

#### **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 ('TPN') is used to give formal notification of a pending court proceeding (initial proceeding - *Vorprozess*) to third parties who are not parties to it. Third-party notice is effected by submitting to the court a written document which is then officially served on the TPN recipient. The third party is free to decide whether or not to join the proceedings. A third party who does join the proceedings does not become a party, but is merely an intervener, whose statements and actions must not conflict with those of the main party. The intervener cannot be required to pay any of the costs.

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

Third-party notice supposes that a party to an ongoing proceeding (initial proceeding) 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 bring an action for damages against the third party or make a claim against the third party under a warranty or guarantee. Thus the party issuing the third-party notice has an interest in winning the initial proceeding (and here the intervener may be able to assist) or — if the initial proceeding is lost — in recovering their losses by winning a subsequent proceeding (*Folgeprozess*) against the third party. If the third party supports the party who issued the notice, the third party must accept the case as they find it. They may enter pleas in law and submit procedural documents, provided that they do nothing that contradicts the main party. If the third party declines to join the proceeding, or does not take a position, the proceeding continues without regard to the third party. If the party who issued the notice subsequently brings proceedings against the third party, the third party cannot claim that the decision in the initial proceeding was wrong. This means that, in the subsequent proceeding, a finding of the initial proceeding to the advantage of the party who issued the third-party notice will be treated as binding.

3. The third-party notice has no effect on the decision on points of law in the initial proceeding.

4. The outcome of the initial proceeding is not binding if the intervener was prevented from entering pleas in law either by the state of the proceeding at the time of the intervention or by statements and actions of the main party.

5. The effects of the third-party notice apply irrespective of whether the third party joins the initial proceeding.

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 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 Germany, the *Landgericht*.

#### **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 Germany, the *Oberlandesgericht*.

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

- in Germany, the *Bundesgerichtshof*.

#### **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 Germany: Section 23 of the Code of Civil Procedure (*Zivilprozessordnung*).

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

- in Germany, Sections 68 and 72-74 of the Code of Civil Procedure.

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

the Convention between Germany and Italy on the Recognition and Enforcement of Judgments in Civil and Commercial Matters, signed at Rome on 9 March 1936;

the Convention between Germany and Belgium on the Mutual Recognition and Enforcement of Judgments, Arbitration Awards and Authentic Instruments in Civil and Commercial Matters, signed at Bonn on 30 June 1958;

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 Convention between the United Kingdom and the Federal Republic of Germany on the Mutual Recognition and Enforcement of Judgments in Civil and Commercial Matters, signed at Bonn on 14 July 1960;

the Convention between the Netherlands and Germany on the Mutual Recognition and Enforcement of Judgments and Other Enforceable Instruments in Civil and Commercial Matters, signed at The Hague on 30 August 1962;

the Convention between Germany and Greece on the Mutual Recognition and Enforcement of Judgments, Settlements and Authentic Instruments in Civil and Commercial Matters, signed at Athens on 4 November 1961;

the Convention between Spain and the Federal Republic of Germany on the Recognition and Enforcement of Judgments, Settlements and Enforceable Authentic Instruments in Civil and Commercial Matters, signed at Bonn on 14 November 1983.

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