaged goods.*
 - *Art 43 – Shipper is responsible for packaging, loading, and securing.*
- *Traffic regulations: Dziennik Ustaw · 2018; poz. 361. Rozporządzenie Ministra Infrastruktury z dnia 25 stycznia 2018 r. w sprawie sposobu przewozu ładunku*
<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20180000361/O/D20180361.pdf>
 - *Transport must be secured according to EN 12195 -1*

Extract from Transport Act (Dz. U. z 2015 poz. 915):

Article 41.

1. *The sender is obliged to hand over the goods to the carrier in a condition enabling their proper carriage without loss and damage.*
2. *Items which, due to their properties, require packaging, the sender is obliged to hand over to the carrier in the packaging specified in the provisions on standardization, and in the absence of provisions in this respect – in the manner specified by the minister competent for transport.*

Article 42.

1. *The carrier may refuse to accept for carriage goods whose condition is defective, or the packaging is insufficient or does not have the required packaging.*
2. *The carrier may make the acceptance for carriage of goods the packaging of which does not comply with the conditions laid down in Article 41 or with traces of damage subject to the condition of the consignment note to the consignor stating the condition of the consignment.*

Article 43.

1. *Unless the contract or a special provision provides otherwise, the cargo operations shall be the responsibility of the consignor or the consignee, respectively.*
2. *The consignor, consignee or other entity performing cargo operations shall be obliged to carry them out in such a way as to ensure the carriage of the freight consignment in accordance with road traffic regulations and public road regulations, and in particular not to endanger road safety, exceed the permissible weight of vehicles or exceed the permissible axle loads.*

Penalties assessed at roadside inspections - Poland

- Prevention of the vehicle to carry on with the transport until additional securing is done
- Escort to a near terminal for shifting the load is a possible but not popular, rather stay in place
- Fines for
 - For driver
 - For carrier (transport companies)
 - For Shipper (consignor)

Portugal

Relevant laws regarding liability for inadequate cargo securing – Portugal

In Portugal the driver is responsible for the cargo securing. According to new regulations from 2021 the driver shall not be involved in loading/unloading operations, but the cargo securing shall be performed by the driver.

- *Decreto-Lei n.º 102-B/2020, de 9 de dezembro*
(<https://data.dre.pt/eli/dec-lei/102-b/2020/12/09/p/dre/pt/html>)
- *Decreto-Lei n.º 57/2021, de 13 de julho*
(<https://data.dre.pt/eli/dec-lei/57/2021/07/13/p/dre/pt/html>)

Extract from *Decreto-Lei n.º 102-B/2020, de 9 de dezembro*:

§ 23 C - Loading and unloading

- 1 - Loading and unloading of goods shall be carried out by the consignor or the consignee of the goods, depending on whether they are loading or unloading, respectively, except in the cases provided for in the collective labour regulations in force.
- 2 - In the situations referred to in the preceding paragraph, the consignor, or the consignee of the goods, as the case may be, shall use a worker, other than a driver, who is qualified and trained for this purpose.
- 3 - Where the loading or unloading operation is the responsibility of the carrier, by virtue of an express contractual provision, the carrier shall use a worker, other than a driver, who is qualified and trained for this purpose.
- 4 - Pursuant to the collective labour regulations in force, the driver of the freight transport undertaking may:
 - a) Carry out loading and unloading operations in the distribution of goods, meaning the distribution of goods from the central warehouses to the respective stores, removals and door-to-door;
 - (b) for safety reasons, in accordance with the specific training received and the use of specific equipment, load and unload the transport of fuel, bulk and car carriers, without prejudice to specific provisions on dangerous goods and dangerous goods.
- 6 - In the event of the existence of damage resulting from the performance of loading and unloading operations, such damages shall be the responsibility of the person responsible for carrying them out, as provided for in paragraph 1 and in accordance with the general terms of the law.
- 7 - Where the loading and unloading operation is carried out by the driver, under the terms permitted by the collective labour regulations in force, the consignor or the consignee shall provide all the necessary means to enable such operation, ensuring all safety conditions.
- 8 - Operations carried out inside the vehicle, which are necessary for the loading or unloading of the goods, are the responsibility of those who carry them out, but the consignor and the consignee shall make available to the operator all the means necessary for the operation and inform the operator of the mechanical means available and of the safety instructions to be taken into account when handling them.
- 9 - The provisions of the preceding paragraph do not apply to stevedoring and mooring operations, in the context of which the driver assisting them must advise and intervene.

Penalties assessed at roadside inspections - Portugal

Fines for the driver against road safety rules are between 120 – 600 €.

Summary of liability rules for cargo securing in different countries

Slovakia

Relevant laws regarding liability for inadequate cargo securing - Slovakia

In Slovakia, Section 69 of the Road Traffic Act 106/2018 states that the loader (consignor) is responsible for securing the load. If it has been agreed that the carrier (driver) will secure the cargo, the consignor shall provide verifiable instructions on how to secure the cargo, considering the nature and type of the cargo. The consignor shall specify the equipment to be available to the carrier to secure the cargo.

- *Road Traffic Act 106/2018 § 69 – Who is responsible for the cargo securing – [106/2018 Coll. - Lag om framförande av fordon i vägen... - SLOV-LEX](#)*
- *Road Traffic Act amendment 8/2009 51 § - Requirement – the requirement that the cargo be secured in such a way that it does not slide, tip, wander or otherwise move freely when the vehicle changes speed or direction of travel. [8/2009 Coll. - Lag om vägtrafik och om förändring ... - SLOV-LEX](#)*
- *Regulations for cargo securing: 134/2018 10(11) §- Krav på att utrustning ska följa standard EN 12195–2, -3 och -4 och antalet surrningar beräknas med EN-12195-1 [134/2018 Z.z. - Dekret från transportministeriet och högre... - SLOV-LEX](#)*
- *Criminal Law: 8/2009 138(1b) § - Police can fine companies or individuals up to 3,500 € on site for violating cargo securing rules. [8/2009 Coll. - Lag om vägtrafik och om förändring ... - SLOV-LEX](#)*
- *Announcement 135/208 - Puts the EU directive into force for vehicle inspection [135/2018 Z.z. - Dekret från transportministeriet och ... - SLOV-LEX](#)*

Penalties assessed at roadside inspections - Slovakia

The driver can be fined around 50–150 €, but fines are relatively rare during inspections. Instead, the device is stopped until the defects are fixed.

Spain

Relevant laws regarding liability for inadequate cargo securing - Spain

In Spain, in principle, it is the consignor who is responsible for securing the cargo, unless the parties have assumed that the carrier takes over the responsibility for doing so in accordance with the instructions informed by the Directorate-General for Road Traffic (DGT). Notwithstanding the foregoing, in the case of courier services, the carrier is responsible for the security. The same applies to similar services consisting in the delivery and receipt of parcels that can be loaded and unloaded without the use of machinery or other manned tools.

This means that the consignor is liable in the event of a breach in connection with inadequate cargo securing unless the transfer of this obligation to the carrier has previously been established (through a contract of carriage or similar documentation). The carrier is only responsible for this activity in the case of courier services and the like.

- *Road Traffic Act: Ley 15/2009, de 11 de noviembre, del contrato de transporte terrestre de mercancías.*
<https://www.boe.es/eli/es/l/2009/11/11/15/con>
- *Road Traffic Act amendment: Real Decreto Legislativo 6/2015, de 30 de octubre, por el que se aprueba el texto refundido de la Ley sobre Tráfico, Circulación de Vehículos a Motor y Seguridad Vial.*
<https://www.boe.es/eli/es/rdlg/2015/10/30/6/con>
- *Royal Decree: Real Decrato 563/2017 por el que se regulan las inspecciones técnicas en carretera de vehículos comerciales que circulan en territorio español.*
Regulates road technical inspections of commercial vehicles transports on Spanish territory.
<https://www.boe.es/eli/es/rd/2017/06/02/563>
- Instrucción 18/TV- 103
http://www.kemler.es/wp-content/uploads/Instruc_18_TV_103_carga_transporte_publico_mercancias.pdf

Penalties assessed at roadside inspections - Spain

- Prevention of the vehicle to carry on with the transport until additional securing is done
- Escort to a near terminal for shifting the load is a possible but not popular, rather stay in place
- Fines for
 - For driver
 - For carrier (transport companies)
 - For Shipper (consignor)

Sweden

Relevant laws regarding liability for inadequate cargo securing - Sweden

In Sweden, the following rules and regulations regulate the responsibility for cargo securing and the Road Traffic Ordinance states that the only party who can be fined for failing to secure cargo is the driver of a motorized vehicle who intentionally or negligently violates the Road Traffic Ordinance.

- *Road Traffic Act: SFS 1998:1276*
https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/trafikforordning-19981276_sfs-1998-1276

Chapter 3, 80 § Cargo shall not be carried on or in a vehicle in such a way that it can be

- pose a danger to persons,
- cause damage to property,
- drag behind or fall off the vehicle,
- cause disturbing dust formation or similar,
- impede the driving of the vehicle, or
- cause unnecessary noise.

The load shall be fixed if necessary, considering the nature of the cargo compartment or load. If necessary, the load must be covered.

Chapter 14, 3 § A driver of a road vehicle who intentionally or negligently violates chapter 3, 80 § is fined.

- *Criminal Law: Riksåklagarens föreskrifter SFS 1999:178 om ordningsbot för vissa brott* -
https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/riksaklagarens-foreskrifter-1999178-om_sfs-1999-178

Appendix 1 Violation against the Traffic Law Act (1998:1276) chapter 3, 80 § and responsibility according to chapter 3, 3 §.

Appendix 10 Violation against *The Act on the Transport of Dangerous Goods* SFS 2006:263.

- *Regulations for cargo securing: TSFS 2017:25 Transportstyrelsen föreskrifter och allmänna råd om lastsäkring och kontroll av lastsäkring på och i fordon* -
<https://www.transportstyrelsen.se/sv/Regler/ts-foreskrifter-i-nummerordning/2017/details?RuleNumber=2017:25&ruleprefix=TSFS>
- *Work Environment Law: SFS 1977:1160*
https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/arbetsmiljolag-19771160_sfs-1977-1160
Chapter 3, 7 § describes the main employer on a site shall coordinate the safety and work environment issues for both internal and external personnel at the site.

The Road Traffic Act SFS 1998:1276 indicates that it is 'the driver of a road vehicle' who is responsible for the cargo securing.

Penalties assessed at roadside inspections - Sweden

Inspection – Fines and other penalties

If, during an inspection, it is discovered that the goods are inadequately secured to cargo, the following shall be done:

1. The deficiencies must be rectified before continuing the journey.
2. If necessary, vehicles are escorted to the transshipment point.
3. The driver will be fined SEK 1500 or up to SEK 4000 if it is dangerous goods.
4. In the case of serious or dangerous deficiencies, the offence is reported to the Swedish Transport Agency, which decides whether to revoke the driver's licence.

Accidents – Other penalties

If an accident occurs that results in personal injury or death, it almost always leads to a court hearing. The court assesses whether it is the inadequate cargo securing that caused the incident/accident and, if so, whether the driver has had intent or has been negligent. It is not easy to predict the outcome and other parts of the penal code may also be involved, such as dangerous negligence, causing bodily harm, negligent homicide, etc.

United Kingdom

Relevant laws regarding liability for inadequate cargo securing - UK

In the United Kingdom, the driver is not the only person responsible for the safety of the vehicle and its cargo. Shippers and others involved in the transport chain should also make themselves aware of the rules in the Ministry of Transport's (DfT) guidelines: Safe load on vehicles. Any of these parties can be punished for violating the Road Traffic Act's Regulation 40A.

- *Road Traffic Act: Road Traffic Act 1988*
<https://www.legislation.gov.uk/ukpga/1988/52/contents>

Regulation 40A of the Road Traffic Act 1988 introduced by the Road Traffic Act 1991:

40 A. A Person is guilty of an offence if he uses, or causes or permits another to use, a motor vehicle or trailer on a road when:

- (a) the condition of the motor vehicle or trailer, or of its accessories or equipment, or
- (b) the purpose for which it is used, or
- (c) the number of passengers carried by it, or the way they are carried, or
- (d) the weight, position or distribution of its load, or the way it is secured, is such that the use of the motor vehicle or trailer involves a danger of injury to any person.

- *Road Traffic Act: Road Traffic Act 1991*
<https://www.legislation.gov.uk/ukpga/1991/40/contents>
- *Regulations for cargo securing: Road Vehicles (Construction and Use) Regulations 1986 – SI 1986 No 1078*
<https://www.legislation.gov.uk/uksi/1986/1078/regulation/100/made>

Regulation 100 - "Maintenance and use of vehicle so as not to be a danger, etc."

- (1) A motor vehicle, every trailer drawn thereby and all parts and accessories of such vehicle and trailer shall at all times be in such condition, and the number of passengers carried by such vehicle or trailer, the manner in which any passengers are carried in or on such vehicle or trailer, and the weight, distribution, packing and adjustment of the load of such vehicle or trailer shall at all times be such that no danger is caused or is likely to be caused to any person in or on the vehicle or trailer or on a road.

Provided that the provisions of this Regulation regarding the number of passengers carried shall not apply to a vehicle to which the Public Services Vehicles (Carrying Capacity) Regulations 1984(a) apply.

- (2) The load carried by a motor vehicle or trailer shall at all times be so secured, if necessary by physical restraint other than its own weight, and be in such a position, that neither danger nor nuisance is likely to be caused to any person or property by reason of the load or any part thereof falling or being blown from the vehicle or by reason of any other movement of the load or any part thereof in relation to the vehicle.
- (3) No motor vehicle or trailer shall be used for any purpose for which it is so unsuitable as to cause or be likely to cause danger or nuisance to any person in or on the vehicle or trailer or on a road."

Summary of liability rules for cargo securing in different countries

- *Criminal Law: Road Traffic Offenders Act 1988*
<https://www.legislation.gov.uk/ukpga/1988/53/contents>

Section 75

Where in England and Wales

(a) a constable has reason to believe that a fixed penalty offence has been committed, and

(b) no fixed penalty notice in respect of the offence has been given under section 54 of this Act or fixed to a vehicle under section 62 of this Act,

A notice under this section may be sent to the alleged offender by or on behalf of the chief officer of police or, if the constable is a member of the British Transport Police, by or on behalf of the chief constable of the British Transport Police.

- *Load securing: Vehicle operator guidance - GOV.UK*
<https://www.gov.uk/government/publications/load-securing-vehicle-operator-guidance/load-securing-vehicle-operator-guidance>
- *DfT's Code of Practice: Safety Loads on Vehicles*
<https://www.gov.uk/government/publications/safety-of-loads-on-vehicles-code-of-practice>

Penalties assessed at roadside inspections - UK

In England, Wales and Scotland, section 75 of the Road Traffic Offenders Act 1988 allows an examiner to issue a conditional offer of a fixed penalty for alleged offences. DVSA will only issue conditional offers of a fixed penalty for offences detected in Scotland.

The two legal regulations achieve the same thing: allowing the alleged offender to pay a fixed penalty rather than being taken to court. But the driver can still choose to have it dealt with by a court.

A fixed penalty notice is one of the options open to examiners when deciding the right course of action. Other options available include giving a verbal warning or issuing:

- an offence rectification notice (ORN)
- a prohibition notice: mechanical, weight, drivers' hours, dangerous goods, overloading
- a fixed penalty or, in Scotland, a conditional offer
- a report for a court summons (written at roadside and sent to the court)
- Examiners will consider any mitigating factors before acting.

The graduated fixed penalties reflect the severity and circumstances of the offence.

When a fixed penalty notice or conditional offer is issued for a construction and use offence, the examiner may also prevent the vehicle going any further.

When a driver is issued with a fixed penalty notice, the operator of the vehicle at the time may also be liable for an offence. So, a fixed penalty notice may be used as part of the operator's compliance risk score.

An operator may be called to a public inquiry as a direct result of the number and type of fixed penalty notices issued to their drivers. This is the same as if the offences went before the court.

Appendix A - Autonomous vehicles regulation Germany

Road Traffic Act – Straßenverkehrsgesetz (StVG), <http://www.gesetze-im-internet.de/stvg/>

Section 1f *Obligations of those involved in the operation of motor vehicles with autonomous driving functions.*

(1) The owner of a motor vehicle with an autonomous driving function shall be obliged to maintain the road safety and environmental performance of the motor vehicle and shall take the necessary precautions for this purpose. He has

1. ensure the regular maintenance of the systems required for autonomous driving function,
2. to take precautions to ensure that other traffic regulations not addressed to the driver of the vehicle are complied with, and
3. ensure that the tasks of technical supervision are fulfilled.

(2) The technical supervision of a motor vehicle with an autonomous driving function is obliged to:

1. to evaluate an alternative driving maneuver in accordance with § 1e paragraph 2 number 4 and paragraph 3 and to activate the motor vehicle for this purpose as soon as such a maneuver is visually, acoustically, or otherwise perceptibly displayed by the vehicle system, the data provided by the vehicle system enable it to assess the situation and the execution of the alternative driving maneuver does not endanger road safety,
2. deactivate the autonomous driving function immediately as soon as this is indicated visually, acoustically, or otherwise perceptibly by the vehicle system,
3. to evaluate signals from the technical equipment for their own functional status and, if necessary, to initiate necessary measures for traffic safety, and
4. to establish immediate contact with the occupants of the motor vehicle and to take the necessary measures to ensure road safety when the motor vehicle is placed in the minimum risk condition.

(3) The manufacturer of a motor vehicle with an autonomous driving function shall:

1. to prove to the Federal Motor Transport Authority (dem Kraftfahrt-Bundesamt) and the competent authority over the entire development and operating period of the motor vehicle that the electronic and electrical architecture of the motor vehicle and the electronic and electrical architecture associated with the motor vehicle is protected against attacks,
2. carry out a risk assessment for the motor vehicle and demonstrate to the Federal Motor Transport Authority and the competent authority how the risk assessment was carried out and that critical elements of the motor vehicle are protected against hazards identified in the context of the risk assessment,
3. to demonstrate a sufficiently secure radio connection for autonomous driving,
4. to draw up a system description for each motor vehicle, to draw up an operating manual and to declare bindingly to the Federal Motor Transport Authority and in the operating manual that the motor vehicle fulfils the requirements of § 1e paragraph 2 and 3,
5. for the motor vehicle, to provide training for the persons involved in the operation, in which the technical functioning is taught, about the driving functions and the performance of the tasks of the technical supervision, and
6. as soon as he detects manipulations of the motor vehicle or its electronic or electrical architecture or of the electronic or electrical architecture associated with the motor vehicle, in particular in the event of unauthorized access to the radio connections of the motor vehicle, these immediately to the Federal Motor Transport Authority and the competent authority under federal or state law or on federal highways, insofar as the Federal Government is entitled to the administration, notify the company under private law within the meaning of the Infrastructure Companies Establishment Act and take the necessary measures.

Appendix B – Autonomous vehicle regulations in Estonia

Chapter 7 - Requirements and traffic rules for self-driving robots

[RT I, 04.07.2017, 7 - entry into force 14.07.2017]

§ 151¹. Requirements for self-driving delivery robots

(1) The devices, accessories and technology of a self-driving delivery robot must ensure the safe control and road use of the self-driving delivery robot in such a manner that it does not obstruct traffic or endanger or harm people, property or the environment.

(2) The dimensions of a self-driving delivery robot moving on a road with and without cargo must be such that these do not endanger or obstruct other road users.

(3) A self-driving delivery robot must be equipped with reflectors and lamps that ensure its safe use and visibility to other road users in the dark or in poor visibility.

(4) A self-driving delivery robot must bear a clearly legible identification number and the telephone number and name of the user.

(5) Requirements for the devices, accessories, technology, technical condition, design speed, reflectors and lamps as well as the maximum dimensions are established by a regulation of the minister in charge of the policy sector.

[RT I, 04.07.2017, 7 – entry into force 14.07.2017]

§ 151². General duties of user and driver of self-driving delivery robot

(1) The natural person who is the user and controller of a self-driving delivery robot must be at least 18 years of age. The user of a self-driving delivery robot must be a natural person who is an Estonian citizen or holds a residence permit or the right to reside in Estonia or a legal person registered in Estonia.

(2) It is prohibited to carry humans or animals using a self-driving delivery robot.

(3) Upon using a self-driving delivery robot, the user and, upon controlling a self-driving delivery robot, the controller must be careful, cautious, and alert, prevent endangering other road users and causing damage, follow requirements established to self-driving delivery robots and its traffic, and be familiar with the legislation pertaining to the use of self-driving delivery robots.

(4) The user of a self-driving delivery robot is required to:

1. before using the self-driving delivery robot, ensure its roadworthiness and compliance and make certain that its technical condition allows for its safe use;
2. not allow a person who is in a state of intoxication or in a state exceeding the maximum permitted alcohol level in the bloodstream or in a state of health that is unsafe for traffic or a person who lacks the skills and knowledge for safe use of the self-driving delivery robot or a person who does not meet the requirements provided for in subsection 1 of this section to control the self-driving delivery robot;
3. keep account of the self-driving delivery robots used by the user and equip these with identification numbers, the user's name and telephone number;
4. make certain that the lighting systems and reflectors of the self-driving delivery robot are working and that the identification features are legible;

5. ensure that a takeover of the controlling of the self-driving delivery robot by persons not specified in subsection 1 of this section be precluded upon using the self-driving delivery robot;
6. before using the self-driving delivery robot for delivering cargo ensure that the cargo is placed, secured and covered in such a manner that it does not endanger people, harm the environment, cause proprietary damage or obstruct traffic;
7. while using the self-driving delivery robot, be available at the telephone number required in subsection 6 of § 151¹ of this Act and, at the request of and by the time prescribed by a law enforcement body, submit the data specified in subsection 7 of this section.

(5) Before and while using a self-driving delivery robot, its controller must make certain that:

1. the self-driving delivery robot is roadworthy and that its technical condition and the devices used for moving and controlling the self-driving delivery robot allow for using it safely;
2. the lighting systems and reflectors of the self-driving delivery robot are working and that the identification features are legible.

(6) The controller of a self-driving delivery vehicle is prohibited to:

1. in a state of intoxication or in a state exceeding the maximum permitted alcohol level in the bloodstream or in a state of health unsafe for traffic, control the self-driving delivery robot or hand over control to a person in such state;
2. hand over the control of the self-driving delivery robot to a person who lacks the required skills and knowledge for the safe use of the self-driving delivery robot or who does not meet the conditions established in subsection 1 of this section.

(7) At the request of and by the time prescribed by a person exercising traffic supervision or a court, the user of a self-driving delivery robot is required to save and submit within six months from the day of use of the self-driving delivery robot the following data:

1. the data of the path of movement of the self-driving delivery robot, including the date of use, the start and end time of use with the accuracy of a second, the location and the speed of movement;
2. chronologically saved data set of the controlling instructions of the controller of the self-driving delivery robot and of the movement without the interference of the controller, and data required for identifying the controller;
3. data on disruptions identified by the sensors of the self-driving delivery robot, which resulted in the interference of the controller in the movement of the self-driving delivery robot;
4. data on the owner and insurance of the self-driving delivery robot.

(8) A more detailed list of the data specified in subsection 7 of this section and requirements for the form of preservation and saving of data may be established by a regulation of the minister in charge of the policy sector.

[RT I, 04.07.2017, 7 – entry into force 14.07.2017]

§ 151³. Position of self-driving delivery robot on road

(1) A self-driving delivery robot may be use on a pavement, footpath and the part of a cycle and pedestrian track designated for pedestrians, which is sufficiently wide for the self-driving delivery robot to move, and thereby the self-driving delivery robot must not exit the boundaries of such road or road part.

(2) A self-driving delivery robot must not endanger or obstruct pedestrians upon moving on a pavement, footpath, cycle, and pedestrian track or upon crossing a carriageway via a pedestrian crossing. Where necessary, a self-driving delivery robot must stop or clear the road or, upon crossing a carriageway, move to the nearest safe spot outside the carriageway.

Summary of liability rules for cargo securing in different countries

(3) In a settlement, a self-driving delivery robot may, where there is no pavement, footpath or cycle and pedestrian track, be used on the right-side shoulder of the carriageway or, where there is no shoulder, close to the edge of the right side, provided that it does not endanger or obstruct other road users. A self-driving delivery robot may be used on the left-side shoulder or, upon absence thereof, close to the left edge of the carriageway only immediately before reaching the destination, provided that such route is shorter and safer.

(4) In a calm traffic area, a self-driving delivery robot may move along the carriageway close to the edge of the carriageway where there is no pavement, footpath or cycle and pedestrian track or any shoulder. Upon moving in a clam traffic area, the self-driving delivery robot must not endanger or obstruct other road users.

(5) Where there is a temporary obstacle on the road part designated for self-driving delivery robot traffic, which does not allow for continuance of the journey thereon, the self-driving delivery robot may use the carriageway for passing the obstacle, provided that it is safe and does not harm other road users.

(6) Upon moving or staying at the carriageway, a self-driving delivery robot must be used in the flashing mode using the yellow lamps specified in subsection 5 of § 151¹ of this Act.

[RT I, 04.07.2017, 7 – entry into force 14.07.2017]

§ 151⁴. Crossing of carriageway

(1) A carriageway may be traversed by a self-driving delivery robot in a place designated for pedestrians for crossing the carriageway. Upon traversing the carriageway, a self-driving delivery robot does not have a right of way towards the driver of a vehicle, unless the self-driving delivery robot traverses the carriageway via a crossing or pedestrian crossing onto which the vehicle driver is turning.

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(2) Before crossing a carriageway, the self-driving delivery robot or its controller must analyse the safeness of crossing the carriageway and ensure that the crossing can be completed safely without remaining standing on the carriageway.

(3) Upon crossing a carriageway by a self-driving delivery robot, other road users crossing the carriageway must not be obstructed or endangered.

[RT I, 04.07.2017, 7 – entry into force 14.07.2017]

§ 151⁵. Self-driving delivery robot's duty to give way

A self-driving delivery robot must give way to other road users, except in the events specified in clauses 1 and 2 of subsection 5 of § 17 and subsection 11 of § 35 of this Act. Where necessary, the self-driving delivery robot must stop and move to the nearest safe spot outside the carriageway.

[RT I, 04.07.2017, 7 – entry into force 14.07.2017]