This Country report on CMR-convention has been provided by

Giedrius Abromavičius
Senior Associate

t. +370 5250 0800
m. +370 653 39310
giedrius.abromavicius@cobalt.legal

Lvovo 25, LT-09320
Vilnius, Lithuania
www.cobalt.legal

COBALT Estonia Latvia Lithuania Belarus

The Baltics Law Firm of the Year 2019
Most Innovative Baltic Law Firm
Baltic Deal of the Year Winner

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)

Yes/No	Convention	National law	Landmark cases	Clarification
YES	This Convention shall apply to every contract for the carriage of goods by road in vehicles for reward, when the place of taking over of the goods and the place designated for delivery, as specified in the contract, are situated in two different countries, of which at least one is a contracting country, irrespective of the place of residence and the nationality of the parties. (Art. 1 Part. 1 of the Convention).	The carriage of goods by road in vehicles for reward is regulated by the Convention on the Contract for the International Carriage of Goods by Road (CMR) (Art. 39 Part. 1 of the Road Transport Code of the Republic of Lithuania).	The Supreme Court has explained that "one of necessary conditions to apply the CMR Convention is that the shipper and consignee must be located in different countries" (Supreme Court of Lithuania, ruling of 30 March 2018 in a civil case No. e3K-3-125-248/2018).	It must be noted that the translation of the CMR Convention into Lithuanian language differs from the English version. EN: "when the place of taking over of the goods and the place designated for delivery, as specified in the contract, are situated in two different countries" LT: "when the shipper and the consignee are located in the territory of different counties".

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

Yes/No	Convention	National law	Landmark cases	Clarification
YES	This Convention shall apply to every contract for the carriage of goods by road in vehicles for reward, when the place of taking over of the goods and	The carriage of goods by road in vehicles for reward is regulated by the Convention on the Contract for the International Carriage of Goods by Road	The Supreme Court has explained that the parties can agree on application of the CMR Convection for carriage agreement. The court has	Regardless that court practice does not provide an answer if the parties can agree to apply the CMR Convention for domestic carriage. In my

	the place designated for delivery, as specified in the contract, are situated in two different countries, of which at least one is a contracting country, irrespective of the place of residence and the nationality of the parties. (Art. 1 Part. 1 of the Convention).	(CMR) (Art. 39 Part. 1 of the Road Transport Code of the Republic of Lithuania).	decided that the consignment note does not sufficiently prove existence of an agreement between the parties to apply CMR Convention (Supreme Court of Lithuania, ruling of 30 March 2018 in a civil case No. e3K-3-125-248/2018).s	opinion, the parties have such right

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

Yes/No	Convention	National law	Landmark cases	Clarification
NO	N/A	N/A	N/A	N/A

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
☐	**Freight forwarding agreement**	Freight forwarding is regulated by Civil Code of the Republic of Lithuania.	The Supreme Court has explained that CMR Convention is not applicable to the freight forwarding agreement (Supreme Court of Lithuania, ruling of 7 April 2015 in a civil case No. 3K-3-175-706/2015).	N/A
☐	**Physical distribution**	N/A	N/A	N/A

☐	**Charters**	N/A	N/A	N/A
☐	**Towage**	N/A	N/A	N/A
☒	**Roll on/roll off**	N/A	The Supreme Court has explained that "the carriage includes stages when the cargo, located in a trailer, are loaded into the vessel, regardless separated from a truck or no. In this case the definition "carriage" is defined not as process of carriage, but the cargo being at the disposal of the carrier. <…> the cargo is at disposal of the carrier also in cases it is being carried or placed into custody of persons engaged by the carrier (f.e. under an agreement)" (Supreme Court of Lithuania, ruling of 3 April 2015 in a civil case No. 3K-3-185-969/2015).	N/A
☒	**Multimodal transport**	Where the vehicle containing the goods is carried over part of the journey by sea, rail, inland waterways or air, and, except where the provisions of article 14 are applicable, the goods are not unloaded from the vehicle, this Convention shall nevertheless apply to the whole of the carriage (Art. 2 Part 1 of the CMR Convention).	The Supreme Court has examined the ground to apply CMR Convention in the case was a container without a vehicle was carried by sea from China to Lithuania (Klaipeda) and partly by road Klaipeda-Vilnius (domestic carriage), and has explained that "the carriage by road was performed only in a territory of one country (i.e. in Lithuania from Klaipeda to Vilnius), therefore the court agreed with the conclusion of the appeal instance that CMR Convention shall not be applied	CMR Convention would be applicable to a part of carriage by road transport in the case the conditions established in Art. 1 Part. 1 of the CMR Convention exist.

			in this case". (Supreme Court of Lithuania, ruling of 28 April 2017 in a civil case No. e3K-3-204-378/2017).	
☒	**Substitute carriage**[1]	N/A	N/A	Yes, in the case the conditions established in Art. 1 Part. 1 of the CMR Convention exist.
☒	**Successive carriage**[2]	N/A	N/A	Yes, in the case the conditions established in Art. 1 Part. 1 of the CMR Convention exist.
☒	**'Paper carriers'** [3]	Please elaborate your findings and conclusions here, using a max. of 1200 characters	The Supreme Court has explained that "in the case a person concludes an agreement regarding the carriage of goods to the place of destination and actually does not perform the carriage, but engages a third person, such person shall be considered carrier in accordance with the provision of CMR Convention. Therewith, if a freight forwarder has accepted liability for the whole organising of the carriage without provision only freight forwarding services shall be provided, shall be considered carrier in accordance with the provision of CMR Convention.	Yes, the carrier is established under the conditions of the agreement with the shipper.

[1] partly art. 3

[2] 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

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

			Also, if a freight forwarder is entitled to the remuneration for a particular carrier, shall be considered carrier in accordance with the provision of CMR Convention, unless it was agreed that he provides only freight forwarding services" Supreme Court of Lithuania, ruling of 27 September 2006 in a civil case No. 3K-3-457/2006).	

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

N/A

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?)

Number of question	Yes/No	Convention	National law (civil law as well as public law)	Landmark cases	Clarification
2.1	NO	The contract of carriage shall be confirmed by the making out of a consignment note. The	The shipper must present to the carrier together with the cargo a consignment note (Art. 30	The Supreme Court has explained that, that "under Art. 4 and 9 Part. 1 of the CMR	No, but in the case of absence of the consignment note, the claimant shall prove that the

		absence, irregularity or loss of the consignment note shall not affect the existence or the validity of the contract of carriage which shall remain subject the provisions of this Convention (Art. 4 of the CMR Convention).	Part. 1 of the Road Transport Code of the Republic of Lithuania).	Convention, a consignment note is an evidence of a contract of carriage and its conditions, which is a prima facie evidence, that the carriage agreement was concluded and the cargo was transferred to the disposal of the carrier, unless proven otherwise. In the case of absence, irregularity or loss of the consignment note, it does not affect the contract of carriage and its validity. In such case CMR Convention shall be applied to the contract of carriage". (Decision of the Supreme Court of Lithuania dated 30.05.2013 in the civil case No. 3K-7-159/2013). The Supreme Court also has explained that "in the case the place of destinations is indicated differently (remark: in the agreement and the consignment note), the carrier shall follow the provisions of a contract and carry the cargo to the place of destination indicated in a contract. Therefore unless the parties	cargo was transferred to the carrier.

				agree to amend the carriage contract, the provisions of a consignment note does not make such amendment".	
2.2	YES	The contract of carriage shall be confirmed by the making out of a consignment note. The absence, irregularity or loss of the consignment note shall not affect the existence or the validity of the contract of carriage which shall remain subject the provisions of this Convention (Art. 4 of the CMR Convention).	The taxpayer, who consigns or receives goods cargo by road transport in the territory of Lithuania, shall provide the data of the consignment to the Tax Inspectorate of Lithuania (Art. 42(3) Part. 1 of the Law in Tax Administration of the Republic of Lithuania).	The Supreme Court of Lithuania has explained that "significant particulars that are entered in the consignment note contravene the ones that had been agreed upon by the parties that concluded the carriage agreement, and the carrier was aware of their inadequacy, or the inadequacy was obvious to him, and if the carrier signed such consignment note, such conduct of the carrier may be considered as wilful or gross negligence." <…> in case the carrier signs the consignment note bearing the particulars that contravene substantial particulars of the carriage agreement that he is aware of, by such wilful or negligent conduct he accepts the risk of the loss that could arise due to such inadequacy of the particulars; under such circumstances a compound	Under Lithuanian court practice, if the significant particulars of the consignment note differs from the ones of the carriage agreement, the carrier shall ask for instructions, otherwise there is a high risk that the carrier bears liability for such discrepancies. In national carriages, a paper of electronical consignment note is mandatory. The shipper and consignee must submit the date of the consignment note to the Tax Inspectorate.

				liability for the loss of the sender and the carrier may be established." (Supreme Court of Lithuania, ruling of 7 January 2016 in a civil case No. 3K-3-58-915/2016).	
2.3	YES	On taking over the goods, the carrier shall check: (a) The accuracy of the statements in the consignment note as to the number of packages and their marks and numbers, and (b) The apparent condition of the goods and their packaging (Art. 8 Part. 1 of the CMR Convention).	The cargo is transferred to the carrier in accordance with the weight and quantity indicated in the consignment note (Art. 31 Part. 2 of the Road Transport Code of the Republic of Lithuania).	The Supreme Court of Lithuania has explained that that the liability of a carrier for the cargo starts from the moment the cargo was accepted for carriage. <…> the presumption of the liability of the carrier starts from the moment the carrier has accepted the cargo and signed a consignment note" (Supreme Court of Lithuania, ruling of 9 June 2004 in a civil case No. 3K-3-328/2004). The Supreme Court of Lithuania explained that under CMR Convention the carrier's liability for the cargo ends from the moment the consignee has signed a consignment note <…> the moment of delivery of a cargo from which the liability of the carrier ends shall be the process during which the duty	Yes, the carrier is liable for the cargo from the moment of transfer of the cargo for carriage until the moment of delivery.

				of care and right of actually control the cargo is passed to the consignee. By signing of the consignment note and by providing instructions to the carrier regarding the moving of the cargo in the territory of the warehouse with a purpose to unload the cargo, the consignee confirms that the cargo was transferred to its disposition. (Supreme Court of Lithuania, ruling of 22 June 2007 in a civil case No. 3K-3-269/2007).	
2.4	YES	Where the carrier has no reasonable means of checking the accuracy of e statements referred to in paragraph 1 (a) of this article, he shall enter his reservations in the consignment note together with the grounds on which they are based. He shall likewise specify the grounds for any reservations which he makes with regard to the apparent condition of the goods and their packaging, such reservations shall not bind the sender unless he has expressly agreed to be bound by them in	In the case the weight or quantity of the cargo differs from the indicated in the consignment note or does not conform with the requirements of carriage, the carrier shall refuse to accept the cargo or shall make notes in the consignment note (Art. 31 Part. 3 of the Road Transport Code of the Republic of Lithuania).	The Supreme Court of Lithuania has explained that under Art. 8 Part 2 of the CMR Convention all notes of the carrier about the apparent condition and packaging of the cargo shall indicate grounds on which they are based, i.e. the notes shall be briefly indicated – the carrier shall not only indicate separate defects, but also describe how they were discovered and to reason the notes. <…> A dutiful carrier, in the case of damage of the cargo and the apparent	Please elaborate your findings and conclusions here, using a max. of 1200 characters

		the consignment note. (Art. 8 Part. 2 of the CMR Convention).		condition packaging, shall refuse to accept the cargo or make notes in the consignment note (Supreme Court of Lithuania, ruling of 30 May 2008 in a civil case No. 3K-3-296/2008).	

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	NO	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. (Art. 11 Part. 3 of the CMR Convention).	N/A	The Supreme Court of Lithuania has explained that "the shipper shall take care of all necessary documents: import and export permissions, certificates of origin and any other documents which are necessary to enter into the territory of a respective country. The carrier is liable only for the loss or incorrect use of the documents specified in and accompanying the	N/A

				consignment note, provided that the carrier shall not be liable for damages which would exceed the compensation in the event of loss of the cargo." (Supreme Court of Lithuania, ruling of 12 May 2009 in a civil case No. 3K-3-221/2009).	
3.2	YES	In addition, the carriage charges, Customs duties and other charges incurred in respect of the carriage of the goods shall be refunded in full in case of total loss and in proportion to the loss sustained in case of partial loss, but no further damage shall be payable (Art. 23 Part. 4 of the CMR Convention).	N/A	The Supreme Court of Lithuania has explained that "the CMR Convention does not specify the meaning of the definition "other charges incurred in respect of the carriage of the goods". It is considered that such other charges may be expenses in respect to the return of the damaged goods, in the case it was not accepted by the consignee, excise duties, which is paid because the goods were stolen, paid VAT, expenses for the expert examination, utilization of goods. (Supreme Court of Lithuania, ruling of 27 June 2011 in a civil case No. 3K-3-301/2011).	N/A
3.3	YES	N/A	N/A	N/A	Please see answer 3.1
3.4	YES	N/A	N/A	N/A	Please see answer 3.1

4. The right of disposal (art. 12)

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

In the case the shipper indicated in the consignment note and the person who has concluded carriage agreement differs, the court establishes that the person who has concluded carriage agreement has the right to dispose of the goods.

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 Supreme Court of Lithuania has established that "the carrier discharged the cargo in a warehouse and delayed its carriage, provided false information regarding the loading of the cargo and leaving to the destination. The carrier delayed the carriage of the cargo for an excessively long time, twice exceeded the maximum deadline for delivery of the cargo; transported only a part of the cargo; did not pay to the contracted carriers. <…> The court concluded that the carrier did not employ his maximum attention and care while discharging his contractual obligations in relation to the carriage of the goods to the destination in the terms that would be usually necessary for a dutiful carrier in order to perform the transportation, whereas such actions of the company as provision of false information to the client, warehousing of the cargo when it was not agreed under the contract of carriage, failure to pay for the carriage to other carriers, that conditioned the exceeding of delivery terms of the cargo, should be treated as purposeful, wilful acts, upon establishment thereof, the carrier should not be subject to the provisions of the CMR Convention which exclude or limit his civil liability." (Supreme Court of Lithuania, ruling of 3 May 2013 in a civil case No. 3K-3-265/2013).

In the case the carrier acts against the instruction of the shipper (person entitled to provide instructions), the court could establish gross negligence or wilful misconduct of the carrier.

In our practice, the court decided that a carrier, who performed instructions of the person, who was not entitled to dispose of the cargo, and did not asked to present the first copy of the consignment note with instructions, acted with gross negligence. (Kaunas Regional Court, ruling 17 July 2015 in a civil case No. 2A-1195-230/2015).

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	If for any reason it is or becomes impossible to carry out the contract in accordance with the terms laid down in the consignment note before the goods reach the place designated for delivery, the carrier shall ask for instructions from the person entitled to dispose of the goods in accordance with the provisions of article 12. (Art. 14 Part. 1 of the CMR Convention).	N/A	N/A	Yes, in the case the cargo is damaged and (or) lost due to the failure to ask instructions.
5.2	YES	Where circumstances prevent delivery of the goods after their arrival at the place designated for delivery, the carrier shall ask the sender for his instructions. If the consignee refuses the goods the sender shall be entitled to dispose of them without being obliged to produce the first copy of the	N/A	N/A	The carrier shall be liable in the case it performs instructions of a person who is not entitled to dispose of the cargo under Art. 12 of the CMR Convention.

		consignment note (Art. 15 Part 1 of the CMR Convention).			

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
NO	N/A	N/A	N/A	There is no actual court practice in this respect, but in our opinion, the packaging of the goods shall not be considered as part pf the goods.

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

There is no actual court practice regarding application of Art. 10 of the CMR Convention.

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

The Supreme Court of Lithuania has explained that "reservation, in the case of loss or damage which is not apparent, shall be presented in writing to the main carrier or its agents, and not other persons. The fact the consignee presented reservation to the shipper shall not have such effect and shall not be considered as proper submission of reservations". (Supreme Court of Lithuania, ruling of 23 December 2014 in a civil case No. 3K-3-576/2014).

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

In practice not apparent loss or damage shall be considered in the case the package is not damaged and (or) special knowledge is needed to establish the loss or damage.

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

N/A

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)

A court is considered competent to resolve the case if it was agreed by the parties in the carriage agreement, in the case of absence of such agreement, the courts established in clause (a) and (b) of Art. 31 Part. 1 of the CMR Convention.

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	N/A	N/A	N/A	The limitation period cannot be extended by mutual agreement of the parties.

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	N/A	N/A	N/A	The courts give priority to the agreement between parties on jurisdiction, but the court has not ruled that an agreement on exclusive

				jurisdiction would be valid, as the court considers the provisions of CMR Convention as mandatory.

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 Supreme Court has explained that "the defendant UAB „DSV Transport" undertook to transport the cargo and therefore is considered as contractual carrier under CMR Convention and is held responsible for the acts of the third person engaged for the performance of the carriage, i.e. UAB „Hofa" (its driver's) acts against the shipper (Supreme Court of Lithuania, ruling of 26 October 2012 in a civil case No. 3K-3-437/2012).

Under Art. 3 of the CMR Convention the employee of the factual carrier can be recognised as third person or the factual carrier, if the carriage was performed on behalf of the contractual carrier. In our opinion, it is important which carrier is indicated in the consignment note.

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

The main carrier is liable for the acts committed by parties referred to in Art. 3 to the same extent as such acts were committed by his employees, i.e. the liability can be limited or unlimited under Art. 29.

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

PleThe Supreme Court has explained that "the carrier is liable for the carriage of goods and the liability of the carrier shall be presumed (Supreme Court of Lithuania, ruling of 12 October 2005 in a civil case No. 3K-3-481/20050).

It means that that carrier shall be liable for the liable for the loss and damage the goods and the delay in delivery in all cases, unless he can prove the circumstances established in Art. 17.2 or 17.4.

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	N/A	N/A	N/A	Yes, the carrier shall be liable under CMR Convention in the case the goods cause damage to the other goods.
8.5	YES	N/A	N/A	N/A	If otherwise is not established in an agreement, a trailer and a container shall be considered as a part of the vehicle.
8.6	YES	N/A	N/A	The Court of Appeal of Lithuania explained, that „despite the fact that the cargo is not factually lost, but was confiscated by the authority in Romania, in accordance with CMR Convention it shall be considered as lost, because it was not delivered to the consignee within the indicated term. <…> as loss it shall be	N/A

				also considered a long-term seizure of the cargo" (Court of Appeal of Lithuania, ruling of 20 September 2012 in a civil case No. 2A-743/2012).	

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)

When applying the provision of the carrier's exemption from civil liability, the courts must determine the existence of all the following conditions: (i) damage occurred due to the circumstances which the carrier could not foresee; (ii) the consequences caused by these circumstances could not be prevented by the carrier; (iii) the carrier proves that he did everything what an honest and dutiful carrier would do in order to avoid the damage at a given time and place.

According to the case law only a person capable of ensuring wise (minimum) cargo loss risk may be regarded as an honest carrier. It is not enough for the carrier to prove that the circumstances were unavoidable; the carrier also must prove the causality between the circumstances and the damage. It must be noted that not only the circumstances should be unavoidable, but their consequences as well. (Supreme Court of Lithuania, ruling of 18 February 2015 in a civil case No. 3K-3-54-916/2015).

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

The Supreme Court has explained that "the carrier of the cargo had no liability for the loss of the cargo under the carriage contract, because the transported cargo was lost due to its defects – the fire in internal wiring of one of the cars that was being transported caused the fire, which was considered as the defect of the cargo pursuant to paragraph 2 of Article 17 of the CMR Convention that was applied to the dispute relationships, which eliminated the liability of the carrier." (Supreme Court of Lithuania, ruling of 11 January 2013 in a civil case No. 3K-3-97/2013).

Under Art. 17(2) of the CMR Convention in order to be relieved of liability the carrier must prove that he did everything what an honest and dutiful carrier would do in order to avoid damages at a given time and place. The burden of prove of the carrier in respect to Art. 17(2) of the CMR Convention is very high and nearly impossible to prove before the courts in Lithuania.

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	When, under the provisions of this Convention, a carrier is liable for compensation in respect of total or partial loss of goods, such compensation shall be calculated by reference to the value of the goods at the place and time at which they were accepted for carriage. (23 Part 1).	N/A	The courts establish the value of the cargo shall be considered the price of the goods established in the invoice. The courts generally apply the limitation of liability of 8.33 units of account per kilogram of gross weight, unless unlimited liability under Art. 29 shall be applied. (Supreme Court of Lithuania, ruling of 10 March 2017 in a civil case No. e3K-3-123-219/2017).	N/A
10.2	YES	The sender may, against payment of a surcharge to be agreed upon, declare in the consignment note a value for the goods exceeding the limit laid down in article 23, paragraph 3, and in that case the amount of the declared value shall be substituted for that limit. (Art. 24)	N/A	The Supreme Court has evaluated the case in which the parties agreed that 20 % of a surcharge shall be included in the amount of the freight and the value of the cargo was known to the carrier and it was indicated in the agreement, the court awarded the declared value of the goods (Supreme	N/A

				Court of Lithuania, ruling of 10 March 2017 in a civil case No. e3K-3-123-219/2017).	

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)

It should be noted that in the case law of Lithuanian courts there have been relatively many cases when the courts acknowledged gross negligence on the part of the carrier and applied unlimited liability thereof. In recent years the courts started evaluating not only the objective but also the subjective criteria. Previously the evaluation of the courts was limited to the objective actions of the carrier and (or) the driver. Despite this for the time being Lithuania should be considered as a shipper-friendly jurisdiction.

*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 the case law of Lithuanian courts the actions are considered as equivalent to wilful misconduct when the observance of minimum requirements of precaution would have prevented from such misconduct, or omission – failure to perform all possible actions that could have possibly minimized or prevented the risk of damages. This applies to wilful, purposeful conduct committed by the driver of the carrier that causes danger to preservation of the cargo.

12. Specific liability situations

Situation	**Liability of the**	**Ambiguity of case law[4]**	**Clarification**

[4] Please indicate to what extent the case law in your country is in line, or whether case law differs from judgement to judgement.

	carrier Yes/No		
Theft while driving	YES	Never	No court practise in this respect;
Theft during parking	YES	Frequently	The Supreme Court has explained that the carrier was aware of the composition of the cargo (12 boxes of footwear). Such cargo is regarded as highly marketable and no special equipment is requires for its theft. These circumstances determine an increased risk of theft attempt. During the transportation of the cargo there always exists a certain objective risk for the loss of the cargo, therefore, the defendant as an entrepreneur – freight transportation professional who is permanently engaged in paid freight transportation services, must foresee and evaluate all the potential risks that might occur during the transportation of the cargo and take all possible measures in order to eliminate or decrease the risks of cargo loss. The court determined that parking at the parking lot that had no security and no illumination during the transportation of high-value and theft attractive cargo should be regarded as gross negligence on the part of the carrier. The court applied unlimited liability of the carrier (Supreme Court of Lithuania, ruling of 17 January 2012 in a civil case No. 3K-3-9/2012).
Theft during subcarriage (for example an unreliable subcarrier)	YES	Frequently	The court has concluded that the carrier subcontracting a third party for the carriage of the cargo was obliged to ensure a fluent takeover of the claimant's cargo and delivery to the consignee at the place designated for delivery, therefore a failure to properly implement this obligation through omission was considered as gross negligence, that is equivalent to wilful misconduct, and such conclusion was well-grounded and complying to the case law of cassation court. Courts established that the circumstances under which a vehicle prior to loading of the cargo had been possibly illegally overtaken by a third party, had no influence on the evaluation of the carrier's actions, because he failed to act as a responsible person would be expected to act in an analogical situation, i. e. failed to timely inform the client of the obstacles impeding the loading of the cargo to the vehicle indicated in the agreement. (Supreme Court of Lithuania, ruling of 9 May 2014 in a civil case No. 3K-3-271/2014). In this case the court has established the gross negligence of the carrier.
Improper securing/lashing of the goods	YES	Sometimes	In the case the defects of the securing are obvious to the carrier, unlimited liability could be applied.
Improper loading or discharge of the goods	YES		In the case the defects of the loading are obvious to the carrier, unlimited liability could be applied.

Temporary storage	YES	Never	No case law;
Reload/transit	YES	Never	Reload / transit shall not be considered a ground to apply unlimited liability;
Traffic	YES	Sometimes	The Supreme Court of Lithuania has interpreted that "wilful, purposeful conduct committed by the driver of the carrier that could cause a threat to the cargo may be considered as gross negligence, equivalent to deliberate act. The examples of such conduct may be material road traffic offences – non-compliance with restrictions, prohibitions, other express provisions, e.g., clearly established gross exceeding of the authorised speed, non-compliance with driving prohibitions indicated by interdictory signs, non-compliance with requirements to stop at the traffic lines and crossings, breach of vehicle operating prohibitions." Exceeding of the authorised speed or offence of prohibition performed by the carrier's driver should not be entirely considered as wilful act, equivalent to gross negligence, conditioning accident and causing the loss of, or damage to the cargo. It has to be clear and gross, in order to reasonably determine the conditioning of the danger to the cargo (e.g. gross exceeding of the authorised speed, keeping maximum allowed speed during complicated driving conditions – mist, rain, or during the conditions that limit visibility, etc., fast driving with cargo at winding, mountainous roads, etc.). (Supreme Court of Lithuania, ruling of 16 April 2014 in a civil case No. 3K-3-219/2014).
Weather conditions	YES	Never	No case law;
Overloading	YES	Never	Generally the shippir shall be liable for overloading, if this fact was not obvious to the carrier;
Contamination during / after loading	YES	Never	No case law;
Contamination during / after discharge	YES	Never	No case law;

13. Successive carriage (art. 34 – 40)

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

The Supreme Court has explained that "a single contract under Art. 34 of the CMR Convention shall be considered such contract, performed by successive road carriers, in the case one consignment note is be issued and the carriers joint it by accepting the cargo and making notes in the consignment note. <…> A carriage shall be considered governed by a single contract also in the case different consignment notes are issued, but the shipper (consignee) has knowledge about the carriers who have performed (shall perform) the carriage and the carriers undertook in their own name and at their risk to perform

the carriage and know the conditions of the agreement between a contractual carried and a shipper (consignee)." (Supreme Court of Lithuania, ruling of 11 January 2017 in a civil case No. 3K-3-75-916/2017).

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

The carrier who has settled compensation, shall have the right to demand from the carrier responsible for the loss or damage of the goods and shall have the right to demand compensation, interest and litigation expenses incurred in the civil case.

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

The courts shall establish different conditions of substitute carriage and (or) successive carrier. In the case of substitute carriage, the main carrier shall perform the carriage on its name, i.e. it shall be marked in the consignment note. In the case of substitute carriage (single contract), the shipper (consignee) shall be aware of the carriers who perform the carriage. The case law in this respect deferrers, in some cases the court has applied both, Art. 3 and 34 of CMR Convention.

14. E-CMR

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

Yes/No	E-Protocol	National law (civil law as well as public law)	Landmark cases	Clarification
YES	Protocol was ratified since 23 November 2010.	E-consignment noted is being used in national carriages. The taxpayer, who consigns or receives goods cargo by road transport in the territory of Lithuania, shall provide the data of the consignment to the Tax Inspectorate of Lithuania (Art. 42(3) Part. 1 of the Law in Tax Administration of the Republic of Lithuania).	N/A	In national carriages, a paper or e-consignment note is mandatory. The shipper and consignee must submit the data of the consignment note to the Tax Inspectorate.

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 case law.