

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:

'Third-party notice' is a formal notification of a pending or ongoing lawsuit that is given by one of the parties to the proceedings to a third party who has hitherto not been involved in them. The notification may include a request to intervene in the lawsuit. The notifying party submits to the court a corresponding written document, which is then formally served on the third party by the court. The third party is not obliged to intervene as a result of the third-party notice but is legally free to decide whether to join the proceedings and, if so, on behalf of which party. A third party who does join the proceedings does not become a party to the dispute, but is merely an intervener, whose statements and actions must not conflict with those of the main party. An intervener cannot be required to pay any costs. However, if the main party wins the case, the intervener is entitled to have their costs reimbursed by the opposing party. Anyone given the opportunity through a third-party notice to influence the course of proceedings as an intervener, can, even if they did not intervene in the proceedings, base claims for damages on grounds of poor litigation only on court proceedings prior to their intervention or on substantive issues that they could not prevent even as an intervener or, if they did not intervene, could not have prevented. By supporting the party in respect of whom they intervene, the intervener can contribute to the success of that party's lawsuit and thus avoid recourse proceedings against themselves, or at least improve their position in such a lawsuit.

2.) What are the main effects of judgments on persons given TPN:

The third party notice presupposes that one party in an ongoing lawsuit has reason to fear an unfavourable outcome, but also has reason to expect that if the outcome is unfavourable they will then be able to make a claim against the third party. Thus, the party issuing the third-party notice has an interest in either not losing the initial lawsuit (and here the intervener may be able to assist) or, if they lose this lawsuit, in recovering their losses by winning in subsequent proceedings against the third party.

At the same time, the notifying party, by giving TPN, prevents the notified third party from being able in subsequent proceedings to bring certain damages claims against it on grounds of poor litigation: A third party given TPN and thereby given the opportunity to influence the outcome of a lawsuit may base claims for damages on grounds of poor litigation only on court proceedings prior to their intervention or on substantive issues that, even as an intervener, they could not prevent or could not have prevented. The intervener may enter pleas in law and submit procedural documents, provided that they do nothing that contradicts the main party. In the event of a subsequent lawsuit between the main party and the intervener, the effects of the final judgment in the initial proceedings shall extend to the intervener or to those who despite being invited to do so did not intervene in the proceedings, in so far as these persons as parties to a subsequent lawsuit may not enter any pleas which are in conflict with the key elements of the ruling in the initial lawsuit.

3.) TPN has no binding effect on the decision on points of law in the main lawsuit.

4.) The outcome of the initial lawsuit is not binding if the intervener was prevented from entering pleas in law either by the state of the lawsuit at the time of the intervention or by statements and actions of the main party (for example, because that party did not contend certain facts or claims).

5.) As already stated, the effects of the third-party notice apply irrespective of whether the third party becomes involved in the (main) lawsuit as an intervener or not.

6.) The third-party notice has no effect on the relationship between the third party and the adversary of the party who issues the third-party notice, unless the third party intervenes in support of the adversary.

Article 74 - Description of national rules and procedures concerning enforcement

In this regard, reference is made to the related information provided by Austria in the European e-Justice Portal under the section, 'Bringing an action before a court', 'Enforcement of court decisions', 'Enforcement proceedings' at the following [URL](#).

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 Austria, the district court (*Bezirksgericht*), where the enforcement proceedings are pending. In the case of applications for a decision that there are no grounds for non-recognition (Article 36(2)), and in the case of applications for refusal of recognition (Article 45), the competent court is the district court in the area where the party bound by the judgment is registered or established.

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 Austria, the higher level regional court (*Landesgericht*), via the district court (*Bezirksgericht*), where the enforcement proceedings are pending

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

- in Austria, the supreme court (*Oberste Gerichtshof*) via the district court (*Bezirksgericht*), where the enforcement proceedings are pending.

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

German is the only language which is accepted.

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

- in Austria: § 99 of the Law on Court Jurisdiction (*Jurisdiktionsnorm*)

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

- in Austria: § 21 of the Code of Civil Procedure (*Zivilprozessordnung*)

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

the Convention between Germany and Austria on the Mutual Recognition and Enforcement of Judgments, Settlements and Authentic Instruments in Civil and Commercial Matters, signed at Vienna on 6 June 1959;

the Agreement between the People's Republic of Bulgaria and the Republic of Austria on Legal Assistance in Civil Matters and Documents, signed at Sofia on 20 October 1967;

the Convention between Belgium and Austria on the Reciprocal Recognition and Enforcement of Judgments, Arbitral Awards and Authentic Instruments in Civil and Commercial Matters, signed at Vienna on 16 June 1959,

the Convention between the United Kingdom and Austria providing for the Mutual Recognition and Enforcement of Judgments in Civil and Commercial Matters, signed at Vienna on 14 July 1961, with amending Protocol signed at London on 6 March 1970;

the Convention between the Netherlands and Austria on the Mutual Recognition and Enforcement of Judgments and Authentic Instruments in Civil and Commercial Matters, signed at The Hague on 6 February 1963,

the Convention between France and Austria on the Recognition and Enforcement of Judgments and Authentic Instruments in Civil and Commercial Matters, signed at Vienna on 15 July 1966,

the Convention between Luxembourg and Austria on the Recognition and Enforcement of Judgments and Authentic Instruments in Civil and Commercial Matters, signed at Luxembourg on 29 July 1971,

the Convention between Italy and Austria on the Recognition and Enforcement of Judgments in Civil and Commercial Matters, of Judicial Settlements and of Authentic Instruments, signed at Rome on 16 November 1971,

the Convention between Austria and Sweden on the Recognition and Enforcement of Judgments in Civil Matters, signed at Stockholm on 16 September 1982,

the Convention between Austria and Spain on the Recognition and Enforcement of Judgments, Settlements and Enforceable Authentic Instruments in Civil and Commercial Matters, signed at Vienna on 17 February 1984,

the Convention between Finland and Austria on the recognition and enforcement of judgments in civil matters, signed at Vienna on 17 November 1986;

the Treaty between the Federal People's Republic of Yugoslavia and the Republic of Austria on Mutual Judicial Cooperation, signed at Vienna on 16 December 1954;

the Convention between the People's Republic of Poland and the Republic of Austria on Mutual Relations in Civil Matters and on Documents, signed at Vienna on 11 December 1963;

the Convention between the Socialist Republic of Romania and the Republic of Austria on Legal Assistance in Civil and Family law and the Validity and Service of Documents and its annexed Protocol, signed at Vienna on 17 November 1965.

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