

6 Bortset fra hvad der herom er bestemt i stk. 7, er HNS-fonden ikke bundet af nogen dom eller afgørelse i retssager, hvori den ikke har været part, eller af noget forlig, hvori den ikke har deltaget.

7 Såfremt et krav om skadeserstatning i henhold til denne konvention er rejst mod en ejer eller ejerens garant ved en kompetent domstol i en kontraherende stat, er hver part i sagen i overensstemmelse med den nationale ret i denne stat berettiget til at underrette HNS-fonden om sagen, uden at dette berører, hvad der i stk. 5 er bestemt. Når sådan underretning er sket i de former, som kræves af lovgivningen på stedet og til sådan tid og på sådan måde, at fonden har haft reel mulighed for at indtræde som part i sagen, skal den af retten i en sådan sag afsagt dom, når den er endelig og eksigibel i den stat, hvori dommen er afsagt, være bindende for HNS-fonden i den forstand, at de ved dommen antagne forudsætninger ikke kan bestrides af HNS-fonden, selv om denne faktisk ikke har indtrådt i retssagen.

6 Except as otherwise provided in paragraph 7, the HNS Fund shall not be bound by any judgement or decision in proceedings to which it has not been a party or by any settlement to which it is not a party.

7 Without prejudice to the provisions of paragraph 5, where an action under this Convention for compensation for damage has been brought against an owner or the owner's guarantor before a competent court in a State Party, each party to the proceedings shall be entitled under the national law of that State to notify the HNS Fund of the proceedings. Where such notification has been made in accordance with the formalities required by the law of the court sized and in such time and in such a manner that the HNS Fund has in fact been in a position effectively to intervene as a party to the proceedings, any judgement rendered by the court in such proceedings shall, after it has become final and enforceable in the State where the judgement was given, become binding upon the HNS Fund in the sense that the facts and findings in that judgement may not be disputed by the HNS Fund even if the HNS Fund has not actually intervened in the proceedings.

Anerkendelse og fuldbyrdelse

Recognition and enforcement

Artikel 40

Article 40

1 Enhver afgørelse truffet af en domstol med kompetence i henhold til artikel 38, som kan fuldbyrdes i oprindelseslandet, og den dér ikke længere med sædvanlige retsmidler kan indbringes for en højere instans, skal anerkendes i enhver anden kontraherende stat undtagen:

- a) hvor afgørelsen er opnået ved svig, eller
- b) hvor der ikke er givet sagsøgte passende frist og rimelig mulighed for at føre sin sag.

1 Any judgement given by a court with jurisdiction in accordance with Article 38, which is enforceable in the State of origin where it is no longer subject to ordinary forms of review, shall be recognised in any State Party, except:

- (a) where the judgement was obtained by fraud; or
- (b) where the defendant was not given reasonable notice and a fair opportunity to present the case.