

Article 65(3) - Information on how to determine, in accordance with national law, the effects of the judgments referred to in Article 65(2) of the Regulation

1) How can third-party notice (TPN) be described in general?

Under Estonian procedural law, it is possible for a third party to participate in proceedings with or without an independent submission. When a dispute in court is settled to the disadvantage of a certain party to proceedings, that party can bring an action against a third party to release it from an obligation stemming from an alleged breach of contract, an obligation to compensate for damages or an obligation of redress or, if it has reason to expect that a third party will bring such a claim against it, it can, until such time as the preliminary proceedings have been completed or the deadline for applications by written procedure has expired, submit an application to the court conducting the proceedings to add a third party to the proceedings. Once the preliminary proceedings have been completed, an application to involve a third party in the proceedings may be made only with the consent of the other parties to the proceedings or of the court. The court will agree to the third party's involvement after completion of the preliminary proceedings only if there was a valid reason for not having submitted the application in good time and if, in the opinion of the court, the third party's involvement would serve the interests of settling the case. The court serves a notice to the third party, informs the other party of the notification and sets a deadline for them to take a position. If the notice satisfies legal requirements and the party justifies the need to add a third party, the court orders the third party to be added to the proceedings. A third party not making an independent submission is a party to the proceedings under Estonian procedural law if it is not one of the other parties to the proceedings (applicant or defendant). If it transpires that the third party has been added to or has intervened in the proceedings without justification, the court may order it to be excluded from the proceedings. A third party not making an independent submission which has been added to or intervenes in proceedings on the side of the applicant or defendant should presumably support the position of the relevant party to the proceedings i.e. put forward arguments in support of that party and have an interest in that party succeeding. A third party not making an independent submission may take all procedural steps except those that can only be taken by the applicant or defendant alone; this includes appealing decisions taken in the case. An application, complaint or procedural act by a third party has a legal effect on the proceedings only if this does not conflict with the application, complaint or act of the applicant or defendant on whose side the third party is participating in the proceedings. When making a complaint or taking any other procedural step, the same deadline applies to the third party as to the applicant or defendant on whose side it is participating in the proceedings, unless the law provides otherwise.

2) What are the main effects of judgments on persons who were given TPN?

If a party submits an application to have a person added as a third party, but the court does not add the person to the proceedings or the person is excluded from third-party proceedings, that person is not legally bound by the ruling in the main proceedings.

If a party submits an application to have a person added as a third party and that person is added to the proceedings as a third party, the third party cannot, with regard to the applicant or defendant on whose side it intervened in the proceedings or was added to the proceedings, rely in proceedings subsequent to the main proceedings on the fact that the resolution on the ruling made in the proceedings was incorrect or the circumstances were incorrectly established. If a party to the proceedings initiates proceedings against a third party not making an independent submission and relies on previous proceedings, the third party can also raise an objection which it raised in the proceedings as a third party and which contradicts the party's statements. A third party may also object that it was not able to submit an application, objection, evidence or complaint because it intervened or was added to proceedings too late or was not able to submit them because of statements or actions by the applicant or defendant on whose side it participated in the proceedings. It can also object that the applicant or defendant, unbeknownst to the third party, failed to submit an application, objection, evidence or complaint deliberately or by gross negligence.

3) Is there a binding effect with regard to the legal assessment in the main proceedings?

If a party submitted an application to have a person added as a third party, but the court did not add the person to the proceedings or the person was excluded from third-party proceedings, the ruling in the main proceedings is not legally binding, including with regard to the legal assessment.

4) Is there a binding effect with regard to established facts which the third party could not challenge in the main proceedings e.g. because they were uncontested by the parties?

Circumstances established by the court are not legally binding on the third party if the third party was not able to challenge them because the other parties did not contest them or if the party in whose favour the third party was added to the proceedings did not agree with the circumstances challenged by the third party.

5) Does TPN produce its effects irrespective of whether or not the third party joined in the main proceedings?

Under Estonian procedural law, it is possible to add a third party to the proceedings and for a third party to intervene in the proceedings upon their own application. The court decides by means of an order whether to allow the third party to be added to or to intervene in the proceedings. A party or third party may lodge an appeal against an order by which the court allows or refuses to allow a third party to intervene in the proceedings, or adds or refuses to add a third party to the proceedings or removes a third party from the proceedings. District court rulings on appeals against county court rulings are not subject to appeal before the Supreme Court.

6) Does TPN affect the relation between the third party and the opponent of the notifying party?

If a party applies to have a third party added to proceedings, but the court does not add that third party to the proceedings, this has no impact on relations between the party submitting the application and its opposing party.

If a party submits an application to have a person added as a third party and that person is added to the proceedings as a third party, the third party cannot, with regard to the applicant or defendant on whose side it intervened in the proceedings or was added to the proceedings, rely in proceedings subsequent to the main proceedings on the fact that the resolution on the ruling made in the proceedings was incorrect or that the circumstances were incorrectly established.

The addition of a third party not making an independent submission and the consequences thereof are governed by Sections 214 and 216 of the Code of Civil Procedure.

Article 75 (a) – Names and contact details of the courts to which the applications are to be submitted pursuant to Articles 36(2), 45(4) and 47(1)

County courts.

Article 75 (b) – Names and contact details of the courts with which an appeal against the decision on the application for refusal of enforcement is to be lodged pursuant to Article 49(2)

District courts through the county court whose ruling is being contested by means of the appeal.

Article 75 (c) – Names and contact details of the courts with which any further appeal is to be lodged pursuant to Article 50

The Supreme Court.

Article 75 (d) – Languages accepted for translations of the certificates concerning judgments, authentic instruments and court settlements

English.

Article 76(1)(a) – Rules of jurisdiction referred to in Articles 5(2) and 6(2) of the Regulation

Article 86 (jurisdiction at the location of property) of the Code of Civil Procedure, insofar as the claim is unrelated to that property of the person. Article 100 (claim for termination of application of standard terms) of Code of Civil Procedure, insofar as the action is to be lodged with the court in whose territorial jurisdiction the standard term was applied.

Article 76(1)(b) – Rules on third party notice referred to in Article 65 of the Regulation

Sections 212–216 of the Code of Civil Procedure.

Article 76(1)(c) – Conventions referred to in Article 69 of the Regulation

The Agreement on Legal Assistance and Legal Relations between the Republic of Lithuania, the Republic of Estonia and the Republic of Latvia, signed in Tallinn on 11 November 1992.

The Agreement between the Republic of Estonia and the Republic of Poland on Legal Assistance and Legal Relations in Civil, Labour and Criminal matters, signed at Tallinn, on 27 November 1998.

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