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1. The scope of the CMR-Convention (art. 1&2)

1.1 *Is the CMR applicable to carriage of goods by road if no consignment note is issued? (art. 1&2)*

<b>Yes/No</b>	<b>Convention</b>	<b>National law</b>	<b>Landmark cases</b>	<b>Clarification</b>
<b>YES</b>	<i>As per art 4 of the CMR-convention</i>	<i>Spain applies its own legislation on road transport (Ley 15/2009, de 11 de noviembre, del contrato de transporte terrestre de mercancías) -hereinafter referred to as "Ley 15/2009"-</i>	<i>Resolution 49/2005 issued by the High Court of Huesca. Resolution 37/2001 issued by the High Court of Alicante</i>	

1.2 *Can the CMR be made applicable contractually? (art. 1&2)*

<b>Yes/No</b>	<b>Convention</b>	<b>National law</b>	<b>Landmark cases</b>	<b>Clarification</b>
<b>YES</b>	<i>Yes. However, if intended to regulate internal transport, CMR cannot override certain provisions of Ley 15/2009</i>	<i>Ley 15/2009 admits excluding the application of some issues, although some provisions are fully applicable</i>	<i>No available case law on art. 3 of Ley 15/2009, which determines that "Unless expressly stipulated to the contrary of this Law or of the applicable special legislation, the parties may exclude certain contents of this Law by mediating the corresponding agreement."</i>	<i>Chapters V (liability of carrier) and IX (time bar of actions) of Ley 15/2009 are imperative law.</i>

1.3 Is there anything practitioners should know about the exceptions of art. 1 sub 4?

Yes/No	Convention	National law	Landmark cases	Clarification
YES	<i>Furniture removals (internal) are espezifically regulated under Ley 15/2009. Given the exclusion of 1 sub 4 of CMR Convention, Spain would apply the general regulations on transport law</i>	<i>Nothing is espezifically mentioned. Furtinture removals regulation can be found at Ley 15/2009, postal transport under Ley 43/2010, funeral consignments under Royal Decree 1211/1990.</i>	<i>Resolution 535/2015 issued by the High Court of Barcelona</i>	

1.4 To what extent is the CMR applicable to the following special types of transport? (art. 1&2)

Please indicate if (partly) applicable	Service	National law	Landmark cases CMR	clarification
<input checked="" type="checkbox"/>	<b>Freight forwarding agreement</b>	<i>Ley 16/1987, de 30 de Julio, de Ordenacion de los Transportes Terrestres -hereinafter referred to as "LOTT"- regulates freight forwarders.</i>	<i>Resolution 105/2008 issued by the Supreme Court Resolution 1248/2019 issued by the High Court of Alicante</i>	<i>Under Spanish case law a freight forwarder can be considered as carrier by means of interpretation of articles 3 and 37 of CMR convention, together with internal law.</i>
<input checked="" type="checkbox"/>	<b>Physical distribution</b>			<i>It is our understanding that in the event of distribution by road transport, CMR may apply</i>

<input type="checkbox"/>	<b>Charters</b>			<i>If vehicle is chartered for own transportation then CMR shall not apply</i>
<input checked="" type="checkbox"/>	<b>Towage</b>		<i>Resolution 90/2017, High Court of Guipuzcoa.</i>	
<input checked="" type="checkbox"/>	<b>Roll on/roll off</b>		<i>Resolution 163/2007 issued by the High Court of Valencia</i>	<i>CMR apply, as per art. 2.1, if a single contract has been signed</i>
<input checked="" type="checkbox"/>	<b>Multimodal transport</b>			<i>CMR applies</i>
<input checked="" type="checkbox"/>	<b>Substitute carriage<sup>1</sup></b>	<i>According to national law, initial and substitute carriers are liable, although initial (contractual) carrier is liable vis a vis consignor</i>		<i>CMR applies</i>
<input checked="" type="checkbox"/>	<b>Successive carriage<sup>2</sup></b>	<i>Article 64 Ley 15/2009.</i>		<i>CMR Applies</i>
<input checked="" type="checkbox"/>	<b>'Paper carriers'<sup>3</sup></b>	<i>Article 6 Ley 15/2009, contractual (paper) carrier is liable even if didn't carry out any transport</i>		

### 1.5 *Is there anything else to share concerning art. 1 and 2 CMR?*

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<sup>1</sup> partly art. 3

<sup>2</sup> please be reminded that this question only asks to what extent the CMR is applicable to successive carriage. The specifics of art 34/35 should be addressed under question 16

<sup>3</sup> parties who have contracted as carrier, but do not perform any part of the transport, similar to NVOCC's in maritime transport

2. The CMR consignment note (art. 4 - 9 & 13)

- 2.1. *Is the consignment note mandatory?*
- 2.2. *Nice to know: Does absent or false information on the consignment note give grounds for a claim?*
- 2.3. *Is the carrier liable for acceptance and delivery of the goods? (art. 8, 9 & 13)*
- 2.4. *To what extent is the carrier bound to his remarks (or absence thereof) on the consignment note? (For instance: Can a carrier be bound by an express agreement on the consignment note as to the quality and quantity of the goods? )*

<b>Number of question</b>	<b>Yes/No</b>	<b>Convention</b>	<b>National law (civil law as well as public law)</b>	<b>Landmark cases</b>	<b>Clarification</b>
2.1	NO	<i>According to art. 4 CMR, the consignment note proves the existence of a contract of transport, but its value is merely declarative (and not constitutive). Its absence does not affect the validity of the contract. The contract exists and is valid even if there is no consignment note</i>	<i>Same situation. The absence of consignment note does not mean that the contract is non-existent or null (art. 13.1 Ley 15/2009)</i>	<i>Reolution dated 20 April 1998, High Court of Barcelona</i>	
2.2	YES	<i>in the event of ommision or defects in the consignment note, liability is attributable to the sender ex. art. 7 CMR.</i>	<i>The sender and the carrier will be liable for damages arising out of the innacuracy or insufficienncy of details, depending on who was the party who had to include those in the consignment note,</i>	<i>Resolution 197/2003 issued by the High Court of Valencia</i>	

			<i>according to art. 10.7 Ley 15/2009.</i>		
<b>2.3</b>	YES	<i>Unless reservations have been made in the consignment note, the carrier is liable for acceptance. Such liability shall end upon delivery to the consignee of the cargo and against delivery of the consignment note (again, unless reservations arise).</i>	<i>The carrier is liable for custody of the cargo from the moment the cargo is received until it is delivered at destination, according to art. 28.1 Ley 15/2009.</i>		
<b>2.4</b>	YES	<i>As per article 8.2 CMR, he is bound to remarks/lack of remarks, depending on the reasonability of the mans available in order to check the quality and quantity of the goods</i>	<i>Articles 25 and 26 of Ley 15/2009 refers of the examination of the cargo. The former refers to an apparent checking of the cargo , whereas the latter regulates the procedure for thoroughly examining the cargo in the event of suspicions of falsehood (and the costs related)</i>		

### 3. Customs formalities (art. 11 & 23 sub 4)

- 3.1. *Is the carrier responsible for the proper execution of customs formalities with which he is entrusted?*
- 3.2. *Is the carrier liable for the customs duties and other charges (such as VAT) in case of loss or damage?*
- 3.3. *Nice to know: Is a carrier liable for the loss of customs (or other) documents and formalities?*
- 3.4. *Nice to know: Is a carrier liable for the incorrect treatment of customs (or other) documents and formalities?*

Number of question	Yes/No	Convention	National law	Landmark cases	Clarification
3.1	YES	According to art. 11.1.2 of the convention the carrier shall not be under any duty to enquire into either the accuracy or the adequacy of such documents and information. The sender shall be liable to the carrier for any damage caused by the absence, inadequacy or irregularity of such documents and information, except in the case of some wrongful act or neglect on the part of the carrier. <i>Carrier is a mere agent</i>	The carrier is not obliged to verify whether these documents or information are accurate or sufficient. The sender is liable to the carrier for all damages that may result from the absence, insufficiency or irregularity of these documents and information, except in the case of fault on the part of the carrier, according to art. 23.2 Ley 15/2009. <i>The provision refers to documents, but not to customs.</i>	<i>Resolution 197/2003, High Court of Valencia</i>	N/A
3.2	YES	According to art. 11.1.3, the liability of the carrier for the consequences arising from the loss or incorrect use of the documents specified in and accompanying the consignment note or deposited with the carrier shall be that of an agent, provided that the compensation payable by the carrier shall not exceed that payable in the event of loss of the goods.	The carrier shall be liable for the consequences of the loss or misuse of these documents. In any case, the compensation payable by him shall not exceed that which would be due in the event of loss of the goods according to art. 23.3 Ley 15/2009. The provision refers to documents, but not to customs.		
3.3	YES	<i>Yes, although only in relation to those documents listed in the</i>			

		<i>consignment note as per art. 6.2.g)</i>			
<b>3.4</b>	YES	<i>Only in the event of lack of fulfillment of the instructions</i>			

#### 4. The right of disposal (art. 12)

##### *4.1. To what extent can the consignee and consignor execute their right of disposal?*

The right of disposal is available to the consignor, until the delivery of the cargo, unless the consignment note has been handed to the consignee, or unless the right of disposal has been transferred from consignor to consignee and is so expressed in the consignment note. The right of disposal is also subject to the carrier being materially able to comply with the orders, and subject to payment of the expenses linked to the fulfillment of the new instructions.

##### *4.2. Nice to know: To what extent is the carrier liable if he does not follow instructions as given or without requiring the first copy of the consignment note to be produced (art. 12.7)?*

The carrier is obliged to comply with the new instructions, even if this extends the temporary period of liability for damages, and is liable for failing to comply with these instructions, as well as when he follows instructions without having required the presentation of the first copy of the consignment note. Such liability of the carrier is independent of whether his conduct is guilty, and the damages must be compensated to whoever was the holder of the right to delivery when the non-compliance with the instructions occurred.

#### 5. Delivery (art. 13, 14, 15 & 16)

##### *5.1. Can the obligation to ask for instructions lead to liability of the carrier? (art. 14, 15 & 16)*

##### *5.2. Nice to know: Are there circumstances that prevent delivery as mentioned in art. 15 for which the carrier is liable?*

Number of question	Yes/No	Convention	National law	Landmark cases	Clarification
5.1	YES	The basic principle is the obligation for the carrier to ask for instructions, and secondarily act by taking the most convenient measures of whoever has the right to dispose of the goods.	<i>Similar to prov 1719 Spanish civil Code: "In the execution of the mandate, the agent must comply with the instructions of the principal. In the absence of them, he will do everything that, according to the nature of the business, a good family man would do"</i>	<i>Resolution 9/2005 issued by the High Court of Cordoba</i>	
5.2	YES	<i>In the event of lack of the compulsory request for instructions</i>			

## 6. Damage (art. 10 & 30)

### 6.1. *Is packaging (the container, box etc.) considered part of the goods, if provided by the shipper/cargo interest?*

Yes/No	Convention	National law	Landmark cases	Clarification
YES	<i>Yes, and a relevant issue according to articles 6.1.f), 7.1.a) and 17.4.b) of CMR Convention</i>	Containers, pallets or other similar means of grouping goods used in the carriage shall also be considered as goods when they have been provided by the shipper, according to 47.1 Ley 15/2009.		

*6.2. To what extent is the consignor liable for faulty packaging? (art. 10)*

Both Art. 10 CMR and article 21.3 Ley 15/2009 establish that the sender is liable to the carrier for damage caused by defects in the packaging of the goods, unless such defects were obvious or already known to the carrier at the time the goods were taken over and the carrier has not made appropriate reservations.

*6.3. When is a notification of damage considered to comply with all requirements? (art. 30)*

It should be descriptive, not extremely detailed, but enough to express the damage suffered. They must be carried out at the time of delivery if the losses or faults are apparent, or within 7 working days if they are not apparent. It is highly advisable to do them in writing as evidence.

*6.4. Nice to know: What is considered to be 'not apparent damage'? (art. 30 sub 2)*

They are those that are only perceived when opening the packaging, or in analogous assumptions..

*6.5. Nice to know: When is counterevidence against a consignment note admitted? (art. 30 sub 1)*

If the consignee receives the goods without checking their condition, or if at the time of delivery in the case of apparent loss or damage, or within seven working days from the date of delivery in the case of not apparent damage.

7. Procedure (art. 31 – 33)

*7.1. When do the courts or tribunals of your country consider themselves competent to hear the case? (art. 31 & 33)*

The first rule is the possibility of express (not tacit) submission to a court.

Outside of that assumption, article 31 CMR allows suing in Spain if it is the habitual place of residence of the defendant, his main domicile or branch through which the transport contract has been concluded; or if it is the place of loading or delivery of the goods. Within the Spanish jurisdiction, the rules of objective and territorial jurisdiction are determined in accordance with Spanish procedural legislation.

There is also room for the Juntas Arbitrales de Transporte to be competent according to article 31 CMR for small claims.

7.2. *Is there any case law in your jurisdiction on the period of limitation? (art. 32)*

Yes/No	Convention	National law	Landmark cases	Clarification
YES	<i>Suspension to be interpreted according to internal law.</i>	Article 79 Ley 15/2009 establishes that the actions to which the carriage regulated in this law may rise shall be subject to a limitation period of 1 year. However, in the event that such actions derive from a wilful act or with a conscious and voluntary breach of the legal duty assumed that produces damage which, without being directly intended, is a necessary consequence of the action, the limitation period shall be two years.	<i>Resolution 704/2016 issued by the Supreme Court. Such resolution raises the interpretation of Article 79.3 Ley 15/2009 in relation with Article 32.2 CMR</i>	

7.3. *Nice to know: Is it possible to award a single court or tribunal with exclusive competence to hear a CMR based case? (art. 31 & 33)*

Yes/No	Convention	National law	Landmark cases	Clarification
YES	<i>Express submission to a Court is valid according to art. 31 CMR</i>		<i>Resolution 67/2005 issued by the High Court of Barcelona</i>	In accordance with Ley Organica del Poder Judicial, as the international contract of carriage of goods under the CMR regime is neither affected by an exclusive jurisdiction of those provided for in art. 22.1 LOPJ nor, ordinarily, by the special jurisdiction

				for consumer and insurance contracts (art. 22.4 LOPJ), the general jurisdictions apply, according to which the express or tacit submission to the Spanish Court must be taken into account; and the defendant's domicile in Spanish territory (art. 22.2 LOPJ). <i>It gives room to allowing competence based on a tacit act (i.e. not bringing a forum non conveniens action timely)</i>
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## 8. Carrier liability (art. 17 – 20)

8.1. *Who are considered to be 'agents, servants or other persons of whose services the carrier makes use for the performance of the carriage acting within the scope of their employment?' (art. 3)*

The carrier shall be responsible for the acts and omissions of the auxiliary persons, whether dependent or independent, whose services he employs for the fulfilment of his obligations, such as agents, drivers, employees, subcontracted carriers, handling agents, warehousemen, custom officers.

8.2. *To what extent is a carrier liable for acts committed by parties as referred to in art. 3?*

The carrier is liable under the same conditions and as if such acts or omissions were his own, independently of his right to seek later reimbursement from any liable subcontractor(s).

8.3. *To what extent is a carrier deemed liable for damage to or (partial) loss of the goods he transported? (art. 17, 18)*

The carrier is liable for the total or partial loss of the goods and for damage occurred between the time when he takes over the goods and the time of delivery. The carrier is also liable for any delay in delivery.

However, the carrier is exempted from liability in cases of fault or wrong transport instructions given by the shippers or the receivers, inherent vice, or generally in cases of damage caused for circumstances which the carrier could not avoid and whose consequences he could not prevent. The burden of proving that loss, damage or delay was due to one of these causes shall rest upon the carrier.

8.4. *If the transported goods cause damage in any way to other goods, is the damage to those other goods considered to be covered by the CMR?*

8.5. *Nice to know: If a defect or ill-use of a trailer or container is the cause of the damage, is the carrier considered liable? In other words, are the trailer or container viewed as part of (packaging of) the goods or as part of the vehicle? (art. 17 sub 3)*

8.6. *Is there any relevant case law on art. 20, 21 or 22?*

Number of question	Yes/No	Convention	National law	Landmark cases	Clarification
8.4	YES	In accordance to article 28 CMR Convention, the carrier may avail himself of the provisions of this Convention excluding his liability or fixing or limit the compensation whether in a contractual action or extra contractual (article 1902 Spanish Civil Code).	Idem. In accordance to article 63 of the Spanish Land Transport Contracts Act 15/2009, the carrier also may avail himself of the provisions of this Convention excluding his liability or fixing or limit the compensation whether in a contractual action or extra contractual.	<i>Resolution 879/2006 issued by the Spanish Supreme Court</i>	
8.5	YES	The carrier is liable to deliver of the cargo in the same conditions they were when they were given. As a consequence of the above, the carrier must conserve the trailer and/or	Idem. In accordance to article 48.2 of the Spanish Land Transport Contracts Act 15/2009, the carrier is also liable if the cause of the damage is due to a defect	<i>Resolution 334/2017 issued by the High Court of Madrid</i>	

		container in a good conditions in order to the carriage so he is liable if the cause of the damage is due to a defect of them, unless the shipper has provided explicit instructions to transport the goods in a specific trailer or container. In this case, the carrier would be exempted from liability in accordance to the article 17.4 d).	of them, unless the shipper has provided explicit instructions to transport the goods in a specific trailer or container. In this case, the carrier would be exempted from liability in accordance to the article 17.4 d).		
<b>8.6</b>	YES			<p><i>Resolution 603/2011 issued by the High Court of Barcelona</i></p> <p><i>Resolution 263/2005 issued by the High Court of Alicante</i></p> <p><i>Resolution dated 20 April 1988, High Court of Barcelona</i></p>	<p><i>Those are resolutions in relation to article 21 of the CMR Convention. They generally refer to collection of different means of payment than those agreed.</i></p>

## 9. Exemption of liability (art. 17 sub 2 & 4)

### 9.1. *When are there 'circumstances which the carrier could not avoid and the consequences of which he was unable to prevent'? (art. 17 sub 2)*

These kind of circumstances refer to a force majeure cases, which should necessary prove by the party who pretends that the exeption of liability would be apply. In addition, the party must prove that the circumstance was unpredictable or, at least, predictable but unavoidable. Under Spanish Law, article 48.1 of Ley 15/2009 also establishes it. However, Spanish case law rarely admit such circumstances. Some examples are Resolution issued by the Supreme Court dated 20 December 1985 , Resolution 589/2002 issued by the High Court of Valencia or Resolution 258/1999 issued by the High Court of Vizcaya.

### 9.2. *To what extent is a carrier freed from liability? (art. 17 sub 4)*

In addition to the general causes of exclusion of liability, the carrier shall be also relieved of liability when the loss or damage arises from the circumstances such as (i) the use of open unsheeted vehicles (ii) the lack of, or defective condition of packing of the goods (iii) handling, loading, stowage or unloading of the goods by the sender, the consignee or person acting on behalf of the sender or the consignee (iv) the nature of certain kinds of goods (v) insufficiency or inadequacy of marks or numbers on the packages (vi) the carriage of livestock. The carrier must prove the existence of the above circumstances and also that the loss, damage or delay may result from them.

## 10. Calculation of damages (art. 23 – 28)

10.1. *Is there any case law in your jurisdiction on the calculation of the compensation for damage to the goods (i.e. the carrier's limited liability)? (art. 23 – 28)*

10.2. *Nice to know: In relation to question 10.1: Is there any case law on the increase of the carrier's limit of liability? (art. 24 & 26)*

Number of question	Yes/No	Convention	National law	Landmark cases	Clarification
10.1	YES	The compensation for the loss or damage of the goods is calculated according to the value of the goods at the place and time in which it was accepted by the carrier (art. 23. 1). However, there is a legal limit of liability and it must not be higher than the amount result of 8.33 d.e.g. per gross weight of the cargo lost or damaged.  <i>In cases of delay, this amount cannot be higher than the</i>	<i>In accordance to article 55 of Ley 15/2009 the compensation for the loss or damage of the goods is calculated according to the market value of the goods. On the basis of the article 57, the liability of the carrier is limited in the amount result of 1/3 IPREM day per gross weight of the cargo lost or damaged  In cases of delay, this amount cannot be higher than the freight of the transport. (art. 56).</i>	<i>Resolution 117/2015 issued by the High Court of Valencia  Resolution 375/2011 issued by the High Court of Madrid  Resolution 1023/2004 issued by the Spanish Supreme Court.</i>	

		<p><i>freight of the transport. (art. 23.5).</i></p> <p>In addition, the carrier is also liable to reimburse customs duties and other expenses incurred during the carriage (art. 23.4).</p>	<p><i>In addition, the carrier is also liable to reimburse customs duties and other expenses incurred during the carriage (art. 58).</i></p>		
<b>10.2</b>	YES	<p>A higher compensation may be claimed to the carrier if the sender declares a value for the goods exceeding the limit establishes in article 23.3 (art.24) and that value shall be substituted for the above limit. In this cases, is mandatory that the sender make a payment of a surcharge of freights.</p> <p>On the other hand, the sender may fix the amount of a special interest in delivery in the case of loss or damage (art. 26). It is also mandatory that the sender pay a surcharge of freights. This compensation is made in order to compensate additional loss or damage (indirect/consequential damage) up to the total amount declared, which is</p>	<p>Idem.</p> <p>In accordance to article 61 of the Spanish Land Transport Contracts Act 15/2009, a higher compensation may be claimed to the carrier if the sender declares a value for the goods or fix the amount of a special interest in delivery in the case of loss or damage.</p>	<p><i>Resolution of the Spanish Supreme Court dated 20 June 1989</i></p> <p><i>Resolution 377/2004 issued by the High Court of Barcelona</i></p>	

		independently of the compensation establishes in articles 23, 24 and 25.			
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## 11. Unlimited liability (art. 29)

### *11.1. When is a carrier fully liable ? (i.e. when can the limits of his liability be 'broken through?') (art. 29)*

The carrier is fully liable when intervening gross negligence or wilful misconduct during the carriage (Resolution 59/2018 issued by the High Court of Madrid; Resolution 197/2016 issued by the High Court of Barcelona).

The burden of proof lies on the sender who invokes that damage was caused due to this fact (Resolution of the Spanish Supreme Court dated 16 January 1987).

### *11.2. What is the interpretation of the phrase: 'wilful misconduct or by such default on his part as, in accordance with the law of the court or tribunal seized of the case, is considered as equivalent to wilful misconduct' (art. 29[1] CMR) under your jurisdiction?*

Under Spanish law, it does not always imply the intention to harm or harm, but the voluntary infringement of the legal duty, with the awareness that with the act itself, it carries out an unlawful act, executes something that is prohibited and does what it should not do, "having to be understood fraudulently dear the results that without being intentionally pursued, appear as a necessary consequence of the action, which is equivalent to what is traditionally called eventual fraud.

Resolutions 255/2009 and 382/2015 issued by the Spanish Supreme Court; Resolution 59/2018 issued by the High Court of Madrid.

## 12. Specific liability situations

Situation	Liability of the carrier Yes/No	Ambiguity of case law <sup>4</sup>	Clarification
<b>Theft while driving</b>	YES	Sometimes	Depending of the circumstances of the theft.
<b>Theft during parking</b>	YES	Sometimes	Theft during the parking but the Judge applies the limit of liability on the basis of the article 23.3 CMR Convention because he did not consider intervention of gross negligence or wilful misconduct during the carriage. Parking in a security zone, so close to the delivery place. <i>Resolution 375/2011 issued by the High Court of Madrid</i> Theft during the parking in a unsecurity zone for four days, without security measures. The carrier is full liable an no limitation is applicable ( <i>Resolution 181/2011 issued by the High Court of Barcelona</i> )
<b>Theft during subcarriage (for example an unreliable subcarrier)</b>	YES	Sometimes	The carrier is responsible for its own acts and for the acts of any subcontractor(s), independently of his right to seek later reimbursement from any liable subcontractor(s). Same scenario as above.
<b>Improper securing/lashing of the goods</b>	NO	Sometimes	In accordance to article 17.4 of CMR Convention, the carrier is not liable for damage suffered by goods as a consequence of an improper securing/lashing of them which was made by the sender ( <i>Resolution 678/2019 issued by the High Court of Cordoba</i> )  However, the carrier, <i>prior to</i> starting the carriage, must check that the goods are in a good condition (in relation to an incorrect securing/lashing). As a consequence of this, the carrier can be <i>held</i> liable of this fact if this could be appreciate by the carrier and he did not insert the correspondent remark in the CMR document ( <i>Resolution 38/2016 issued by the High Court of Zamora</i> ).
<b>Improper loading or discharge of the goods</b>	NO		In accordance to article 17.4 CMR Convention, the carrier is not liable for damage suffered by goods as a consequence of an improper loading or discharge of them. However, the carrier can be liable if

<sup>4</sup> Please indicate to what extent the case law in your country is in line, or whether case law differs from judgement to judgement.

			the damage suffered by goods was due to an incorrect instruction about the loading of the cargo made by the carrier to the shipper (Resolution 647/2019 issued by the High Court of Navarra)
<b>Temporary storage</b>	YES	Never	The carrier is liable for the custody of the goods according to article 3 and 17 of the CMR Convention. Theft of the goods during temporary storage, warehouse without security measures (Resolution 1342/2020 issued by the High Court of Alicante).
<b>Reload/transit</b>	YES	Never	The carrier is liable because this happens during the carriage of the goods.
<b>Traffic</b>	YES	Never	Traffic accident. Overturning of a truck due to the crossing of an animal (Resolution 545/2006 issued by the High Court of Malaga).
<b>Weather conditions</b>	YES	Rarely	Sometimes the carrier is exempted of liability but he has the burden of proof that the circumstance was unpredictable or, at least, predictable but unavoidable.
<b>Overloading</b>	YES	Sometimes	The same escenario than in an improper loading or discharge of the goods.
<b>Contamination during / after loading</b>	YES	Sometimes	Depending of the particular circumstances in each case.
<b>Contamination during / after discharge</b>	YES	Sometimes	Depending of the particular circumstances in each case.

### 13. Successive carriage (art. 34 – 40)

#### 13.1. When is a successive carrier liable? (art. 34 – 36)

In a successive carriage, every carrier is liable for the performance of the whole operation because they become a party to the contract of carriage under the terms of the consignment note, by reason of his acceptance of the goods and the consignment note.

Joint and several liability of the whole carriers

(Resolution 635/1998 issued by the Spanish Supreme Court).

*13.2. To what extent do successive carriers have a right of recourse against one another? (art. 37 – 40)*

In accordance to article 37 of CMR Convention, the carrier who has paid a compensation in compliance with the provisions of CMR Convention shall be entitled to recover this compensation from the other successive carriers.

If the harmful event happened in the course of the carriage made by one of the carriers, this carrier will be liable to pay the full compensation. Otherwise, every carriers will be liable to pay proportionally to the routes covered.

If the carrier who has been condemned in legal proceedings informed and called to the proceedings to every carriers, they cannot disput the valid of that payment in the recovery actions against them.

*13.3. Nice to know: What is the difference between a successive carrier and a substitute carrier? (art. 34 & 35)*

A successive carrier performs a part of the journey under a single contract and each of them shall be responsible of the whole carriage.

A substitute carrier performs the whole carriage but he is not a part of the initial contract and acts as a subcontractor from the initial carrier.

Under Spanish law, article 6 of Ley 15/2009 regulates the nature of the substitute carriers (effective carriers).

## 14. E-CMR

*14.1. Can the CMR consignment note be made up digitally?*

<b>Yes/No</b>	<b>E-Protocol</b>	<b>National law (civil law as well as public law)</b>	<b>Landmark cases</b>	<b>Clarification</b>
<b>YES</b>	Spain has signed that Additional Protocol at CMR Convention, 20th February, ratified by Spain and published	The validity of the e-CMR is admitted in our legislation, under article 15 of Ley 15/2009.		

	under BOE on 14th June 2011. This protocol entered into force in Spain on 9th August 2011.			
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*14.2. In addition to question 14.1: If your country has ratified the e-CMR protocol is there any national case law, doctrine or jurisprudence that practitioners should be aware of?*

No relevant national case law, doctrine or jurisprudence.