

QUESTIONNAIRE CONCERNING
When and how start an action in your jurisdiction – litispendenza

<p>Who is the author of this questionnaire?</p>	<p>Ms. Dominique WALRAVENS</p> <p>Ms. Sabien LEMIEGRE</p> <p>Law firm: Racine & Vergels, Brussels, Belgium</p> <p>www.racine.eu</p> <p>dwalravens@racine.eu</p> <p>slemiegre@racine.eu</p>
<p>Which country is concerned?</p>	<p>Belgium</p>
<p>How do you call in your country when two cases which similar object between the same parties has been proposed simultaneously in different courts?</p>	<p>In Belgium, this is called:</p> <p>“Aanhangigheid” (Dutch) or “Litispendence” (French).</p>
<p>According your national law which are the rules to know which is the action to be continued in case of two actions started in 2 different national courts, both competent?</p>	<p>In case of Aanhangigheid/Litispendence, article 564,2°, 1°-5° Jud. Code sets out the priority rules.</p> <p>In case both courts involved are competent (*), :</p> <ul style="list-style-type: none"> - the court that has already rendered an interlocutory decision will always prevail over the court that has not yet rendered any interlocutory decision; - if none of both courts has already rendered such a decision, the Court of First Instance will prevail over the Labour Court, which will prevail over the Commercial Court, which will prevail over the Deputy Judge; - if both courts have the same rank, the court first seized will prevail over the court last seized. <p>When the exception of Aanhangigheid/Litispendence is raised, the case will be sent to the court that is, according</p>

	<p>to these priority rules, competent.</p> <p>(*) The belgian competence rules provide that a court can have general competence, special competence or exclusive competence. The priority rules set out apply in case both courts involved had no special or exclusive competence.</p>
<p>According your national law which are the rules to know which is the action to be continued in case of two actions started in 2 different courts of 2 different Europeans countries, both with jurisdiction, (2 actions with the same parties, the same request and the same title)?</p>	<p>Article 14 of the Belgian Code on International Private Law (introduced by law of July 16, 2006) provides for the following: if the Belgian court was seized after the foreign court had been seized, the Belgian judge has the possibility to postpone its decision until the foreign judge has taken its decision. When checking this possibility, the Belgian judge has to take into account the principles of good administration of law. The Belgian court will declare itself non competent once the foreign decision is recognized according to this code.</p> <p>A procedure starts when the bailiff serves a writt (“dagvaarding”/”citation”) upon the defendant inviting the defendant to be present at the introduction hearing. After serving the writt, the bailiff will lodge the served writt with the court (“rolzetting”/”mise au role”). This must be done before the day of the introduction hearing. The date to take into account to know when exactly a court has been seized, is the date of serving of the writt. But, if after serving the writt, the served writt has not been lodged with the court before the day of the introduction hearing, the writt is considered void and will have no effect.</p> <p>In case of procedures between parties domiciled in Member States of the E.C., article 27, 28, 29 en 30 of the Council regulation n° 44/2001 of 22 December 2000 provides for the relevant rules. Article 30 provides that a court shall be deemed to be seized:</p> <ul style="list-style-type: none"> - either at the time when the document instituting the proceedings is lodged with the court; - or, if the document has to be served before being lodged with the court, at the time when it is received by the authority responsible for service. <p>As explained above, in Belgium the second hypothesis applies. There is still discussion on the following question:</p> <ul style="list-style-type: none"> - should one take into account the moment the writt is handed to the Belgian Bailiff; - should one take into account the moment the writt is handed over by the Belgian Bailiff to the

	foreign bailiff ...
When according your national rules you can say a case is pending? Any act, summons or whatever else is enough to say the action is started?	<p>A case is started by the serving of a writt (“dagvaarding”/“citation”) which is a statement of claim with the request to the defendant to defend himself and be present at the introduction hearing in front of the court and which is served by a bailiff.</p> <p>(A case can also be started by contradictory petition (“tegensprekelijk verzoekschrift”/“requête”) or by appearing on a voluntary base before the court (“vrijwillige verschijning”/“comparution volontaire”).</p>
There is any action or writ which even issued by a Court it does not mean starting an action?	---
If there is no urgency it is mandatory in your country to send a warning letter before start an action?	<p>There is no such obligation, but there is jurisprudence that provides the claimant should pay the costs of the procedure, if he did not beforehand summon the defendant.</p> <p>The letter of summons is also useful for other reasons: the interests will only commence after sending a letter of summons. (In non commercial cases, according article 5 of the Law of August 2, 2002 on Late Payment, this letter of summons is no longer needed for claiming interests.)</p>
If the act used to start an action is void the litispendenza is still valid according your national rules? Since when?	<p>If the first act is void, the court seized by this (first) act will no longer be competent as it is no longer the court “first seized”.</p> <p>In case of procedures between parties domiciled in Member States of the E.C., article 27 of the Council regulation n° 44/2001 of 22 December 2000 provides the second court shall stay its procedure until it is clear that the first court has or has not jurisdiction. But when is jurisdiction established or not established? Presumably, there has to be a decision of the judged first seize that he has or has not jurisdiction.</p> <p>In case of procedures that do not apply under this regulation, article 14 of the Belgian Code on</p>

	International Private Law provides the Belgian judge may stay its procedure. This is not mandatory. If the Belgian judge is convinced the first act, introducing the case before a foreign court, is void, he will decide to continue the procedure and will not wait for any decision of the judge first seized.
Other questions or notes	

CATHERINE J. COTSAKI
VASSILIOS J. NERANTZIS
CHRISTOS J.COTSAKIS
PANAYIOTIS M. SKRIVANOS
SPYROS G. STATHOULIS
MARIOS A. PAPALOUKAS
HELEN - NEKTARIA V. NERANTZI
YIANNIS V. NERANTZIS
LAWYERS



**WHEN AND HOW A LEGAL ACTION STARTS IN YOUR JURISDICTION –
LITISPENDENCE**

QUESTIONNAIRE

<p>Who is the author of the answers contained in this Questionnaire ?</p>	<p>Me Catherine Cotsaki Law firm: COTSAKI & NERANTZIS LAW OFFICE, Athens, Greece Tel.: 0030 210 7522518 0030 210 7522520 0030 210 7522530 e – mail : cotsakilaw@ath.forthnet.gr</p>
<p>Which country is concerned?</p>	<p>Greece</p>
<p>How do you call in your country the legal situation where two cases regarding a dispute having the same object between the same litigants acting in the same capacity in both cases (claimant, defendant) has been submitted simultaneously to different Courts?</p>	<p>Litispence</p>
<p>According to your national Law which are the rules applied to decide which is the legal action to be continued in case two actions regarding the same dispute between the same litigants acting in the same capacity have been submitted in two different national Courts which are both competent ?</p>	<p>By application of combined dispositions of article 215 para. 1 and 221 para. 1 of the Greek Code of Civil Procedure, a legal action is considered to have started when the relevant judicial act (law – suit) is filed with the Clerk of the Court to which it is addressed and when an official copy thereof is notified by Court Bailiff upon the defendant. The filing of the law – suit with the Clerk of the Court as above has – among others – as a consequence that said Court is preferred vis – à – vis any other Court with which the same legal action will be possibly filed later.</p> <p>Actually, by application of article 222 para. 1 of the</p>

same Code as above, after the litispence has occurred, i.e. as soon as the law – suit has been filed and as long as it lasts, no new trial can be done before any Court for the same dispute between the same litigants, provided they act in the same capacity. That is to say that in case the same dispute is brought before two different Courts by the same litigants acting however in different capacities (i.e. in the first case, litigant A is the claimant and litigant B is the defendant, while in the second case litigant B is the claimant and litigant A is the defendant), the situation thus created is not a litispence but a situation where we are in presence of connected legal actions where article 31 para. 3 of the Greek Code of Civil Procedure applies. Sais article provides that, regarding connected cases, the Court where the first legal action has started has exclusive competency to rule all other legal actions, connected to it. It worths underlining that, in case of connected legal actions, it is not the filing of the relevant law – suit which is taken into consideration as it is the case in litispence, but the starting of the hearing of the case, which obviously assumes that an official copy of the law – suit, which is the first to be heard, as been modified by Court Bailiff upon the defendant.

Litispence is not taken into consideration ex officio by the Courts, which obviously cannot know whether the same claimant has filed the same legal action before any other Court(s). The concerned litigant must bring the litispence to the knowledge of the Court by raising a relevant plea.

By application of the second sub paragraph of article 267 of the same Code as above, if the Court considers that the procedure is facilitated or accelerated it may examine separately the above plea and issue a separate judgment before it examines the merits of the case.

Litispence is also created by raising a plea having as object a demand for compensation of a claim with another (article 221 para. 2). That is to say that, if the defendant has raised a compensation plea seeking to have a claim of his compensated with the claim being the object of the law – suit of the claimant and thereafter the defendant files a separate legal action with another Court against the claimant (who in this second trial will be the defendant) having as object the same claim which he (the defendant in the first trial, who is the claimant in the second trial) has proposed for compensation before the first Court, the second Court does not try the second

	<p>legal action, which must be left pending until a judgment is rendered regarding the first one, which will rule both on the demand of the claimant and the plea of compensation raised by the defendant.</p>
<p>According to your national Law which are the rules which apply in order to see which is the action to be continued in case of two actions have been instigated in two different Courts in two different European countries, both Courts having Jurisdiction (2 actions with the same parties, the same request and the same title)?</p>	<p>This question is governed by articles 29, 30 of EEC Council Regulation number 44/2001, which has been put automatically into force and become directly applicable in the EU States Members as of March 1, 2002.</p> <p>By application of article 27 of the above Regulation, when proceedings involving the same cause of action and between the same parties are brought in the Courts of different States Members of the EU, any Court other than the Court first seized shall of its own motion stay its proceedings until such time as the Jurisdiction of the Court first seized is established.</p> <p>It accrues out of the above article that, in case of litispence where Courts of two or more States Members of the EU are involved, all such Courts other than the Court first seized shall of their motion stay their proceedings, while, if the same case is pending before two different Greek Courts the litispence has to be brought to the knowledge of the Court by means of a plea raised by the concerned litigant as exposed hereinabove.</p> <p>To our opinion, it is questionable how any Court other than the Court first seized shall stay its proceedings of its own motion if the fact that another Court located in another State Member has already been seized of the same case is not brought to its knowledge by one of the litigants. Most probably the interpretation of the dispositions under discussion of said Regulation is that, if the material facts of the litispence come to the knowledge of any Court other than the Court first seized in any legal manner whatsoever, such other Courts must stay their proceedings until such time as the Jurisdiction of the Court first seized is established, with no needed that a relevant plea is raised by the litigant having interest in the stay of the proceedings of the Court seized later.</p> <p>By application of paragraph 2 of the same article 27, when the jurisdiction of the Court first seized is established, any Court other than the Court first seized shall decline jurisdiction in favour of that Court.</p> <p>Article 30 of the above EU Regulation provides that a</p>

	<p>Court shall be deemed to be seized at the time when the document instituting the proceedings or an equivalent document is lodged with the Court provided that the plaintiff has not subsequently failed to take the steps he was required to take to have service effected on the defendant.</p> <p>At this point, it worths underlining that, by application of the above article, in case of litispence before one or more Greek Courts and one or more Courts located in other States Members of the European Unions to establish which Court was the first to have been seized, it has to be established that the document starting the proceedings has not only been lodged with the Court claimed to be the first one to have been seized, but also that it has lawfully been served upon the defendant, while, in case of litispence before two or more Greek Courts, to establish which is the Court first seized, it is enough to prove with which Court the document starting the proceedings was lodged first, no proof about the service of the document upon the defendant being needed.</p>
<p>When according to your national rules you can say a case is pending? What kind of act, summons or other is enough to say that the action has started?</p>	<p>By application of paragraph 1 of article 215 of the Greek Code of Civil Procedure, a legal action is considered to been instigated when it is lodged with the Clerk of the Court to which it is addressed and when a copy thereof is notified by Court Bailiff upon the defendant as it was already exposed hereinabove. The relevant judicial act contains – among others – an invitation to the defendant to be present at the hearing fixed by the Court. Yet, by application of article 221 paragraphs 1(a) and (c) the mere lodging of the judicial act containing the law – suit with the Clerk of the Court to which it is addressed is enough to say that the case is pending, i.e. that there is litispence and to establish jurisdiction in favour of the Court, with which the judicial act in question was first lodged. That is to say, that the notification upon the defendant is not a prerequisite for litispence or establishment of which is the Court to have been first seized.</p> <p>Other judicial acts, like summons, injunctions of payment, applications seeking conservative measures and not even the relevant judgments do not create litispence.</p>

<p>There is any action or writ which even if issued by a Court does not mean that a legal action has started ?</p>	<p>To answer this question a distinction has to be done : by filing an application seeking to obtain from the Judge of the competent Court an order of payment, by filing an application seeking to obtain from the Court a judgment ordering conservative measures in case of risk and emergency etc., the litigant instigating such proceedings definitely starts legal proceedings. The difference between such legal actions and a law – suit on the merits containing a demand for the defendant to be condemned to pay the amount of the claim of the claimant, to do or to refrain from doing an act etc... is that the law – suit interrupts the prescription of the claim been its object as of the day a copy thereof is notified upon the defendant, while the application seeking to obtain an order of payment for instance is not even notified upon the defendant, with as a consequence that it cannot interrupt the prescription. However, the notification upon the defendant of the order of payment rendered by the Judge of the Court together with an injunction to pay the amounts interrupts actually the prescription. Further, neither the notification of an application seeking conservative measures, nor the notification of the judgment rendered regarding it granting to the claimant the conservative measures requested by him (or others which the Court has considered more appropriate) do not interrupt the prescription.</p>
<p>If there is no emergency is it mandatory in your country to send a warning letter before you start an action?</p>	<p>No. However, our law office always sends a comminatory letter to the debtor before starting legal proceedings as a gesture of good faith and an attempt of out – of – Court settlement of the dispute in favour of which we strongly are.</p>
<p>If the act used to start an action is void is the litispence still valid according to your national rules? Since when?</p>	<p>Litispence exists in Greece until the Court renders a judgment by which it accepts or rejects its jurisdiction. In most of the cases, such a judgment will be rendered after the case will have been heard in whole, i.e. both regarding the pleas, the exceptions, the arguments for voidness of the law – suit due to formal defaults etc., as well as on the merits provided it has not accept any plea, exception, argument to leading to the rejection of the law – suit for formal reasons. In both cases the litispence will cease unless (a) an appeal is filed by the litigant(s) against the judgment rendered at the first degree or (b) in case the law – suit has been rejected for formal reasons, the claimant files a new law – suit</p>

	having the same object as the first one within six (6) months (article 236 of the Greek Civil Code).
Other questions or notes	

QUESTIONNAIRE CONCERNING
When and how start an action in your jurisdiction – litispendenza

Who is the author of this questionnaire?	Ms Anna Olifirenko Law firm: ARIES, Kiev, Ukraine (www.aries.com.ua – email: olifirenko@aries.com.ua)
Which country is concerned?	Ukraine
How do you call in your country when two cases which similar object between the same parties has been proposed simultaneously in different courts?	There is no specific term. We call it cases between the same parties with similar object and grounds for claim.
According your national law which are the rules to know which is the action to be continued in case of two actions started in 2 different national courts, both competent ?	According to art.207 of the Civil Procedural Code the judge refuses to consider the claim if there is a case in another court between the same parties with similar objects and grounds for claim. We have the same rules in the Commercial Procedural Code (art. 81)
According your national law which are the rules to know which is the action to be continued in case of two actions started in 2 different courts of 2 different Europeans countries, both with jurisdiction , (2 actions with the same parties, the same request and the same title)?	There are no specific rules for foreign actions, so depending on the situation the party can demand from the judge to refuse to consider the claim (as stated above) if there is a similar case in another country. Or to suspend the trial if it is impossible to resolve the case before the decision on another connected case is made (art. 201 of the Civil P.C. or art. 79 of the Commercial P.C.) Anyway according to the art 396 of the Civil P.C. the foreign judgement might not be forced in Ukraine if there is Ukrainian court judgment in force between the same parties, on the same subject and the same grounds or such case was filed into Ukrainian court before the foreign one.
When according your national rules you can say a case is pending? Any act, summons or whatever else is enough to say the action is started?	According to the art. 122 of the Civil P.C. or art. 64 of the Commercial P.C. the judge starts a case issuing a court procedural document called “uhvala” (court decision) on the acceptance of the claim. Only this court act means starting a trial and it is enough to say the action is started.

There is any action or writ which even issued by a Court it does not mean starting an action?	No.
If there is no urgency it is mandatory in your country to send a warning letter before start an action?	A warning letter is mandatory if it was agreed by the parties for example in a contract. In general it is not obligatory according to the legislation, but the judges always ask if there were any pre-trial actions made by the parties and approve them.
If the act used to start an action is void the litispendenza is still valid according your national rules? Since when?	
Other questions or notes	

QUESTIONNAIRE CONCERNING
When and how start an action in your jurisdiction – litispendenza

Who is the author of this questionnaire?	Mr Pietro Bembo Law firm: Studio Legale Avv. Bembo, Milano, Italy (www.avvpietrobembo.it – email: studiobembo@tiscali.it)
Which country is concerned?	Italy
How do you call in your country when two cases which similar object between the same parties has been proposed simultaneously in different courts?	In Italy we call it Litispendenza
According your national law which are the rules to know which is the action to be continued in case of two actions started in 2 different national courts, both competent ?	According art.39 c.p.c. the first action will prevail in case the two court are equally competent to judge, the judge of the second case will decide and avoid the second action
According your national law which are the rules to know which is the action to be continued in case of two actions started in 2 different courts of 2 different Europeans countries, both with jurisdiction , (2 actions with the same parties, the same request and the same title)?	<p>According art.7 L.218/95 the Italian judge if thinks that the first foreign action may produce effects in the Italian action and the two courts have equal jurisdiction to judge, he may suspend the Italian action to wait the foreign judgment.</p> <p>In case the foreign judge does not recognise its jurisdiction or the foreign judgement will not produce effects in Italy, the Italian judge will follow its case. A special request to continue the case is required.</p> <p>To know is a case is pending the law of the judge is applied</p> <p>The suspension of the Italian proceeding may occur also in the case the foreign case is able to produce effects in the Italian pending case. It is not necessary for suspension the two case are the same.</p>
When according your national rules you can say a case is pending? Any act, summons or whatever else is enough to say the action is started?	According art. 5 cpc and art. 39 cpc a case start with the “citazione” which is a statement of claim with the request to the defendant to defend it self and be present at the hearing in front of the court and notified. The receipt of the notification of this act means litispendenza.

	The notice of a different act, like a summons (like an injunction of payment or anticipatory judgment during an urgent proceeding) does not produce any litispendenza.
There is any action or writ which even issued by a Court it does not mean starting an action?	Decreto ingiuntivo
If there is no urgency it is mandatory in your country to send a warning letter before start an action?	It is appreciated by the judges and it is a proof you acted according good faith. Only really urgent reason will avoid this preliminary step
If the act used to start an action is void the litispendenza is still valid according your national rules? Since when?	Until the judgement will not recognise an action is void there is litispendenza. It is not needed to wait the definitive judgement as it is a declaration of the judge immediate executing.
Other questions or notes	

QUESTIONNAIRE CONCERNING
When and how start an action in your jurisdiction – litispendenza

<p>Who is the author of this questionnaire?</p>	<p>Benedykt Fiutowski</p> <p>BUDZOWSKA FIUTOWSKI AND PARTNERS. Legal Counselors</p> <p>www.bf.com.pl</p> <p>e-mail: krakow@bf.com.pl or b.fiutowski@bf.com.pl</p> <p>address : SIENNA 11/1, 31-041 KRAKOW, TEL (48 12) 428 00 70, 428 00 71, FAX: (48 12) 431 01 00 ŻELAZNA 41 LOK. 10, 00-836 WARSAW, TEL. (48 22) 890 01 04-05, FAX: (48 22) 890 20 85</p>
<p>Which country is concerned?</p>	<p>Poland</p>
<p>How do you call in your country when two cases which similar object between the same parties has been proposed simultaneously in different courts?</p>	<p>Apart from Latin term "<i>lis pendens</i>", a Polish expression is also used. In free translation it is called a state of pending case.</p>
<p>According your national law which are the rules to know which is the action to be continued in case of two actions started in 2 different national courts, both competent?</p>	<p>In accordance with Article 192point 1 of Civil Procedural Code a new course of action between the same parties cannot be instituted regarding the same claim after delivering a suit to a defendant. Bringing a suit to a court itself does not cause a state of <i>lis pendens</i> and does not lay grounds for rejecting a suit in a different case brought in after by the same claimant against the same defendant and for the same claim. For recognition of a <i>lis pendens</i> always decisive is a moment of delivering a suit to a defendant.</p> <p>Identity of proceeding parties means, that in both of proceedings participants are the same entities, even if taking part in different proceeding roles. The identity also exists, when a dispute is between legal successors of parties.</p> <p>Identity of claims refers to a situation in which claims of both suits and its factual grounds are the</p>

	<p>same.</p> <p>It is also worth mentioning that for a recognition of state of <i>lis pendens</i> it is irrelevant if the “new” claim is to be lodged in the same mode of court proceeding or other, or if it is a civil or criminal proceeding. However, an objection of state of <i>lis pendens</i> is not justified in a situation in which a claim has been lodged in an administrative proceeding. In such a case it should be examined, if an inadmissibility of legal proceeding is taking place and if not, whether there is a ground for suspension of a proceeding because of a prejudicial question of administrative decision.</p> <p>A state of <i>lis pendens</i> is an absolute, negative prerequisite for a court proceedings. A plea of state of <i>lis pendens</i> can be raised in every state of the proceeding until a final conclusion of the proceeding. Notwithstanding the plea itself, a court take this circumstance into account <i>ex officio</i> in every state of the case.</p>
<p>According your national law which are the rules to know which is the action to be continued in case of two actions started in 2 different courts of 2 different Europeans countries, both with jurisdiction, (2 actions with the same parties, the same request and the same title)?</p>	<p>If a case for the same claim between the same parties has been brought in front of a foreign court earlier than in front of a Polish court, a Polish court suspends the proceeding. However, the proceeding is not suspended if a judgement that is to be made by a court of a foreign country will not meet the requirements of its recognition in Poland or it may not be expected, that the case will be finally recognized by the court of a foreign country.</p> <p>After an end of a proceeding in front of a foreign court, the court discontinuous a proceeding, if a judgment of a foreign court is subject to recognition in Poland. In other case, the court decides to reinstate proceeding.</p> <p>There is also a possibility of reinstating a suspended proceeding upon a motion of a party, if a proceeding in front of a foreign court has not been recognized in a reasonable term.</p>

<p>When according your national rules you can say a case is pending? Any act, summons or whatever else is enough to say the action is started?</p>	<p>In accordance with Article 192 point 1 of the Civil Procedural Code delivering a copy of a suit to an opposing party causes a state of pending case.</p> <p>However, there are some exceptions from the above rule. In Polish Civil Procedure, when obtaining an order for payment, a copy of a suit is not delivered to an opposite party. It is for a rapidity of proceedings. In general, if the court does not have any doubts about the case, an order for payment is issued. However, such order is not an execution title and an opposite party may object to that order. If it does, then a regular court proceeding starts pending.</p>
<p>There is any action or writ which even issued by a Court it does not mean starting an action?</p>	<p>No.</p>
<p>If there is no urgency it is mandatory in your country to send a warning letter before start an action?</p>	<p>In general sending a warning letter is not mandatory. Nevertheless, in proceeding leading to issuance of an order for payment, a pre-court call for payment must be sent to a debtor and enclosed to a suit for payment together with a proof of its being sent or delivered.</p>
<p>If the act used to start an action is void the litispendenza is still valid according your national rules? Since when?</p>	<p>The state of <i>lis pendens</i> lasts until the final judgment of the case. After the judgement is considered as final, a plea of the state of <i>lis pendens</i> changes into a plea of a sentenced affair.</p>
<p>Other questions or notes</p>	

**QUESTIONNAIRE CONCERNING
When and how start an action in your jurisdiction – litispendenza**

Who is the author of this questionnaire?	Mr Francis Wallace Law firm: Rix & Kay Solicitors LLP, Uckfield, England. 00 44 1825 744 421; franciswallace@rixandkay.co.uk
Which country is concerned?	England & Wales
How do you call in your country when two cases which similar object between the same parties has been proposed simultaneously in different courts?	<i>Lis pendens.</i> Strictly speaking, this refers to different proceedings involving the same cause of action, between the same parties and commenced in the courts of different countries.
According your national law which are the rules to know which is the action to be continued in case of two actions started in 2 different national courts, both competent ?	The court has a wide discretion. The court may decide that one set of proceedings, usually the one started first, is "senior". The other set of proceedings may then be stayed, or frozen, to await the outcome of the other. Alternatively, the court may order that the two actions should be consolidated, or tried together, or one should be tried immediately after the other. Authority: <i>Section 49(3) Supreme Court Act 1981</i>
According your national law which are the rules to know which is the action to be continued in case of two actions started in 2 different courts of 2 different Europeans countries, both with jurisdiction , (2 actions with the same parties, the same request and the same title)?	<p>The court has an inherent jurisdiction to stay the English proceedings, or to grant an injunction to restrain the commencement or continuation of proceedings in a foreign court, whenever this is necessary to prevent injustice. The court may also stay proceedings on the grounds of <i>forum non conveniens</i>. The claimant must show good reason why service of process on a foreign defendant should be permitted. The court must take account of the nature of the dispute, the legal and practical issues, the availability of witnesses, and expense.</p> <p>The court must have regard to the <i>E C Conventions on Jurisdiction and the Enforcement of Judgments</i>. Under the Conventions, an action brought in an English court which is within the scope of the Conventions may be stayed or dismissed in the following situations:</p> <ul style="list-style-type: none"> • exclusive jurisdiction: where the claim is principally concerned with a matter over which the courts of another EC member state have

	<p>exclusive jurisdiction under Article 16, the English court must declare that it has no jurisdiction. If the English court is not the court first seized of a case which comes within the exclusive jurisdiction of several courts, it must decline jurisdiction in favour of the court first seized: Article 23.</p> <ul style="list-style-type: none"> • Agreement conferring jurisdiction: where there is an agreement between parties, one or more of whom is domiciled in an EC member state, that the courts of one member state will have exclusive jurisdiction. See Article 17.
When according your national rules you can say a case is pending? Any act, summons or whatever else is enough to say the action is started?	<p>Generally, English courts are seized of the case, and it becomes pending, from when the proceedings are issued with the court. For some purposes, however, (e.g. for applications for provisional or protective measures) it is necessary for the proceedings to be served on the defendant, before the case becomes pending.</p> <p>The court must have regard to <i>Article 30 of the Judgments Regulation, EC 44/2001</i>. This provides that the English court will be seized of the case, and it will be pending, from the date of issue of the action by the court, that is the date stamped on the papers by the court, provided that the claimant did not fail to take the steps necessary to effect service on the defendant.</p>
There is any action or writ which even issued by a Court it does not mean starting an action?	No.
If there is no urgency it is mandatory in your country to send a warning letter before start an action?	In general, yes. If there is no letter before action, then the court may decide that the claimant has acted prematurely, and that proceedings could have been avoided. In that case, he may be ordered to pay the defendant's costs.
If the act used to start an action is void the litispendenza is still valid according your national rules? Since when?	There is lis pendens until the case has been decided. One of the questions for decision may be whether the agreement or document concerned is void. From the date of judgment, the case is determined and is no longer pending.
Other questions or notes	This is a brief summary of a very complex area of English law. It should be read as an introductory note only.