

# Enforcement of Foreign Judgments

In 28 jurisdictions worldwide

*Contributing editor*  
**Patrick Doris**



2015

GETTING THE  
DEAL THROUGH 

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# Enforcement of Foreign Judgments 2015

*Contributing editor*

**Patrick Doris**

**Gibson, Dunn & Crutcher LLP**

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# Lithuania

Kęstutis Švirinas, Renata Beržanskienė and Almina Ivanauskaitė

SORAINEN

## 1 Treaties

**Is your country party to any bilateral or multilateral treaties for the reciprocal recognition and enforcement of foreign judgments? What is the country's approach to entering into these treaties and what if any amendments or reservations has your country made to such treaties?**

Lithuania is a party to the Hague Convention on Civil Procedure of 1954, which, however, applies only to the recognition and enforcement of foreign orders for the costs and expenses of proceedings. Lithuania is also a party to many other multilateral treaties regulating the recognition and enforcement of foreign judgments, including the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958 (New York Convention) and the Convention on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters of 2007 (Lugano Convention).

The reciprocal recognition and enforcement of foreign judgments is also regulated by bilateral and trilateral treaties on legal assistance and legal relations to which Lithuania is a party, in particular those with Estonia and Latvia (trilateral treaty of 1994), Belarus (1993), Kazakhstan (1999), Poland (1993), Moldova (1995), Russia (1995), Turkey (2004), Ukraine (1994), Uzbekistan (1998), China (2002), Azerbaijan (2002) and Armenia (2003).

Moreover, since Lithuania is a European Union member state, Lithuania also follows Council Regulation (EC) No. 44/2001 on the Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters of 2000 (Regulation No. 44/2001) and Regulation (EC) No. 805/2004 of the European Parliament and of the Council of 2004 (Regulation No. 805/2004), also known as the European Enforcement Order on Uncontested Claims.

Generally, the aforementioned international treaties and legal acts of the European Union regulate the recognition and enforcement procedure, as well as the grounds for the denial of recognition and enforcement. Some of them also stipulate the requirements for a relevant application for the recognition and enforcement of foreign judgments and provide for a list of documents that must be added to such an application.

Lithuania has made a reservation in article 1 of the New York Convention and applies the provisions regarding arbitral awards made in the territories of the states other than the states that are party to the Convention only on the basis of reciprocity.

## 2 Intra-state variations

**Is there uniformity in the law on the enforcement of foreign judgments among different jurisdictions within the country?**

Since Lithuania is a unitary state, the same rules regarding the recognition and enforcement of foreign judgments are applied to the whole territory.

## 3 Sources of law

**What are the sources of law regarding the enforcement of foreign judgments?**

Lithuania has a civil law system. Therefore, the primary source of law related to the enforcement and recognition of foreign judgments are legal acts, in particular:

- Regulation No. 44/2001 and Regulation No. 805/2004, which are directly applicable in Lithuania if a foreign judgment is rendered by a court of an EU member state. In the case of any inconsistency between the provisions of the European Union regulations and national legal acts, the applicable regulations will prevail;
- international treaties: in the event of any discrepancies between national legal acts and an international treaty, the international treaty will be considered as having superior legal force; and
- the Code of Civil Procedure of the Republic of Lithuania (the Code of Civil Procedure) and the Law on Commercial Arbitration (the Arbitration Law).

Although case law does not constitute a primary source of law in Lithuania, rulings adopted by the Supreme Court of the Republic of Lithuania are binding and should be applied by the courts of lower instance.

## 4 Hague Convention requirements

**To the extent the enforcing country is a signatory of the Hague Convention on Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters, will the court require strict compliance with its provisions before recognising a foreign judgment?**

Lithuania is not a signatory to the Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters of 1971.

## 5 Limitation periods

**What is the limitation period for enforcement of a foreign judgment? When does it commence to run? In what circumstances would the enforcing court consider the statute of limitations of the foreign jurisdiction?**

Lithuanian legal acts do not specifically regulate the limitation period for the enforcement of foreign judgments. Therefore, the general rules must be applied. Article 646 of the Code of Civil Procedure provides that the court should refuse to issue an enforcement order if a five-year limitation period has expired. Such a time limit is counted from the date of the entry into effect of the foreign court judgment. However, it may be renewed by the court upon the request of a party concerned if a party fails to observe such a time limit for reasons that the court considers to be important.

If a foreign judgment has to be carried out in Lithuania, Lithuanian laws are applicable. However, in some cases the court may take the statute of limitation of the foreign jurisdiction into account (eg, if the limitation period for enforcement of a foreign judgment has expired in the state where such foreign judgment was rendered).

## 6 Types of enforceable order

**Which remedies ordered by a foreign court are enforceable in your jurisdiction?**

Civil rights can be defended in a number of ways stipulated in the Civil Code of the Republic of Lithuania (the Civil Code). A party lodging a claim with a court can choose one of the several ways to defend its rights at its own discretion. Such ways include:

- acknowledgement of rights;

- restoration of the situation that existed before a right was violated;
- prevention of unlawful actions or a prohibition to perform actions that pose a reasonable threat of the occurrence of damage (preventive action);
- an adjudgment to perform an obligation;
- termination or modification of a legal relationship;
- recovery of pecuniary or non-pecuniary damage from the person who infringes the law and, in the cases established by the law or a contract, recovery of a penalty (a fine, interest); and
- declaration as voidable of unlawful acts of the state or those of local government institutions or officials thereof in the cases established by the Civil Code.

However, the aforementioned list is not exhaustive. If the enforcement of the remedies chosen by a party and ordered by a foreign court does not violate the public policy of Lithuania, the court should allow enforcing such remedies even though the aforementioned remedy is not directly stipulated in Lithuanian laws, provided that a foreign decision whereby such remedies were ordered has entered into force in a foreign state. The same should be applied for foreign judgments regarding application of interim measures or other procedural remedies. Therefore, the court should allow enforcing such remedies (ie, interim measures, security of evidence, etc) in Lithuania based on the same grounds.

## 7 Competent courts

### Must cases seeking enforcement of foreign judgments be brought in a particular court?

The Court of Appeal of Lithuania is a court of first instance handling the process of application for the recognition and enforcement of foreign judgments and foreign arbitral awards in civil cases in Lithuania. Also, it should be mentioned that a party concerned has a right to submit a cassation appeal to the Supreme Court of Lithuania (see question 26).

## 8 Separation of recognition and enforcement

### To what extent is the process for obtaining judicial recognition of a foreign judgment separate from the process for enforcement?

In accordance with article 809(1) of the Code of Civil Procedure, judgments of foreign courts (arbitration tribunals) may be enforced in Lithuania only after being recognised by the Lithuanian Court of Appeal acting as a body authorised by the state to recognise such judgments. Therefore, the recognition and enforcement of foreign judgments are closely related to each other and a foreign judgment cannot be enforced without its prior recognition.

The issue of permission to enforce a foreign judgment must be heard together with the application to recognise the judgment (award) of a foreign court (arbitral tribunal), namely, this is an entire procedure that ensures concentration and economy of the civil process (normally it may take from six months to a year).

No recognition is required for foreign judgments concerning disputes between natural persons who are not citizens of the Republic of Lithuania, except for cases where such judgments serve as a basis for contracting a marriage or the registration of any other acts of civil status, as well as the registration of other rights in a public register. This means that the aforementioned foreign decisions are effective in Lithuania without their prior recognition.

Foreign judgments regarding dissolution, separation or nullity of marriage that have come into force in a foreign state and that serve as a basis for amending acts of civil status are recognised in Lithuania without a special procedure.

## 9 Defences

### Can a defendant raise merits-based defences to liability or to the scope of the award entered in the foreign jurisdiction, or is the defendant limited to more narrow grounds for challenging a foreign judgment?

A defendant cannot raise merits-based defences. When resolving the recognition of a judgment passed by a foreign court, the lawfulness and reasonability of such a judgment must not be verified. Therefore, an application for the recognition and enforcement of a foreign judgment may be

dismissed only on the grounds stipulated in Regulation No. 44/2001 and Regulation No. 805/2004 if the foreign judgment is rendered by a court of EU member state. If a foreign judgment is adopted by a court of a state that is outside the European Union, the grounds stipulated in international treaties will apply. In the absence of such an international treaty, the court applies the grounds stipulated in the Code of Civil Procedure and the main principles of international law. In accordance with article 810 of the Code of Civil Procedure, the recognition of foreign judgments is disallowed in the following cases:

- the judgment has not come into force under the laws of the country where the judgment was passed;
- the proceedings are assigned to the exclusive authority of the courts of the Republic of Lithuania or a third country in accordance with the provisions of the law of the Republic of Lithuania or an international treaty;
- a party absent from the proceedings was either not duly informed about the institution of civil proceedings or was not provided with an opportunity to exercise procedural remedies or proper representation (if the party was legally incapable) during the proceedings;
- the judgment of a foreign court that is requested to be recognised is incompatible with a judgment passed by a court of the Republic of Lithuania in the proceedings between the same parties;
- the judgment is against the public order stipulated in the Constitution of the Republic of Lithuania; and
- by passing the judgment, a court of a foreign country resolved matters regarding legal capacity, legal representation, family property or inheritance or legal relations of a citizen of the Republic of Lithuania, and this is against the international private law of the Republic of Lithuania, except for cases where Lithuanian courts would have passed the same judgment in the proceedings.

## 10 Injunctive relief

### May a party obtain injunctive relief to prevent foreign judgment enforcement proceedings in your jurisdiction?

Lithuanian law does not directly provide for the possibility of obtaining injunctive relief to prevent foreign judgment enforcement proceedings in Lithuania before the court proceedings have started. Under Lithuanian case law, such prevention may be seen as a prior restriction of the constitutional right to apply to court, which is incompatible with the public policy. In one of the precedential cases, the Court of Appeal has even stated that a foreign arbitral tribunal or another court should not be considered to have a right to restrict a person's primary constitutional right to apply to the court. Such a prior restriction, according to the Court of Appeal, is incompatible with not only the public policy of Lithuania but also with the principle of sovereignty and judicial independence.

As regards injunctive relief applicable during the court proceedings, a party concerned has the right to serve a request regarding such an implication if it proves that a favourable future court judgment would be impeded or impossible to enforce without imposing interim relief. Lithuanian legal acts do not provide for an exhaustive list of such measures. Therefore, in the proceedings regarding recognition and enforcement, a party has the possibility to ask the court to suspend the enforcement of a foreign judgment. Such measures can be applied where the court of the first instance has satisfied a person's request for recognition and enforcement and an interested party submits a cassation appeal.

## 11 Basic requirements for recognition

### What are the basic mandatory requirements for recognition of a foreign judgment?

Mandatory requirements for the recognition of a foreign judgment differ depending on whether the foreign judgment is taken by a court of an EU member state or another state.

A judgment given in EU member state is recognised in Lithuania without any special procedure being required. Therefore, the court does not itself examine the grounds for the denial of recognition of a foreign judgment stipulated in the Regulations of the European Union (Regulation No. 44/2001). After the court receives a request to recognise a judgment given in an EU member state, the court only verifies if such a request submitted by a party meets the formal requirements of form and content (eg, the request should be served to the competent court, relevant documents should be added, etc).



A judgment given in a state outside the European Union is recognised in accordance with the provisions of bilateral treaties. Separate requirements, including requirements for the documents to be added to an application for recognition, are described separately in international treaties. If such requirements are breached, the court has the right to refuse to recognise a foreign judgment. Basically, these requirements include the following:

- the parties have to be properly served with the document that instituted the proceedings in a timely manner and in a proper form;
- the absence of an effective judgment of a Lithuanian court regarding the same parties, the same subjects and based on the same grounds, or where proceedings in the same case were brought earlier;
- the absence of legal proceedings in Lithuanian courts regarding the same parties, the same subjects and based on the same grounds (application of the *lis pendens* rule, namely, an interested party is deemed to have lost its right to bring an action in one state if it has initiated court proceedings in another); and
- a dispute should not fall within the exclusive jurisdiction of the Lithuanian courts.

In the absence of an international treaty, mandatory requirements are regulated by the Code of Civil Procedure (see question 9) and the court verifies whether the exclusive jurisdiction of the Lithuanian courts and the public policy have not been violated on its own initiative (*ex officio*). An interested party may argue any of the grounds.

As regards the recognition of foreign arbitral awards, the basic mandatory requirements are stipulated in the New York Convention applicable in Lithuania. The requirements are the following:

- the arbitral agreement should be valid under the applicable law;
- the party subject to the award should be given a proper notice of the appointment of an arbitrator and arbitration proceedings;
- the arbitral award should be in line with the terms of the arbitral agreement and should not exceed the scope of the arbitral agreement;
- the arbitral authority should be composed in accordance with the arbitral agreement or, in the case of its absence, under the laws of the country where the arbitration takes place;
- the arbitral award has to be binding on the parties;
- the subject matter should be capable of being transferred to arbitration; and
- the recognition and enforcement of the award should not be contrary to the public policy (international).

An interested party has to submit a request regarding recognition to the competent court and provide the court with the judgment of a foreign court (arbitral award), its translation into Lithuanian, evidence that the said judgment (award) has entered into force in a foreign state, as well as evidence that a party absent from the hearing has been duly notified of the venue and time of the civil hearing. If a foreign judgment is adopted by a court of EU member state, the interested party has to enclose the documents prescribed in Regulation No. 44/2001.

## 12 Other factors

### May other non-mandatory factors for recognition of a foreign judgment be considered and if so what factors?

If a foreign judgment is taken in a state that is outside the European Union, and in the case of the absence of an applicable treaty, the procedure for the recognition of a foreign judgment is performed in accordance with the provisions of the Code of Civil Procedure. Although Lithuanian legal acts do not provide for the application of the reciprocity principle, this principle is widely used in the case law. In such cases, the court examines a request regarding recognition not only based on the regulation of the Code of Civil Procedure but also taking into account the principles of good will (*bona fide*) and reciprocity.

Reciprocity will also be considered if the court receives a request regarding the recognition of a foreign arbitral award adopted in the territory of a state that is not a signatory to the New York Convention. In such cases, Lithuanian courts apply the provisions of the New York Convention only on the basis of reciprocity.

## 13 Procedural equivalence

### Is there a requirement that the judicial proceedings where the judgment was entered correspond to due process in your jurisdiction, and if so, how is that requirement evaluated?

Basically, the court does not verify the lawfulness and reasonability of a foreign judgment and the case must not be re-examined on the merits. Therefore, the court should not verify if the judicial proceedings where the judgment was entered correspond to the procedural rules in Lithuania. However, if a party that has failed to participate in the proceedings was not duly informed about the institution of civil proceedings and was not provided with an opportunity to exercise procedural remedies or proper representation, the court may refuse to recognise such a foreign judgment.

## 14 Personal jurisdiction

### Will the enforcing court examine whether the court where the judgment was entered had personal jurisdiction over the defendant, and if so, how is that requirement met?

Lithuanian legal acts do not stipulate the requirement for the enforcing court to examine whether the court where the judgment was entered had any personal jurisdiction over the defendant.

However, the provisions of the Code of Civil Procedure stipulate certain cases where Lithuanian courts have the exclusive jurisdiction over the persons. Article 789 of the Code of Civil Procedure provides that Lithuanian courts have the exclusive jurisdiction over the hearing of proceedings concerning the declaration of a natural person as incapable or of limited active capacity, dead or missing, if such a person is a citizen of the Republic of Lithuania or a stateless person with a permanent place of residence in the Republic of Lithuania.

Consequently, failure to follow the exclusive jurisdiction of the Lithuanian courts serves as a ground for the denial of recognition and enforcement of such judgments.

## 15 Subject-matter jurisdiction

### Will the enforcing court examine whether the court where the judgment was entered had subject-matter jurisdiction over the controversy, and if so, how is that requirement met?

The provisions of the Code of Civil Procedure, as well as most of the mutual assistance treaties and European legal acts (Regulation No. 44/2001), provide that the enforcing court should deny the recognition and enforcement of a foreign judgment if the Lithuanian courts have the exclusive jurisdiction over the relevant dispute.

Cases where the Lithuanian courts are exclusively authorised to examine a relevant dispute are stipulated in the European Union legal acts (Regulation No. 44/2001), which are applicable if a foreign judgment is passed by an EU member state court. If a foreign judgment is rendered in a court of a state that is outside the European Union, the relevant grounds stipulated in the Code of Civil Procedure will be applicable.

The Code of Civil Procedure provides for a number of cases where a Lithuanian court has the exclusive jurisdiction over a dispute. Such cases are related to family legal relations where both spouses are permanent residents of Lithuania, legal relations among parents and children, as well as adoption and legal relations where both parties are permanent residents of Lithuania. In addition, Lithuanian courts have exclusive jurisdiction over the disputes arising from property legal relations related to immoveable assets located in Lithuania, inherited assets located in Lithuania, as well as over the proceedings concerning the status of a natural person (declaration of a natural person as incapable or of limited active capacity, dead or missing), if such a person is a citizen of Lithuania or a stateless person with a permanent place of residence in Lithuania.

## 16 Service

### Must the defendant have been technically or formally served with notice of the original action in the foreign jurisdiction, or is actual notice sufficient? How much notice is usually considered sufficient?

If a party absent from the proceedings was not duly informed about the institution of civil proceedings and was not provided with an opportunity to exercise procedural remedies or proper representation during the proceedings either, this constitutes a ground for the denial of recognition and

enforcement of a foreign judgment. Such a ground for denial is stipulated in the majority of international treaties. A similar ground for a refusal to recognise a foreign judgment is also prescribed in Regulation No. 44/2001.

Appropriate service should be understood as a notice that actually enables a party to know about the date, venue and time of the proceedings and take part in them. A formal notice that does not include relevant information concerning the initiated proceedings should not be considered appropriate. However, proper notification is a matter of fact and is verified in each case separately, taking into account the evidence and arguments submitted by the parties. As regards the appropriateness of the notification, bilateral and multilateral agreements (in particular the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters of 1965) and the Regulations of the European Union (if applicable) should be taken into account.

## 17 Fairness of foreign jurisdiction

### Will the court consider the relative inconvenience of the foreign jurisdiction to the defendant as a basis for declining to enforce a foreign judgment?

Lithuanian law does not directly provide for a ground for declining to enforce a foreign judgment as the relative inconvenience of a foreign jurisdiction to the defendant. At the same time, if a foreign judgment has been taken in a state that is outside the European Union, the court has the prerogative to verify the compliance of such a foreign judgment with the public policy of Lithuania on its own initiative (*ex officio*). Therefore, the court will always verify if the principles of the public policy, which also include the principles of fair civil proceedings, have not been breached. In these circumstances, the defendant may succeed in proving that the enforcement of a judgment from an inconvenient jurisdiction would violate the public policy of Lithuania.

## 18 Vitiating by fraud

### Will the court examine the foreign judgment for allegations of fraud upon the defendant or the court?

Lithuanian legislation does not expressly provide for such a ground as fraud at the time of the issue of a foreign judgment for refusing to recognise and enforce it. However, if the court is served with relevant evidence that a foreign judgment has been adopted in the presence of fraud, a threat or other breaches of fair civil proceedings, the court may refuse to recognise such a judgment due to its inconsistency with the public policy of Lithuania.

## 19 Public policy

### Will the court examine the foreign judgment for consistency with the enforcing jurisdiction's public policy and substantive laws?

Public policy serves as a ground for the denial of recognition and enforcement of a foreign judgment. Such a ground is stipulated in the national laws of Lithuania, bilateral treaties, as well as the Regulations of the European Union (Regulation No. 44/2001).

In the light of the above, the term 'public policy' should be understood as covering the fundamental principles of fair civil proceedings and imperative rules and stipulating the universally recognised principles of law. Under the circumstances where the court holds that a foreign judgment may be incompatible with the main vital principles that the legal system is based on, the court has the right to refuse to recognise the foreign judgment or an arbitral award. In arbitration practice, public policy is understood as international public policy and it is supported by case law.

## 20 Conflicting decisions

### What will the court do if the foreign judgment sought to be enforced is in conflict with another final and conclusive judgment involving the same parties or parties in privity?

Lithuanian national legal acts, as well as the majority of international mutual assistance treaties, stipulate that the enforcing court should decline the recognition and enforcement of a foreign judgment where a Lithuanian court rendered a judgment regarding the same parties, on the same subjects and on the same grounds that has entered into force earlier or if proceedings in the same case were brought earlier. Some of the mutual assistance treaties also provide for a situation in which a third country's

judgment involving the same party and relating to the same dispute has already been recognised or enforced in Lithuania is a ground for declining the enforcement.

## 21 Enforcement against third parties

### Will a court apply the principles of agency or alter ego to enforce a judgment against a party other than the named judgment debtor?

Generally, during the recognition and enforcement of foreign court judgments, the court only verifies the presence of grounds for the denial of recognition and enforcement of the foreign judgments stipulated in the applicable European Union Regulations, international treaties or, in the absence of an applicable treaty, the grounds prescribed in the Civil Code of Republic of Lithuania. At the same time, under no circumstances should the court review a judgment on its merits. Consequently, a ruling on the recognition and enforcement of a foreign court judgment may only be issued in respect of the person indicated as the defendant in the foreign court judgment.

However, there may be some exceptions to this general rule, which are developed in the Lithuanian case law. Such exceptions are mostly related to the cases where the defendant is a natural person who dies at the time the court examines a plaintiff's request for the recognition and enforcement of a foreign judgment.

In accordance with the Lithuanian case law, in such cases, the general rules of the civil procedure should be applied. Basically, in a situation where one of the parties withdraws from the case (death of a natural person, winding-up or restructuring of a legal person, transfer of a request, debt transfer and in other instances provided for by laws), the court replaces the said party with its successor, except for the cases where the succession of tangible subject rights is impossible. Therefore, in cases where the defendant was alive during the proceedings in a foreign state but is dead at the time when the issue of enforcement of such a foreign judgment is examined, the court should take remedies to clarify the successors of such a party. If there are any, the court should replace the defendant with its successor. If succession is impossible under the laws of Lithuania or the takeover of rights does not take place, according to the Lithuanian case law, a further hearing of the case is not allowed and, therefore, the court proceedings should be terminated.

## 22 Alternative dispute resolution

### What will the court do if the parties had an enforceable agreement to use alternative dispute resolution, and the defendant argues that this requirement was not followed by the party seeking to enforce?

Lithuanian law does not directly regulate this issue. However, it should be noted that in accordance with Lithuanian legislation, if the parties have concluded an arbitration agreement, a dispute is no longer subject to court consideration. Therefore, if a party has failed to follow the arbitration agreement and another party argues about such failure, the court may apply the public policy in order to decline the enforcement of the foreign judgment. At present, Lithuania is in the process of mediation reform and, thus, there may be soon new practice in relation to mediation before or during the litigation process.

## 23 Favourably treated jurisdictions

### Are judgments from some foreign jurisdictions given greater deference than judgments from others? If so, why?

The laws of Lithuania do not prescribe more favourable treatment of any jurisdiction. However, the possibility of successful recognition and a prompt procedure increases if a foreign judgment is rendered in a member state (due to the Regulations of the European Union, which provide for a simplified procedure for recognition and enforcement) or there is an applicable international treaty.

## 24 Alteration of awards

### Will a court ever recognise only part of a judgment, or alter or limit the damage award?

Having processed the application for the recognition or enforcement of a foreign judgment (except for the European Union member states) in the

Republic of Lithuania, the Court of Appeal of Lithuania may take the following decisions:

- to recognise and enforce it in the Republic of Lithuania;
- to recognise it in the Republic of Lithuania;
- to enforce it in the Republic of Lithuania;
- to reject the application for recognition and enforcement in the Republic of Lithuania;
- to satisfy the application for the recognition or enforcement, or both, of the foreign judgment or arbitral award in part (to recognise or enforce, or both, only part of the foreign judgment (arbitral award) and likewise;
- to leave the application unexamined; or
- to terminate the proceedings.

As mentioned above, the court has no right to examine material facts and issues of law related to the merits of the dispute. Therefore, legal acts do not provide for a possibility to amend the foreign judgment. In such a case, the court only has the right to recognise the entire foreign judgment or to refuse to recognise such a judgment or part of the judgment based on limited grounds.

One of the grounds for the denial of recognition and enforcement is that the foreign judgment is incompatible with the public policy of Lithuania (see question 19). Under Lithuanian case law, the public order not only constitutes the basic principles of fair civil proceedings, sovereignty of the state and the basic interests of society but may also be related to mandatory provisions stipulated in Lithuanian laws. For example, the court might refuse to recognise a foreign judgment of which the operative part is incompatible with the imperative provisions of Lithuanian laws based on public policy (eg, the court of a foreign state has adjudged the amount of unreasonable penalties or the court has adjudged the specific amount of interest, which was calculated from the amount of unpaid interest, etc). Under Lithuanian case law, such a situation can be solved by amending the operative part of a foreign judgment so that it does not allow the enforcement of the part thereof.

## 25 Currency, interest, costs

**In recognising a foreign judgment, does the court convert the damage award to local currency and take into account such factors as interest and court costs and exchange controls? If interest claims are allowed, which law governs the rate of interest?**

When recognising a foreign judgment, the court usually does not convert the damage award into the local currency. However, in accordance with article 776 of the Code of Civil Procedure, amounts indicated in a foreign currency must be recovered in litas at the rate of exchange between litas and the relevant foreign currency fixed by the Bank of Lithuania on the date of rendering the judgment. Consequently, the rendered amounts are converted during the enforcement proceedings.

The law does not preclude the recognition and enforcement of interest claims and court costs.

## 26 Security

**Is there a right to appeal from a judgment recognising or enforcing a foreign judgment? If so, what procedures, if any, are available to ensure the judgment will be enforceable against the defendant if and when it is affirmed?**

A decision of the Court of Appeal of Lithuania concerning the recognition or enforcement of a foreign judgment or foreign arbitral award in the Republic of Lithuania becomes effective on the day it is rendered. A cassation appeal may be lodged against such a decision with the Supreme Court of the Republic of Lithuania within one month after the coming into force of the decision (ie, from its adoption). A cassation claim does not suspend the effectiveness of the decision regarding recognition and enforcement taken by the Court of Appeal.

Applications regarding foreign decisions taken in an EU member state are examined by a one-judge panel of the Court of Appeal. A party concerned has the right to submit an application for the revision of the decision rendered by the Court of Appeal within one month from the day of receiving the decision. A longer two-month period is applied for a party

### Update and trends

One of the current issues that could be described as a hot topic is recognition and enforcement of foreign arbitral awards. The situation is quite stable; however, as has been mentioned, in a significant number of cases, one of the parties has argued the competence of the foreign arbitral tribunal as grounds for the denial of recognition and enforcement. Therefore, the enforcing court is commonly obliged to examine difficult issues related to the competence of a foreign arbitral tribunal, which makes the recognition procedure lengthy (see question 28).

whose permanent residence is outside the Republic of Lithuania. If a party lodges an application for revision, it is examined by a three-judge panel of the Court of Appeal. Having examined such an application, the court renders a decision, which comes into force from the day of its adoption and, therefore, can be enforced. The parties to the case also have the right to submit a cassation appeal against such a decision, but the cassation claim does not itself suspend the enforcement procedure.

## 27 Enforcement process

**Once a foreign judgment is recognised, what is the process for enforcing it in your jurisdiction?**

The issue of permission to enforce a foreign judgment must be heard together with the application to recognise the judgment (award) of a foreign court (arbitral tribunal). Once the court has satisfied the request regarding the recognition and enforcement of a foreign judgment, the enforcement procedure is carried out in accordance with the general provisions of the Code of Civil Procedure.

First, the Court of Appeal issues a writ of execution on the basis of the foreign judgment recognised. If the interested party that files a request regarding the recognition of a foreign judgment specifies in the application that such recognition is required for the enforcement of the judgment in Lithuania, the Court of Appeal sends the said writ of execution to the interested party (the plaintiff who is willing to perform the recovery procedure) (article 774 of the Code of Civil Procedure). The Court of Appeal may also examine applications (if any are received) concerning the details of execution of judgments of foreign courts and arbitration tribunals and their postponement (article 777 of the Code of Civil Procedure).

Together with the writ of execution, the court also encloses a duplicate of the ruling concerning the recognition and permission to enforce the foreign judgment as well as a certified copy of the foreign judgment together with its translation. Amounts indicated in a foreign currency must be recovered in litas at the rate of exchange between litas and the relevant foreign currency fixed by the Bank of Lithuania on the date of rendering the judgment (article 776 of the Code of Civil Procedure).

The writ of execution together with the ruling concerning the recognition and permission to enforce the foreign judgment and a certified copy of the foreign judgment should be delivered to the bailiff who initiates the enforcement procedure.

## 28 Pitfalls

**What are the most common pitfalls in seeking recognition or enforcement of a foreign judgment in your jurisdiction?**

Generally, there are not many problematic issues in seeking recognition and enforcement of foreign judgments in Lithuania, especially if such a foreign judgment has been rendered in an EU member state. However, there might be some situations where Lithuanian courts use their right to refuse to recognise and enforce the foreign judgments. The main issue may be the public policy, which serves as one of the grounds for the denial of enforcement and recognition. Neither legal acts nor the case law specifically provide for an exhaustive list of circumstances that may be named as violating the public policy of Lithuania. Based on the recent case law, the public policy is interpreted very widely and Lithuanian courts are quite active in applying this ground during recognition procedure, especially in cases where a foreign judgment is taken in a state outside the European Union (as mentioned, the court has a right to verify this ground on its own initiative).



Another issue relates to the recognition and enforcement of foreign arbitral awards. In a significant number of cases, the party concerned argues the competence of the arbitral tribunal as one of the grounds for the denial of recognition and enforcement. Other commonly argued grounds are public policy and the arbitrability of disputes under the national law. Therefore, the enforcing court is commonly obliged to examine difficult issues related to the competence of a foreign arbitral tribunal, which makes the recognition procedure lengthy and time-consuming.

In addition, with the knowledge that the national courts sometimes apply a formal approach to the consideration of issues regarding incorrect formalisation and proper service of procedural documents, a defence frequently uses the arguments in the recognition procedure while arguing

that a party was not duly informed of the institution of civil proceedings when rendering a foreign judgment. With regard to this, it should be stated that, where a foreign judgment is passed by a court of a state that is not a European Union member state, the parties should provide the court with all possible documents confirming the absence of any grounds for the denial of the recognition and enforcement of the foreign judgment.

Also, it should be highlighted that relevant issues are those foreign decisions (arbitral awards) that do not require enforcement in itself (eg, a foreign decision that has modified a legal relation or a civil status of a person), particularly in those cases where such a foreign decision is taken in a state outside the European Union.



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