COLLECTION CASE LAW CMNI & CLNI

AIM

Autonomous interpretation of the conventions

Different ways of application in Member States depending on their constitution:
- Direct application
- Transposition into national law

Collection built up of judgements filed in State Parties of these conventions

CMNI
JUDGEMENTS

COLLECTION CASE LAW CMNI & CLNI

CMNI
Most important articles/questions in judgements

Article 2: Scope of application
- Geographically (cross border, domestic jo Art. 31)
- Timely: no application before official ratification

Article 3: Taking over, carriage and delivery of the goods
- lack of definition of the term „delivery" and additional national provisions according to Art. 29.
- unloading of goods: ommission of the convention (jo. Art. 6 par. 4)

Article 6: obligations of the shipper
- par. 4: no reference to "unloading"omission of the convention / editorial error? Additional national law or beyond the wording of par. 4.: differently interpreted in G and NL.

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CMNI
Most important articles/questions in judgements

Article 16: Liability for loss
- Liability for contamination of goods
- Contribution in General Average considered as loss

Article 25: Nullity of contractual stipulations
- exclusion of liability for navigational error to be agreed by parties or excluded by pre-formulated general conditions

CLNI
JUDGEMENTS

IVR

Inland shipping I Insurance I Ship's survey I Related sectors

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CLNI
Most important articles/questions in judgements

Article 1: Right to limit liability
persons entitled to limit liability

- Broad interpretation of those entitled to limit liability
- Slot charterer included in this concept
- Term "charterer" in relation to pusher and barge: no grounds for distinction between principal and sub-charterer

Article 2:

- Constitution of water pollution fund for environmental contemination rather than property fund.
- No limitation of liability for costs of a fire service intervention

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AUTONOMOUS INTERPRETATION OF THE CONVENTIONS

Different ways of application in Member States depending on their constitution:
- Direct application
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QUESTIONS:
- In how far do these different ways of application support/hamper autonomous interpretation?
- How can we further support national courts/judges in the autonomous interpretation?