

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?

Pursuant to the provisions of Articles 46 and 47 of the Lithuanian Code of Civil Procedure (*Lietuvos Respublikos civilinio proceso kodeksas*), third parties may or may not submit independent claims concerning a matter in dispute.

Third parties submitting independent claims concerning the matter in dispute may join the proceedings only on their own initiative. Those third parties are independent participants in the case and are not on the side of the plaintiff or the defendant. Third parties submitting independent claims may join the proceedings right up until the commencement of the summing-up.

Third parties not submitting independent claims concerning the matter in dispute may join the proceedings on the side of the plaintiff or the defendant right up until the commencement of the summing-up if a ruling on the case may affect their rights or obligations. They may also be joined to the proceedings at the reasoned request of the parties or on the initiative of the court.

Third parties are informed about a case that has arisen and invited to join proceedings before a Lithuanian court by means of summonses or notices, including by being sent a copy of the action. Pursuant to Article 133(1) of the Code of Civil Procedure, the parties involved in a case (including third parties) are notified by summonses or notices of the date and place of the court hearing or the individual procedural measures. However, informing third parties about a case is the duty of the court and not the parties; the parties merely indicate in their submissions that other people need to be joined to the proceedings. Third parties submitting independent claims have all the same rights and obligations as the plaintiff.

Third parties not submitting independent claims have the same procedural rights (including the right to the reimbursement of costs) and obligations as a party, with the exception of the right to alter the grounds and subject matter of the claim, to increase or decrease the claim, to withdraw the claim, to admit the claim or to reach a settlement. They also do not have the right to request enforcement of a court judgment. Third parties not submitting independent claims may not act against the interests of the party on whose side they have been joined to the proceedings.

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

The participation of third parties submitting independent claims makes it possible to rule on several related disputes concerning the same matter in a single case, in which case no further proceedings may be brought against third parties that submitted independent claims (or such third parties may not bring any further proceedings against the same defendant), as the dispute between those parties on that particular matter is deemed to have been resolved. If a person was informed of the possibility of being joined as a third party to an ongoing court case by submitting an independent claim but did not join the proceedings, separate proceedings may be brought against that person in the future in relation to the same matter. However, the first ruling may not affect the rights and obligations of a person who did not join the proceedings as a third party.

When ruling on a case, the court may not, at the same time, also rule on the rights and obligations of a third party not submitting an independent claim vis-à-vis a party with which he or she has a substantive legal relationship. Consequently, a court judgment in a case involving third parties not submitting independent claims does not preclude another case being brought against a third party involved in the initial case who did not submit an independent claim. However, in that case, the first court judgment has the force of a preliminary ruling; that is to say, if there is another case involving the same parties (e.g. an indemnity action), it is not necessary to consider circumstances established by the final judgment in the first case (Article 182(2) of the Code of Civil Procedure).

If a person was not informed of the possibility of being joined as a third party to an ongoing court case, either with or without the submission of independent claims, or if a person was informed but did not join the proceedings and the court judgment ruled on that person's substantive rights and obligations, this may constitute grounds for reopening the case. If a person was not joined to the proceedings, the court ruling in question does not usually have the force of a preliminary ruling for that person.

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

See answer to Question 2.

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

See answer to Question 2.

5. Does TPN produce its effects irrespective of whether the third person joined the main proceedings or not?

No. The court judgment in the first (main) proceedings may not affect the rights and obligations of a person who was informed but did not join the proceedings as a third party. If a person was not informed of the possibility of being joined as a third party to an ongoing court case, either with or without the submission of independent claims, or if a person was informed but did not join the proceedings and the court judgment ruled on that person's substantive rights and obligations, this may constitute grounds for reopening the case.

6. Does TPN affect the relationship between the third person and the opponent of the notifying party?

See answer to Question 2.

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)

In Lithuania, the Court of Appeal of Lithuania (*Lietuvos apeliacinis teismas*)

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)

In Lithuania, the Court of Appeal of Lithuania (*Lietuvos apeliacinis teismas*)

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

In Lithuania, appeal in cassation before the Supreme Court of Lithuania (*Lietuvos Aukščiausioji Teisma*)

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

Not applicable

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

In Lithuania, Articles 783(3), 787 and 789(3) of the Code of Civil Procedure (*Lietuvos Respublikos civilinio proceso kodeksas*)

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

In Lithuania, Articles 46 and 47 of the Lithuanian Code of Civil Procedure (*Lietuvos Respublikos civilinio proceso kodeksas*)

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 Lithuania and the Republic of Poland on Legal Assistance and Legal Relations in Civil, Family, Labour and Criminal Matters, signed in Warsaw on 26 January 1993.

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