Part 4: Remedies

4.1. General observations on the systemization and availability of national remedies. Provide a short explanation of legal remedies in the national civil procedure of your member state. How is your domestic system of legal remedies structured (e.g. a division between ordinary and extraordinary remedies)?

Overview of the remedies of the Lithuanian Code of Civil Procedure

Courts in Lithuania are divided into the courts of general jurisdiction (district courts, regional courts, the Court of Appeal of Lithuania and the Supreme Court of Lithuania) and courts of special administrative jurisdiction (the Supreme Administrative Court of Lithuania and regional administrative courts[1]). The district and regional courts are the first instance courts for hearing of civil cases following the procedure established in the CCP.

There is a classical three-tiered system of revision of court judgements in Lithuania: cases are heard in the first instance courts, appellate courts and in the court of cassation.

Hearing of cases in the first instance courts. Regional courts of general jurisdiction are the first instance courts for hearing the following civil cases (Art. 27 of the CCP):

1) where the amount of the action exceeds forty thousand euro, except for family and labour-law relationships cases and cases of compensation for non-property damages;

2) regarding copyright non-property legal relationship;

3) regarding civil public tender legal relationship;

4) regarding bankruptcy and restructuring, except for the cases of bankruptcy of natural persons;

5) where one of the parties is a foreign country or state;

7) according to the actions regarding compulsory selling of shares (dividends, interest);

8) according to the actions regarding investigation of a legal entity's activities;

9) regarding compensation for the property and non-property damages caused by violating the established rights of patients;

10) other civil cases, which, according to the laws are heard by regional courts as the first instance courts.

Only Vilnius Regional Court, as the first instance court, hears the following civil cases (Art. 28 of the CCP):

1) regarding disputes provided for under the Patent Law of the Republic of Lithuania;

2) regarding disputes provided for under the Law on Trademarks of the Republic of Lithuania;

[1] All cases in the administrative courts are heard by regional administrative courts as the first instance courts. The Supreme Administrative Court of Lithuania hears cases under the appellate procedure. The cassation procedure is not foreseen in the Law on Administrative Proceedings.

3) regarding adoption according to applications of foreign citizens to adopt a citizen of the Republic of Lithuania residing in the Republic of Lithuania or a foreign country;

4) other civil cases that are heard solely by Vilnius Regional Court as the first instance court following the effective laws.

All other civil cases are heard by district courts as the first instance courts.

Hearing of cases in the courts of appeal. All non-effective (not *res judicata*) judgements and rulings of the first instance courts are subject for appeal under the appellate procedure, except for the cases provided in the CCP.

Regional courts hear cases under the appellate procedure regarding the non-effective (not *res judicata*) district court judgement, decision and the Court of Appeal of Lithuania hears the cases regarding non-effective (not *res judicata*) judgement or ruling of the regional court. Complaints filed by the Commercial Arbitration following the order prescribed by laws in respect of the resolutions of the arbitration acting in the territory of the Republic of Lithuania are heard by the Court of Appeal of Lithuania following the same order. These complaints are filed directly with the Court of Appeal of Lithuania.

General regulations of the CCP are applied to the appellate procedure as well as the regulations regulating the procedure of the first instance court, except for the cases when special rules applied in the appellate procedure are established in the CCP. Any party participating in the case is entitled to lodge an appeal. An appeal is lodged through the first instance court, the judgement whereof is being appealed. Arguments of the appeal are to be laid down in brief and must be in conformity to the subject and grounds of the appeal. An appeal cannot be founded on circumstances, which were not indicated in the court of first instance. It is not permitted to raise any demands in an appeal, which were not stated when hearing the case in the first instance court. Claims concurrently connected with the action that was already filed (for example, to award default interest, interest, fruits, and other cases) are not considered new claims.

It is established in the CCP that an appeal can be lodged within thirty days of the day of passing ae judgment in the first instance court. The term for lodging an appeal can be extended if the court acknowledges that the term was missed due to valid reasons. A petition to extend an expired term for lodging an appeal cannot be submitted if more than 3 months have passed since the day the court judgment was pronounced.

Having accepted an appeal, the first instance court must send copies of the appeal and its annexes to the parties participating in the appellate procedure. The parties must and the other parties to the proceeding are entitled to submit in writing their responses to the appeal, setting out herein their opinion concerning the validity of the appeal lodged. After expiry of the terms established for lodging an appeal against a judgement and submission of responses to the appeal, the first instance court forwards the case to the appellate court and the notices about forwarding of the case – to the parties to the proceeding.

The chairman of the court of appellate instance and the chairman of the Civil Cases Division of this court, pursuant to the procedure established for the assignment of cases in the courts, form a judicial panel, appoint its chairman and speaker, and schedule the date of the hearing. Composition of the court hearing cases under the appellate procedure may depend on the disputable sum, complexity of the case and other circumstances. Usually, a panel comprising three judges hear the cases under the appellate procedure. When the disputable sum is not higher than one thousand four hundred and fifty euro, also in noncontentious proceedings, the case on appeal is tried by a sole judge, however, taking into consideration the complexity of the case, the chairman of the court of appellate instance or the chairman of the Civil Cases Division avail themselves of a right to appoint

the panel of three judges for the case to be heard. By issuing a ruling, a sole judge trying the case under the appellate procedure avails himself of a right to transfer the case to be heard by the panel of three judges.

In cases when a civil action is related to regulation of the criminal law, the chairman of the appellate court, following the order established in the CCP and according to the suggestion of the court that is trying the case, can appoint a three-judge panel from the division of civil cases as well as the division of criminal cases for the case to be tried under the appellate procedure.

The court of appellate instance may not pass a worse judgment or ruling in respect to the claimant than that being appealed if only one of the parties is appealing the judgment. The reversal of the judgment being appealed and the referral of the case to the court of first instance to hold a *de novo* hearing as well as when a judgment is passed defending the public interest, is not considered as passing a worse judgment. There is an important regulation of the CCP that the court of appellate instance shall refuse to accept new evidence, which could have been submitted in the court of first instance except for the cases where the court of first instance refused unfoundedly to accept it or where the necessity of submitting this evidence arose later.

The limits of hearing a case under appellate procedure consist of the factual and legal grounds of the appeal and the verification of the absolute grounds for the invalidity of the judgment. The court of appellate instance hears a case without exceeding the limits established in the appeal except for when this is required by the public interest so that the human rights or legal interests of the society or state could not be infringed.

Usually, appeals are heard by means of written proceedings; however appeals may be tried by means of oral proceedings if the court trying the case recognizes this action as a necessary one. The participants to the case can submit a motivated application to the court requesting for oral proceedings, however, such application is not obligatory to the court.

The court of appellate instance may pass and pronounce the judgement within 30 days from the day of the case has been tried in the court hearing. The judgement comes into effect on the moment it is pronounced.

Violation of the rules of procedural law or their improper application is grounds to reverse a judgment only if the case could have been incorrectly resolved due to this violation. In this instance, the case can be sent to the court of first instance to hold a *de novo* hearing only when the court of appellate instance is unable to correct these violations. However, a legal and reasoned court judgement or ruling on the merits cannot be reversed only on formal grounds. A judgement or ruling of the court of appellate instance becomes effective as of the day of its pronouncement.

Usually, a dispute is finally resolved by passing a judgement. A case may also be ended by the decision to discontinue a case or leave an action unconsidered. However, upon hearing a dispute, a court of first instance also passes judgements whereby the matters of procedural character are resolved (e.g. to obligate to pay stamp duty, to eliminate shortcomings of a procedural document, to discontinue a case, etc.). Appealing against such judgements has certain peculiarities. They can be appealed against by lodging a separate appeal with the court of appellate instance apart from the court judgement only in cases provided for in the CCP or when the court judgement precludes the further course of the proceedings. An appeal may be lodged within seven days from the day of passing the judgement. When the appealed judgement is passed by means of written proceedings following the order established in the CCP, a separate appeal may be lodged within seven days from the day of service of the confirmed copy of the judgement. Deferring to the separate appeal (except for the cases when civil proceedings were discontinued by the appealed judgement), the first instance court may to reverse the appealed judgement itself and continue

hearing of the case. Objecting to the separate appeal, the first instance court shall forward the case with the appeal to the court of appellate instance.

Hearing of cases in the court of cassation. There is the only court of cassation instance in Lithuania – the Supreme Court of Lithuania.

The judgements and decisions of the courts of appellate instance can be appealed and revised under the cassation procedure following the procedure established in the CCP. A cassation appeal may be lodged by any party to the proceedings directly with the Supreme Court of Lithuania within three months of the day the judgement or ruling being appealed has become *res judicata*. An expired term may be extended ~~following the procedure established in the CCP~~ by the court, except for the cases, when more than six months have lapsed since the day the judgment became *res judicata*.

Cassation is impossible concerning judgments and rulings of a first instance court, which have not been reviewed under the appellate procedure. Repeated cassation appeals concerning the same *res judicata* court judgement or ruling are not possible. A case concerning the same *res judicata* court judgement or ruling may be heard under the cassation procedure only once.

A selection panel formed of three judges by the chairman of the Supreme Court of Lithuania or the chairman of the Civil Cases Division of this court shall decide the question of accepting a cassation appeal. A cassation appeal shall be considered accepted if at least one of the members of the selection panel votes for it. The question of accepting a cassation appeal shall be decided by passing a ruling under written proceedings. After the question of the acceptance of a cassation appeal is decided, it is impossible to append or amend the cassation appeal.

The chairman of the Supreme Court of Lithuania and the chairman of the Civil Cases Division, while following the established procedure for the assignment of cases, by their ruling form a judicial panel, appoint its chairman and reporter, and set the hearing date.

A panel of three judges hear a case under the cassation procedure. The chairman of the Supreme Court of Lithuania, the chairman of the Civil Cases Division, or the judicial panel by their ruling may refer the case to an enlarged panel of seven judges or a plenary session of the Civil Cases Division to be heard if a complex question of the interpretation or application of the law arises in the cassation case (in this instance a case shall be heard by all judicial panel of the Civil Cases Division of the Supreme Court of Lithuania). By suggestion of the selection panel or the court hearing the case, the chairman of the Supreme Court of Lithuania may form a mixed three-judge or enlarged seven-judge panel from the Civil Cases Division as well as the Criminal Cases Division for the case to be tried under the cassation procedure, and also may refer the case for hearing of the plenary session of the court.

The grounds for reviewing a case by cassation procedure are:

1) violation of the rules of substantive or procedural law having an essential significance for the uniform interpretation and application of the law if this violation could influence the passing of a wrongful judgment (ruling);

2) if a court deviates in the judgment (ruling) being appealed from the practice for the application and interpretation of the law formulated by the Supreme Court of Lithuania;

3) if the practice of the Supreme Court of Lithuania is not uniform in respect to the disputed question of the law.

The court of cassation, without exceeding the limits of the cassation appeal, shall verify the appealed judgments and/or rulings from the aspect of the application of the law. The court of

cassation is bound by the circumstances established by the courts of first and appellate instance. The court shall be entitled to exceed the limits of a cassation appeal if public interest demands it.

The court shall be entitled to exceed the limits of a cassation appeal if public interest demands it and in case of failure to exceed the limits of a cassation appeal rights and vested interests of a person, society or state would be violated

A cassation case shall be heard after the expiry of the term for lodging a cassation appeal. Usually, a cassation case is heard by means of written proceedings. After deciding that it is necessary, the judicial panel may assign an oral hearing of the case. The hearing of the case in the court of cassation shall be concluded by passing a resolution (decision).

Having heard the case under the cassation procedure, the court of cassation has the right to uphold the judgement or ruling, to reverse the judgement or ruling and to leave in force one of the judgements or rulings passed earlier in the case, to reverse the judgment (fully or in part) and pass a new judgment, to reverse the judgment fully or in part and refer the case to the appellate court to hold a *de novo* hearing, to reverse the judgment fully or in part and dismiss the case or leave the application unconsidered.

A ruling of a court of cassation is final, not subject to appeal, and becomes effective as of the day of its passing. The explanations set out in the ruling of a court of cassation are binding for the court holding a *de novo* hearing of the case.

Renewal of proceedings. This procedural remedy should be considered as extraordinary remedy. Renewal of proceedings is an optional stage of the civil procedure aimed at securing legality in civil procedure, i.e. not to leave in force possibly unfair and ill-founded court judgements. Proceedings must be renewed only having sufficient grounds for that.

In cases that have been disposed of by virtue of an effective court judgement (ruling, order or decision), the proceedings may be resumed on the grounds and following the order established in the CCP by request of the parties and third parties also of the parties not included in the hearing of the case. Following the procedure established in the CCP, the Prosecutor General of the Republic of Lithuania may submit petitions to start renewal of proceedings in order to protect a public interest.

Renewal of proceedings can be started if the European Court of Human Rights rules that the judgments, rulings, or decisions of the courts of the Republic of Lithuania in civil cases are not in conformity with the European Convention for the Protection of Human Rights and Fundamental Freedoms and/or its additional protocols where the Republic of Lithuania is a participant, if new material circumstances in the case, which were not and could not be known to the claimant during the hearing of the case have been discovered, of which the claimant was not aware and could not be aware of during the hearing of the case, if an effective court judgement has established knowingly false evidence by a party or third party or a witness, the knowingly false opinion by an expert, a knowingly incorrect interpretation (translation), or the falsification of documents or physical evidence, on the basis whereof a wrongful or unreasonable judgment was adopted, if in the judgement the court gave a statement concerning the material rights and duties of parties not excluded from the in the hearing of the case, if an obvious error in the application of the rules of law was made in the judgment (ruling, order or decision) of the first instance court, which could have affected the adopting of the wrongful judgement (ruling, order or decision) and the judgment (ruling, order or decision) was not reviewed under the appellate procedure.

A petition to start renewal of proceedings is impossible concerning effective (*res judicata*) court judgments on questions of annulling or dissolving a marriage if at least one of the parties,

after the judgment became effective, has entered into a new marriage or registered a partnership (cohabitation), also in bankruptcy proceedings.

A petition to start renewal of proceedings can be submitted within three months of the day, on which the person submitting it has learned or had to learn of the circumstances making the grounds to start renewal of proceedings. No petition to start renewal of proceedings can be submitted if more than five years have passed since the judgment or ruling became has become effective. A repeated petition to start renewal of proceedings on the same grounds is not possible.

Recourse against judgements. When the enforced judgement is repealed and having held a *de novo* hearing of a case, a ruling to dismiss an action or a decision to discontinue proceedings or to leave the action unheard is passed, everything that was recovered from the defendant in favour of the claimant according to the repealed judgement must be returned to the defendant (a recourse against judgement) (Art. 760 of the CCP). A defendant is also entitled to claim from the judgement creditor the compensation for damages caused by urgent enforcement of the court judgement, which afterwards was repealed if urgent enforcement was allowed on the grounds of the judgement creditor's application. When the property cannot be returned, the court must provide in its judgement (ruling) that the value of this property must be reimbursed and when the property is sold – the amount received for selling is to be returned.

However, there are certain restrictions upon executing recourse against judgements (Art. 762 of the CCP): when a judgement in proceedings related to recovery of the maintenance in periodical allowances is repealed under the appellate or cassation procedure, the recourse is possible only when the repealed judgement was based on the false data or falsified documents submitted by the Claimant. Also, when a judgement in cases related to recovery of the salary or allowances equated to it is repealed under the appellate or cassation procedure, the recourse is possible only when the recipient acted in a bad faith or accounting mistakes have been made.

4.2. Remedies in enforcement procedure.

4.2.1. Provide a concise description of all the remedies (and other recourse, i.e. separate enforcement claims) available throughout the enforcement procedure (and separate/adjacent procedures), for all involved persons. Therein, specify the requirements for each remedy.

4.2.2. Characteristics of legal remedies in enforcement procedure. Remedies differ in effect and the way in which they exert that effect. Herein focus on the nature and attributes of different remedies in your system, e.g. does invoking a certain remedy suspend the proceedings for the time being; which body/authority is equipped with the competence on rendering a decision in remedial procedures (hierarchy of competence); is a given remedy unilateral or bilateral (does the opposing party have the option of supplying an answer); what powers does the appellate body/authority have, e.g. cassation.

4.2.3. Should objections be brought up in enforcement or in separate procedure?

The CCP governs the procedure of enforcement of court judgements. Application of the enforcement procedure rules is prescribed in the Instruction of Enforcement of Judgements approved by the Minister of Justice and other legal acts. On 1 January 2003, a system of private bailiff offices started to operate in Lithuania. After modifications of the CCP made recently, the role of a court has notably diminished. Courts apportion the property belonging to a debtor and other persons, impose fines for noncompliance with the bailiff's requirements, confirm reconciliation agreements, sanction the access to the debtor's accommodations against his will, hear appeals related to the bailiff's actions, etc.

The grounds to initiate an enforcement procedure – a writ of enforcement, which is a court document of a special form. In certain cases, the copies of court judgements may also be produced for enforcement (e.g. a court ruling is produced upon imposing provisional remedies, and a court judgement - upon applying a fine imposed by the court). The CCP does not establish a form for writs of enforcement issued by other authorities. Upon issuing a writ of enforcement, a court checks whether a judgement is enforceable and *res judicata*. The writ of enforcement is issued to the judgement creditor, who refers it to the chosen bailiff for execution. Before initiating the enforcement actions, a bailiff forwards inducement to the debtor urging him to execute the judgement by his own volition and establishes the term for execution. Usually, a term of 10 days is set for that. Before expiry of this term, enforcement actions cannot be performed. If a debtor fails to execute the judgement within this term, a bailiff shall start an enforcement procedure. Costs of this procedure are recovered from the debtor.

In the proceedings of monetary recoveries a bailiff establishes the debtor's property and seizes it. The right to choose the property for seizure is vested with the judgement creditor however, he is limited by the order of recovery from the debtor's property established in the CCP. The order of recovery is established seeking as cost-effective enforced recovery from the debtor's property as possible and not to cause unnecessary pecuniary loss to the debtor. Recovery from the next-in-line property is possible only when there is no any preceding property or when a debtor requests to direct the recovery to the next-in-line property.

Order of recovery from the property of a debtor who is a natural person (Art. 664 of the CCP):

1. Recovery shall be made firstly from any mortgaged or pledged property if recovery is being made in favour of the mortgage creditor or mortgagee.

2. Recovery shall be made secondly from the money, property rights, securities, salary, scholarship, or other income belonging to the debtor or from his movable property.

3. Recovery shall be made thirdly from the real property belonging to the debtor except that referred to in paragraphs 4 and 5 of this Article.

4. Recovery shall be made fourthly from any land designated for agriculture that belongs to the debtor if the debtor's principal business is farming.

5. Recovery shall be made fifthly from the dwelling, which belongs to the debtor and in which he is living.

Order of recovery from the property of a debtor who is a legal person (Art. 665 of the CCP):

1. Recovery shall be made firstly from his mortgaged or pledged property if the recovery is being made in favour of the mortgage creditor or mortgagee.

2. Recovery shall be made secondly from the money, securities, and production (goods) produced, which belong to the debtor as well as from any other moveable or immoveable property not directly being used and not adapted to direct use in production except administration premises.

3. Recovery shall be made thirdly from any other property except that referred to in paragraph 4 of this Article.

4. Recovery shall be made fourthly from any real property objects necessary for production as well as from raw materials and materials, machine-tools, equipment, and other principal equipment directly intended for production.

The property, from which it is impossible to recover, is also established by the CCP (Art. 668 of the CCP):

1. In performing the recovery from a natural person, the recovery cannot be directed to any domestic, household, work, studying utensils and other property necessary for subsistence of a debtor or his/her family, work according to his profession or studies. The list of this property is established in the Instruction of Enforcement of Judgements. Moreover, recovery cannot be directed to an amount of money not exceeding the minimum monthly wage (MMW) established by the Government, and any of the children's and disabled persons belongings. The list of these belongings is established in the Instruction of Enforcement of Judgements.

2. In performing the recovery from state, municipal, or budgetary institutions, recovery can be directed only to the monetary funds belonging to them. Upon performing recovery from state, or budgetary institutions, the recovery cannot be directed to the general account of the State Treasury in cases provided for in the Law on State Treasury of the Republic of Lithuania.

3. Recovery during execution of the supported project and during the period of the compulsory succession of the project activities established in the legal acts of the European Union or international treaties of the Republic of Lithuania cannot be directed to the funds received as a financial support from the European Union or as a general sponsorship for execution of the supported project. This prohibition to recover property is not applied when the funds are recovered on the initiative of the institutions controlling the supported project for they have been used by violating legal acts of the European Union, the Republic of Lithuania, or international treaties or treaties for provision of the respective funds.

The debtor's rights are protected by establishing a special procedure of recovery of small amounts (CPK 663 str.):

The recovery of money cannot be directed to a debtor's property if the debtor submits evidence to the bailiff that it is possible to recover the amount of money being recovered within six months by making deductions of the size referred to in Article 736 of this Code from the debtor's wages, pensions, scholarships, or other income. In this case, at the request of the judgment creditor a bailiff may attach the debtor's property, the selling of which has begun, if it is revealed that in making the deductions from the debtor's wages, pension, scholarship, or other income, the judgment will not be satisfied.

It is possible to recover from the accommodation belonging to a debtor wherein he lives, only if the amount being recovered exceeds two thousand thirty euro.

On the grounds of the petition of the debtor or his family members, after an apartment or residential house has been attached recovering amounts outstanding for energy resources consumed, utilities, and other services, a court may establish that recovery should not be made from the last apartment, residential house, or a part thereof, necessary for the persons concerned to live. A court may establish this by taking into consideration the material situation and interests of the children, disabled persons, and welfare beneficiaries.

Subject to the character of the property, the seized property is sold at public auctions, to the buyer proposed by the debtor, through commercial enterprises, in the securities exchange, etc.

The main way to sell the seized property is through auctions. The initial price established for the property sold at auction shall amount to 80 percent of the property market value. If no one buys the property, the repeated auction is announced. In this case, the initial price for the property sold at auction shall amount to 60 percent of the property market value. If no one buys the

property, it is offered to a judgement creditor. If a judgement creditor refuses it, then it is returned back to the debtor.

As of 13 January 2013, only electronic auctions are held in Lithuania.

The money recovered after selling the property is used to cover the enforcement costs and to settle accounts with the judgement creditor. Mainly, Lithuania applies the principle of proportional distribution of the recovered money, i.e. the following order is applied for granting the claims (Art. 754 of the CCP):

1. Claims of the mortgagee and encumbrancer are granted primarily.

2. Claims to recover maintenance and claims to compensate for damages caused from personal injuries that result in mutilation or other damage to health, also the damage for the loss of a breadwinner shall be granted firstly.

3. Claims of employees from the labour-law relationship shall be granted secondly.

4. All other claims shall be granted thirdly.

5. If the recovered amount is not sufficient for granting fully all claims in line, they shall be granted in proportion to the amount due to each judgement creditor.

Recovery from debtor's salary or equivalent income is widely applied in Lithuania. Limitation of the amount subject for recovery is considered a measure defending the debtor’s rights. The order of calculation of the amount subject for recovery (Art. 733 of the CCP):

1. From the debtor's salary or equivalent income and allowances not exceeding the minimum monthly wage (MMV) established by the Government (which at present amounts to EUR 480) may be recovered according to the writs of enforcement until the amounts subject for recovery shall be fully covered:

1) upon recovery of periodical maintenance allowances, compensation for damage caused from personal injuries that result in mutilation or other damage to health, compensation for the loss of a breadwinner and damage caused from a criminal offence – up to fifty percent unless otherwise specified in the writ of enforcement or provided by legislation or a court;

2) for recoveries of all other types – twenty percent, unless otherwise specified in the writ of enforcement or provided by the legislation or court;

3) according to several writs of enforcement – no more than fifty percent.

2. From the debtor's salary or equivalent income and allowances not exceeding the minimum monthly wage (MMV) established by the Government – seventy percent unless otherwise is specified by legislation or a court.

3. When a written application is filed by a debtor, who is a family member caring for someone with a disability, the bailiff may issue an order to reduce the recovered portion specified in the Par. 2 hereof by ten percent for each dependant, however the portion established by legislation or a court cannot be reduced. Upon reducing the amount of recoveries, the dependants for the maintenance whereof recoveries are made from the debtor’s salary are ignored.

Upon executing of non-pecuniary recoveries (e.g. eviction, committal of a child, obligation to discontinue certain actions, etc.), a court imposes fines for non-execution of bailiff's requirements that may be recovered both – in favour of the state or the judgement creditor.

4.3. Opposition in enforcement.

4.3.1. If a separate judicial procedure to enforce claims from judgments is not foreseen in your member state, what options does the debtor have in order to challenge inadmissibility of particular enforcement on the grounds that appeared (came into being) after the enforcement title was acquired (*nova producta*) or due to the inadmissible way of performing enforcement?

4.3.2. On which grounds does opposition against an enforcement decision have to be substantiated? In case no substantiation is queried, does an 'assertion' of opposition suffice?

4.3.3. Are the grounds for enforcement exhaustively listed or encompassed by a general clause or described in exemplary fashion? If a general clause is present, how is it formulated and what is its relation to exemplary listed grounds. Are the grounds subdivided into 'categories', e.g. Slovenian and to a certain extend Austrian theory incorporate an understanding of 'impugnation' and 'opposition' grounds; while the first refer to situations where a creditor possesses a valid enforcement title and an existent claim but cannot enforce it (due to a timely preclusion for instance), the latter refer to situations where the creditor holds a valid enforcement title, however a fact, which has arisen after the title attained the attribute of enforceability (see above *nova product*), prevents the enforcement (for instance due to the extinguishing of the claim because of compensation, voluntary fulfillment by the debtor etc,).

The rights of a debtor and a judgement creditor violated during the enforcement procedure may be defended in Lithuania by lodging an appeal concerning the actions of a bailiff (Art. 510). The procedural actions of bailiffs or their refusal to perform procedural actions can be appealed by this procedure. The tax duty is not charged for the appeals indicated.

An appeal concerning the actions of a bailiff can be lodged no later than within twenty days of the day, on which the person lodging the appeal learned or had to have learned about the performance of the action being appealed or the refusal to perform it but no later than within ninety days of the performance of the action being appealed. If a person lodging an appeal requests to impose provisional remedies during hearing of the appeal, he must submit one copy of the appeal to the district court within jurisdiction whereof the bailiff's office is registered. The court shall resolve the matter of imposing provisional remedies following the order established in the CCP.

Only general requirements established in the Art. 111 of the CCP are applied for the form and content of the appeal, namely:

1. Court documents shall be submitted to the court in writing.

2. Each court document of a party to the proceeding must include:

1) name of the court which the procedural document is filed with;

2) the procedural situations, full names, personal numbers (if known), places of residence of the parties to the proceeding and other addresses for service of the procedural documents on other parties to the proceeding known to the claimant, and in those cases when the parties to the proceeding or one of them is a legal person - its full name, registered office, other addresses for

service of the procedural documents on other parties to the proceeding known to the claimant, codes, settlement account numbers (if known), credit institution information (if known).

3) the way of service of the procedural documents on the party to the proceeding, correspondence address when it differs from the place of residence or registered office;

4) character and subject of the procedural document;

5) circumstances confirming the subject of the procedural document and evidences proving these circumstances;

6) appendices attached to the filed procedural document;

7) signature of a person filing a procedural document and the document drawing date.

3. A court document, wherein a submitted statement of claim, separate appeal, appeal to a judgment, or cassation appeal is waived, must indicate that the procedural consequences of said waiver are known to the claimant . A court document wherein a court is requested to confirm a reconciliation agreement must indicate that the procedural consequences of confirmation of a reconciliation agreement are known to the claimant s.

4. A participant in proceedings grounding the court document on the rule of statutory interpretation adopted by an international or foreign court, has to produce a copy of procedural judgement of that court wherein that rule is formulated as well as its translation to the national language confirmed following the order established by legislation.

5. If a representative submits the procedural document to the court, the information provided in paragraph 2, subparagraph 2 of this article shall be indicated about the representative in the court document and a document proving the representative's rights and duties shall be annexed if there is not yet any such document in the case or if term of validity of the one included in the case has expired.

6. A person authorised by the party to the proceeding, who is unable to sign the procedural court document, shall sign it on behalf of the latter, indicating the reason, due to which the party to the proceeding cannot himself sign the document being submitted.

Participants in the enforcement procedure may file responses to the appeal.

A bailiff shall consider the accepted appeal within five days from its reception and shall pass an order in respect of it. If a bailiff refuses to grant an appeal fully or in part, the appeal together with the bailiff's order and the enforcement case shall be forwarded to the district court within jurisdiction of the registered bailiff's office no later than the other working day from passing the order, except for the case specified in the Par. 5 hereof. The bailiff's order on the grounds whereof the ungranted appeal is referred to the court is not subject for appeal.

If a bailiff fails to hear an appeal within the set term or fails to forward the order whereby has refused to grant an appeal fully or in part together with the enforcement case and the appeal to the court, a person shall be entitled to lodge an appeal regarding the bailiff's omission to the district court, within jurisdiction whereof is the registered bailiff's office. Together with the appeal concerning the bailiff's omission, a person has to submit with a court also an appeal concerning procedural actions of a bailiff or refusal to perform procedural actions that was not considered by the bailiff. Upon hearing the appeal concerning the bailiff's omission, the court during the same proceedings shall also hear the appeal concerning procedural actions of a bailiff or refusal to perform procedural actions.

Lodging of an appeal with a court shall not suspend the enforcement procedure, however, having recognized it necessary, the court may suspend the enforcement procedure by means of written proceedings.

A court shall decide a case concerning the actions of a bailiff by a ruling (Art. 513). Having granted the appeal, the court shall revoke the action of a bailiff or obligate the bailiff to perform the action. A separate appeal may be lodged concerning a court ruling passed in respect of the actions of a bailiff, which shall be heard in the regional court under the appellate procedure. Proceedings of this category may also be heard under the cassation procedure.

If the property belonging to a debtor has been sold during the enforcement procedure, the debtor may lodge an action disputing sale of the property. In this case the proceedings are held in general order and there no any procedural peculiarities.

4.4. Remedies in international private procedure, i.e. remedies foreseen in national law, relating to recognition and enforcement of foreign judgments under private international law (cross-border situations), excluding B IA .

4.4.1. Types and main features of legal remedies.
4.4.2. Grounds for challenging foreign judgment.
4.4.3. Please indicate what are the differences compared to the grounds in B IA.

It is consolidated in the CCP that international treaties have a priority over the CCP: if international treaties of the Republic of Lithuania include other provisions than those provided for by the CCP and other laws of the Republic of Lithuania, then provisions of international treaties shall be applied. Upon implementing legal acts of the European Union and International Law, other procedural rules of case hearing, adoption and enforcement of judgements or other, except for the ones provided for in the CCP, may also be established in other laws of the Republic of Lithuania. Therefore, regulations consolidated in the CCP are applied in as much as not otherwise regulated in an international treaty to which the Republic of Lithuania is a party.

The priority of national jurisdiction is consolidated in the CCP where it is stated that when at the time of lodging an action a case falls within the jurisdiction of the courts of the Republic of Lithuania, this jurisdiction shall persist irrespective of further change of conditions.

If the courts of the Republic of Lithuania are competent to hear civil cases in accordance with the rules of jurisdiction established in the CCP, this jurisdiction shall remain valid when the same case is heard in a foreign court. A court hearing a case has a duty to check on its own initiative whether a case falls within jurisdiction of the courts of the Republic of Lithuania. If, after commencement of a case, a court states that the case does not fall within jurisdiction of the courts of the Republic of Lithuania, the application shall remain unconsidered.

There special rules on jurisdiction established in the CCP to proceedings of certain categories with a foreign element: regional courts, as the first instance courts, hear civil cases where one of the parties is a foreign country or state; Vilnius Regional Court, as the first instance court, hear civil cases regarding international adoption.

Family-related disputes when one of spouses is a citizen of the Republic of Lithuania or a person without a citizenship with a permanent place of residence in the Republic of Lithuania fall within jurisdiction of the Republic of Lithuania. If a permanent place of residence of both spouses is in the Republic of Lithuania, their family-related proceedings shall be heard exceptionally by the courts of the Republic of Lithuania. The courts of the Republic of Lithuania are also competent to hear the family-related proceedings where both spouses are foreign citizens but their permanent place of residence is in the Republic of Lithuania.

The proceedings related to legal parent-child relationship and adoption when at least one of the parties is a citizen of the Republic of Lithuania a person without a citizenship with a permanent place of residence in the Republic of Lithuania or when a permanent place of residence of both parties is in the Republic of Lithuania are exceptionally heard by the courts of the Republic of Lithuania.

The courts of the Republic of Lithuania are also competent to hear the proceedings related to legal parent-child relationship and adoption where both spouses are foreign citizens but their permanent place of residence is in the Republic of Lithuania.

Judgements of foreign courts (arbitrations) may be enforced in the Republic of Lithuania only after recognition whereof by the Court of Appeal of Lithuania as the authority empowered by the state to recognize a judgement. Effective foreign judgements regarding non-pecuniary disputes between non-citizens of the Republic of Lithuania need not to be recognized, except for the cases when such judgement is a basis for registering of the conclusion of marriage or other vital life events or other rights in the public register.

An application to recognize a foreign judgement, also in respect of refusal to recognize a foreign judgement and requests to recognize a judgement of foreign arbitration may be submitted to the Court of Appeal of Lithuania by any person having a legal interest in the proceedings. Applications to recognize a foreign judgement must comply with the general requirements for procedural documents (Art. 111 of the CCP).

An application to recognize a foreign judgement must be accompanied by the requested to recognize foreign judgement and its translation to Lithuanian language confirmed following the order established by laws, confirmation that the judgement is effective, and also evidences that a party absent upon hearing the case has been duly informed about place and time of hearing a civil proceedings. Where the claimant resides outside the Republic of Lithuania and has not appointed a representative in the case or an authorised person to obtain procedural documents who resides/has a professional office in the Republic of Lithuania (Article 805 of the Republic of Lithuanian Code of Civil Procedure), the application to recognize a foreign judgement (refusal to recognize) must indicate an address in the Republic of Lithuania at which the procedural documents would be served on the claimant .

Applications to recognize a foreign court (arbitration) judgement are not subject to stamp duty.

The following order for hearing a case to recognize a foreign judgement is established in the Art. 812 of the CCP:

1. Applications to recognize foreign judgements (refusals to recognize judgements) are heard by a sole judge of the Court of Appeal of Lithuania, however, taking into consideration the complexity of the case, the chairman of the Court of Appeal of Lithuania or the chairman of the Civil Cases Division avail themselves of a right to appoint the panel of three judges for the case to be tried. A court hearing the application also has the right to transfer the application to be heard by the panel of three judges by passing a corresponding ruling. Applications are heard by means of written proceedings except for the cases when after considering the circumstances of the case the court shall assign an oral hearing of the application. The judgement in respect of recognition of a foreign judgement comes into effect on the day it is pronounced. It is possible to appeal against the court judgment by lodging a cassation appeal following the procedure of the court of cassation. Renewal of proceedings is also possible.

2. The court hearing an application to recognize a foreign judgement may recognize only a part of a foreign judgement.

3. A claimant is entitled to request recognition of a part of the foreign judgement also refusal to recognize a part of the foreign judgement.

4. The court hearing an application to recognize a foreign judgement has the right to suspend hearing if this court judgement is appealed under usual procedure applied for control of the court judgements of a certain state or when the term for lodging this appeal has not expired.

5. Having established that an application to recognize a foreign judgement was filed failing to conform with the procedure established in the Civil Code or international treaties, a court may recognize it as not filed and to return it to the claimant by their ruling and if the court has already been seised of the application, it shall not be considered. The court may establish a time limit for elimination of the shortcomings of the application's form or content (Article 115 of the CCP), if the claimant resides in the Republic of Lithuania, or indicate an address in the Republic of Lithuania at which the procedural documents would be served on the claimant, or appointed a representative in the case or an authorised person to obtain procedural documents who resides/has a professional office in the Republic of Lithuania (Article 805 of the CCP). If the shortcomings are not eliminated within the time limit established by the court, the application shall be deemed to not have been lodged and shall be returned to the claimant, whereas if the court has already been seised of the application, it shall not be considered.

6. The matter in respect of permission to execute this judgement may be considered together with the application to recognize a foreign judgement.

Foreign judgements may be recognized based on international treaties. The CCP of Lithuania does not apply the principle of mutual recognition of foreign judgements therefore a foreign judgement may be recognized and enforced without an international treaty. In the absence of an international treaty recognition of a foreign judgement could be refused in the following cases (Art. 810 of the CCP):

1) a judgement is not res judicata under the laws of the state where it was issued;

2) a case was under the exclusive jurisdiction of the courts of the Republic of Lithuania or of a third state, under provisions of the law of the Republic of Lithuania or of an international treaty;

3) a party who was absent from the proceedings was not duly informed of the initiation of civil proceedings, nor provided with an opportunity to exercise procedural remedies or be properly represented (if the party was legally incapable) during the proceedings;

4) a foreign judgement the recognized whereof is sought is incompatible with a judgement issued by a court of the Republic of Lithuania adopted in the proceedings between the same parties;

5) a judgement is inconsistent with public order as determined in the Constitution of the Republic of Lithuania;

6) a court of a foreign state in its judgement, has resolved matters of legal capacity and ability, legal representation, family property or inheritance concerning a citizen of the Republic of Lithuania, where such judgement is inconsistent with the international private law of the Republic of Lithuania, except for when Lithuanian courts would have issued the same judgement in the proceedings.

An application to recognize a foreign judgement, also in respect of refusal to recognize a foreign judgement and requests to recognize a judgement of foreign arbitration may be submitted to the Court of Appeal of Lithuania by any person having a legal interest in the proceedings. Applications to recognize a foreign judgement must comply with the general requirements for procedural documents established in the Art. 111 of the CCP.

Republic of Lithuania has concluded international treaties on legal assistance and legal relations in civil, family and criminal proceedings with Armenia, Azerbaijan, Belarus, Kazakhstan, People's Republic of China, the USA, Moldova, Russian Federation, Ukraine, and Uzbekistan. These agreements are important upon resolving matters of jurisdiction and recognition and enforcement of foreign judgements.

A reconciliation agreement confirmed in a court of a foreign state may be recognized and enforced in the Republic of Lithuania only when it could be executed in the state where it was executed and if it is not against public order as determined in the Constitution of the Republic of Lithuania (Art. 816 of the CCP).

The courts of the Republic of Lithuania may recognize and enforce foreign court rulings on application of provisional remedies. The rulings specified herein are recognized and enforced in the Republic of Lithuania under the same procedure as judgement of foreign state court (arbitrations) and only when a party having interest in proceedings was duly informed about time and place of the hearing (Art. 817of the CCP).

Terms and conditions of enforcement of judgements of foreign courts (arbitrations) in Lithuania are established in the Art. 813 of the CCP. Judgements of foreign courts (arbitrations) may be enforced when:

1) the judgment may be enforced in a state the courts whereof have passed it;

2) they are recognized under the procedure established in the fourth paragraph of the Article LIX Chapter VII of the CCP.

2. Requirements of Part 1 hereof are also applied to the judgments of the Justice of the Peace passed abroad.

3. A judgement creditor must attach the documents specified in the Art. 811 (2) of the CCP to his application to recognize a foreign judgement, also a certification that this judgement is enforceable in its state of origin.

A judgment of the Court of Appeal of Lithuania to recognize a foreign judgement or to dismiss an application to recognize a foreign judgement may be appealed against under the cassation procedure.

Recognized judgements of foreign courts or arbitration are binding documents and shall be enforced following the general rules of the enforcement procedure established in the CCP CPK.

4.4 Remedies in international private procedure, i.e. remedies foreseen in national law, relating to recognition and enforcement of foreign judgments under private international law (cross-border situations), excluding B IA .

4.4.4. Types and main features of legal remedies.

4.4.5. Grounds for challenging foreign judgment.

It is consolidated in the CCP that international treaties have a priority over the CCP: if international treaties of the Republic of Lithuania include other provisions than those provided for by the CCP and other laws of the Republic of Lithuania, then provisions of international treaties shall be applied. Upon implementing legal acts of the European Union and International Law, other procedural rules of case hearing, adoption and enforcement of judgements or other, except for the ones provided for in the CCP, may also be established in other laws of the Republic of Lithuania. Therefore, regulations consolidated in the CCP are applied in as much as not otherwise regulated in an international treaty to which the Republic of Lithuania is a party.

The priority of national jurisdiction is consolidated in the CCP where it is stated that when at the time of lodging an action a case falls within the jurisdiction of the courts of the Republic of Lithuania, this jurisdiction shall persist irrespective of further change of conditions.

If the courts of the Republic of Lithuania are competent to hear civil cases in accordance with the rules of jurisdiction established in the CCP, this jurisdiction shall remain valid when the same case is heard in a foreign court. A court hearing a case has a duty to check on its own initiative whether a case falls within jurisdiction of the courts of the Republic of Lithuania. If, after commencement of a case, a court states that the case does not fall within jurisdiction of the courts of the Republic of Lithuania, the application shall remain unconsidered.

There special rules on jurisdiction established in the CCP to proceedings of certain categories with a foreign element: regional courts, as the first instance courts, hear civil cases where one of the parties is a foreign country or state; Vilnius Regional Court, as the first instance court, hear civil cases regarding international adoption.

Family-related disputes when one of spouses is a citizen of the Republic of Lithuania or a person without a citizenship with a permanent place of residence in the Republic of Lithuania fall within jurisdiction of the Republic of Lithuania. If a permanent place of residence of both spouses is in the Republic of Lithuania, their family-related proceedings shall be heard exceptionally by the courts of the Republic of Lithuania. The courts of the Republic of Lithuania are also competent to hear the family-related proceedings where both spouses are foreign citizens but their permanent place of residence is in the Republic of Lithuania.

The proceedings related to legal parent-child relationship and adoption when at least one of the parties is a citizen of the Republic of Lithuania a person without a citizenship with a permanent place of residence in the Republic of Lithuania or when a permanent place of residence of both parties is in the Republic of Lithuania are exceptionally heard by the courts of the Republic of Lithuania.

The courts of the Republic of Lithuania are also competent to hear the proceedings related to legal parent-child relationship and adoption where both spouses are foreign citizens but their permanent place of residence is in the Republic of Lithuania.

Judgements of foreign courts (arbitrations) may be enforced in the Republic of Lithuania only after recognition whereof by the Court of Appeal of Lithuania as the authority empowered by the state to recognize a judgement. Effective foreign judgements regarding non-pecuniary disputes between non-citizens of the Republic of Lithuania need not to be recognized, except for the cases when such judgement is a basis for registering of the conclusion of marriage or other vital life events or other rights in the public register.

An application to recognize a foreign judgement, also in respect of refusal to recognize a foreign judgement and requests to recognize a judgement of foreign arbitration may be submitted to the Court of Appeal of Lithuania by any person having a legal interest in the

proceedings. Applications to recognize a foreign judgement must comply with the general requirements for procedural documents (Art. 111 of the CCP).

An application to recognize a foreign judgement must be accompanied by the requested to recognize foreign judgement and its translation to Lithuanian language confirmed following the order established by laws, confirmation that the judgement is effective, and also evidences that a party absent upon hearing the case has been duly informed about place and time of hearing a civil proceedings. Where the claimant resides outside the Republic of Lithuania and has not appointed a representative in the case or an authorised person to obtain procedural documents who resides/has a professional office in the Republic of Lithuania (Article 805 of the Republic of Lithuanian Code of Civil Procedure), the application to recognize a foreign judgement (refusal to recognize) must indicate an address in the Republic of Lithuania at which the procedural documents would be served on the claimant .

Applications to recognize a foreign court (arbitration) judgement are not subject to stamp duty.

The following order for hearing a case to recognize a foreign judgement is established in the Art. 812 of the CCP:

1. Applications to recognize foreign judgements (refusals to recognize judgements) are heard by a sole judge of the Court of Appeal of Lithuania, however, taking into consideration the complexity of the case, the chairman of the Court of Appeal of Lithuania or the chairman of the Civil Cases Division avail themselves of a right to appoint the panel of three judges for the case to be tried. A court hearing the application also has the right to transfer the application to be heard by the panel of three judges by passing a corresponding ruling. Applications are heard by means of written proceedings except for the cases when after considering the circumstances of the case the court shall assign an oral hearing of the application. The judgement in respect of recognition of a foreign judgement comes into effect on the day it is pronounced. It is possible to appeal against the court judgment by lodging a cassation appeal following the procedure of the court of cassation. Renewal of proceedings is also possible.

2. The court hearing an application to recognize a foreign judgement may recognize only a part of a foreign judgement.

3. A claimant is entitled to request recognition of a part of the foreign judgement also refusal to recognize a part of the foreign judgement.

4. The court hearing an application to recognize a foreign judgement has the right to suspend hearing if this court judgement is appealed under usual procedure applied for control of the court judgements of a certain state or when the term for lodging this appeal has not expired.

5. Having established that an application to recognize a foreign judgement was filed failing to conform with the procedure established in the Civil Code or international treaties, a court may recognize it as not filed and to return it to the claimant by their ruling and if the court has already been seised of the application, it shall not be considered. The court may establish a time limit for elimination of the shortcomings of the application’s form or content (Article 115 of the CCP), if the claimant resides in the Republic of Lithuania, or indicate an address in the Republic of Lithuania at which the procedural documents would be served on the claimant, or appointed a representative in the case or an authorised person to obtain procedural documents who resides/has a professional office in the Republic of Lithuania (Article 805 of the CCP). If the shortcomings are not eliminated within the time limit established by the court, the application shall be deemed to not have been lodged and shall be returned to the claimant, whereas if the court has already been seised of the application, it shall not be considered.

6. The matter in respect of permission to execute this judgement may be considered together with the application to recognize a foreign judgement.

Foreign judgements may be recognized based on international treaties. The CCP of Lithuania does not apply the principle of mutual recognition of foreign judgements therefore a foreign judgement may be recognized and enforced without an international treaty. In the absence of an international treaty recognition of a foreign judgement could be refused in the following cases (Art. 810 of the CCP):

1) a judgement is not res judicata under the laws of the state where it was issued;

2) a case was under the exclusive jurisdiction of the courts of the Republic of Lithuania or of a third state, under provisions of the law of the Republic of Lithuania or of an international treaty;

3) a party who was absent from the proceedings was not duly informed of the initiation of civil proceedings, nor provided with an opportunity to exercise procedural remedies or be properly represented (if the party was legally incapable) during the proceedings;

4) a foreign judgement the recognized whereof is sought is incompatible with a judgement issued by a court of the Republic of Lithuania adopted in the proceedings between the same parties;

5) a judgement is inconsistent with public order as determined in the Constitution of the Republic of Lithuania;

6) a court of a foreign state in its judgement, has resolved matters of legal capacity and ability, legal representation, family property or inheritance concerning a citizen of the Republic of Lithuania, where such judgement is inconsistent with the international private law of the Republic of Lithuania, except for when Lithuanian courts would have issued the same judgement in the proceedings.

An application to recognize a foreign judgement, also in respect of refusal to recognize a foreign judgement and requests to recognize a judgement of foreign arbitration may be submitted to the Court of Appeal of Lithuania by any person having a legal interest in the proceedings. Applications to recognize a foreign judgement must comply with the general requirements for procedural documents established in the Art. 111 of the CCP.

Republic of Lithuania has concluded international treaties on legal assistance and legal relations in civil, family and criminal proceedings with Armenia, Azerbaijan, Belarus, Kazakhstan, People's Republic of China, the USA, Moldova, Russian Federation, Ukraine, and Uzbekistan. These agreements are important upon resolving matters of jurisdiction and recognition and enforcement of foreign judgements in the Republic of Lithuania.

4.4.6. Please indicate what are the differences compared to the grounds in B IA.

Court judgements passed in the EU member-states shall be enforced in the Republic of Lithuania following the requirements of B IA. The main difference is a matter of inconsistency with the public order, which is solved following the general procedures of B IA and CCP.

4.5. Remedies concerning Enforcement of Foreign Judgments according to B IA following the abolishment of exequatur.

Remedies in the Member State of origin regarding the enforcement title itself. Do these remedies influence the enforcement procedure in the Member State of enforcement?

Refusal of enforcement. What and/or which are the proceedings in your Member State (of enforcement)? Present the procedural aspects of the application for refusal and the role of national procedural law (Art. 47).

The Law on Implementation of European Union and International Legal Acts Regulating Civil Procedure of the Republic of Lithuania is important in this respect. It is only prescribed in the Art. 4² of the specified law that the applications for refusal of enforcement specified in the Art. 47 (1) of the Regulation (EU) No. 1215/2012 shall be submitted to the Court of Appeal of Lithuania for hearing as the first instance. That would mean that refusal may be based only on the grounds provided for in the Regulation (EU) No. 1215/2012 (if such recognition is manifestly contrary to public order of the Member State addressed, where the judgment was passed in the absence appearance, if the defendant was not properly notified and in such a way he was unable to arrange for his defence, if the judgment is inconsistent with a judgment pronounced between the same parties in the Member State addressed, etc.)

Applications for refusal of enforcement of foreign judgements are considered by a sole judge by means of written proceedings except for the cases when after considering the circumstances of the case, the court shall assign an oral hearing of the application. Taking into consideration the complexity of the case, the chairman of the Court of Appeal of Lithuania or the chairman of the Civil Cases Division avail themselves of a right to appoint the panel of three judges for hearing an application. A court hearing the application avails itself of a right to transfer the case to be tried by the panel of three judges. The interested parties are not notified about hearing of the application in the Court of Appeal of Lithuania. When the interested parties do not agree with the judgement passed in accordance with the aforementioned procedure, they may file a petition with the Court of Appeal of Lithuania to revise that judgement.

What are your own specifics regarding required documents?

Application for refusal of enforcement of a foreign judgement referred to the Court of Appeal of Lithuania must be in conformity to the form and content of the court documents of the parties to the proceeding (Arts. 111-114 of the Code of Civil Procedure of the Republic of Lithuania), and also the requirements, specified in the Arts. 805, 811 of the Code of Civil Procedure of the Republic of Lithuania. The request must include:

1) name of the court which the procedural document is filed with – i.e. the Court of Appeal of Lithuania;

2) the procedural situations, full names, personal numbers (if known), places of residence of the parties to the proceeding and other addresses for service of the procedural documents on other parties to the proceeding known to the Plaintiff, and in those cases when the parties to the proceeding or one of them is a legal person - its full name, registered office, other addresses for service of the procedural documents on other parties to the proceeding known to the Plaintiff, codes, settlement account numbers (if known), credit institution information (if known).

3) the way of service of the procedural documents on the party to the proceeding, correspondence address when it differs from the place of residence or registered office;

4) character and subject of the procedural document, i.e. the application for refusal of enforcement of a foreign judgement in the Republic of Lithuania;

5) circumstances confirming the subject of the procedural document and evidences proving these circumstances;

6) appendices attached to the filed procedural document;

7) signature of a person filing a procedural document and the document drawing date.

Where the claimant resides outside the Republic of Lithuania and has not appointed a representative in the case or an authorised person to obtain procedural documents who resides/has a professional office in the Republic of Lithuania (Article 805 of the Republic of Lithuania Code of Civil Procedure), the application must indicate an address in the Republic of Lithuania or a telecommunications terminal equipment address at which the procedural documents would be served on the claimant (Art. 4 (4) of the Law on the Implementation of the European Union and International Legal Acts Regulating Civil Proceedings of the Republic of Lithuania, Art. 812 (1) of the Code of Civil Procedure of the Republic of Lithuania.

When an application is filed with the court by a representative it must include data about the representative (full name, personal number), place of residence) and the document proving the representative's rights and duties must be attached.

Applications are exempt from stamp duty (Art. 4 (4) of the Law on the Implementation of the European Union and International Legal Acts Regulating Civil Proceedings of the Republic of Lithuania).

Having established that the application was lodged not in compliance with the procedure laid down in the Council Regulation (EC) No 2201/2003, the Hague Convention of 19 October 1996, this Law or the Republic of Lithuania Code of Civil Procedure, the court shall deem it not to have been lodged and shall, by a ruling, return it to the claimant, whereas if the court has already been seised of the application, it shall not be considered. The court shall establish a time limit for elimination of the shortcomings of the application's form or content (Article 115 of the Republic of Lithuania Code of Civil Procedure), where the claimant resides in the Republic of Lithuania, has indicated an address in the Republic of Lithuania or a telecommunications terminal equipment address at which the procedural documents would be served on the claimant or where he has appointed a representative in the case or an authorised person to obtain procedural documents who resides/has a professional office in the Republic of Lithuania (Article 805 of the Republic of Lithuania Code of Civil Procedure). If the shortcomings are not eliminated within the time limit established by the court, the application shall be deemed to not have been lodged and shall be returned to the claimant, whereas if the court has already been seised of the application, it shall not be considered.

Service of documents and representation in your member state. How will service of documents pursuant to B IA be conducted in your member state? Please elaborate.

General regulations of the Code of Civil Procedure of the Republic of Lithuania are valid in respect of representation in civil proceedings:

Per pro representatives of natural persons in a court of the Republic of Lithuania may be (Art. 56 (1) of the CCP):

1) attorneys;

2) assistants of attorneys holding a written consent of attorneys supervising the assistants' internship to represent in a specific case;

3) one participator by the authorisation of other participators;

4) persons with university degree in law if they represent their close relatives or a spouse (partner);

5) trade unions, if they represent members of trade unions in cases on labour-law relationships. In this instance, a case shall be proceeded with in a court by the sole management body of a trade union or members of collegial bodies empowered in accordance with the order established in legislation and incorporation documents, or commissioned representatives – employees with university degree in law and (or) attorneys (assistants of attorneys);

6) associations or other public legal persons, in the incorporation documents whereof as one of purposes of activities is specified defence of a certain group of persons when they represent the participants of the association or other public legal person in the cases according to the purposes of activity provided for in the incorporation documents of these legal persons. In this instance, a case shall be proceeded with in a court by the sole management body of an appropriate legal person, members of collegial bodies empowered in accordance with the order established in legislation and incorporation documents or commissioned representatives – employees with university degree in law and (or) attorneys (assistants of attorneys);

7) assistant bailiffs with university degree in law holding a bailiff's power of attorney to represent the bailiff in cases concerning the functions performed by the bailiff;

Proceedings of legal entities shall be proceeded with in a court by their sole management bodies or participants acting in accordance with the order established in legislation and incorporation documents, and participants natural persons acting in accordance with rights and duties assigned to them in legislation and incorporation documents. In such cases, it shall be deemed that the case is proceeded with by the legal entity itself (Art. 55 of the CCP). Except for persons listed in paragraph 1 (^{1,2,3}) of the Article 56 of the CCP, other persons, who may also act as per pro representatives of a legal person may be their employees or public servants with university degree in law.

In the cases where a party is conducting the case through a representative, the court documents related to the case shall be delivered to the representative. However the party is granted with the right to declare that it wishes to receive the documents personally then the documents shall be personally served on it (Art. 118 of the CCP).

Opposition by the defendant (objection against recognition and enforcement of foreign judgment) – prerequisites and procedure. Does the law envisage

'*incidenter*' or separate procedure. Separate procedure at the first instance/at the second instance. Elaborate on the particularities of the herein provided issues.

Second appeal, (third instance appeal) as a remedy – is it to be utilized only in cases of violation (of procedural or substantive law) or can it be used for control of facts as well?

As it is provided in the Art. 49 (1) of the Regulation (EU) No. 1215/2012, the judgement on the application for refusal of enforcement may be appealed against by either party.

It is prescribed in the Art. 4²(2) of the Law on Implementation of European Union and International Legal Acts Regulating Civil Procedure of the Republic of Lithuania that the appeal specified in the Art. 49 (2) of the Regulation (EU) No. 1215/2012 against the ruling of the Court of Appeal of Lithuania passed in respect the application for refusal of enforcement may be lodged within thirty days from the day of serving the judgement on the party. When permanent place of residence of a party entitled to lodge an appeal specified in the Art. 49 (2) of the Regulation (EU) No. 1215/2012 is not in the Republic of Lithuania, the time-limit for lodging an appeal is sixty days and it is calculated from the day of personal service on that party or from the day of delivery to its place of residence. The appeal against the passed judgement is heard by a three-judge panel of the Court of Appeal of Lithuania.

Whereas it is specified in the Art. 4²(2) of the Law on Implementation of European Union and International Legal Acts Regulating Civil Procedure of the Republic of Lithuania that when hearing applications for refusal of enforcement *mutatis mutantis*, the regulations of the Art. 4 ($^{4,5 \text{ and } 6}$) regulating the procedure of recognition and enforcement of the judgement of the courts of the member states of the European Union are applied, it should be noticed that the Art. 4 (6) provides with a possibility to appeal the judgement of three-judge panel of the court of Appeal of Lithuania by lodging a cassation appeal following the procedure of the court of cassation. Appeal in the Code of Procedure of the Republic of Lithuania is considered as ordinary form of control (revision) of procedural decision of courts when legitimacy and validity of the judgement is also reviewed, i.e. the procedural decisions are revised in the aspects of a fact and application of law. Cassation should be recognized as an extraordinary (exceptional) form having an essential purpose – to revise the procedural judgement in the aspect of application of law. It should be noted that the national law does not provide for any cassation restrictions based on the amount in dispute (only procedural judgements not revised under the appellate procedure cannot be appealed as well as certain procedural judgements adopted by means of a simplified (summary) procedure). On the other hand, a cassation appeal is related to the grounds for reviewing by cassation procedure a effective court judgements (decisions) consolidated in the Art. 346 of the Code of Civil Procedure (violation of the rules of substantive or procedural law, violation whereof has an essential significance for the uniform interpretation and application of the law if this violation could influence the passing of a wrongful judgment (decision); deviation in the judgment (ruling) being appealed from the practice for the application and interpretation of the law formulated by the cassation court (the Supreme Court of Lithuania); inequality of the practice of the Supreme Court of Lithuania in respect to the disputed question of the law.

Who is eligible to apply for a refusal of recognition or enforcement? How do you understand the euro-autonomous interpretation?

The Art. 4² of the Law on Implementation of European Union and International Legal Acts Regulating Civil Procedure of the Republic of Lithuania does not itemize subjects entitled to submit applications for refusal of enforcement. The general principle of judicial defence ordains that a person considering that his right are violated is entitled to refer to the court with an application (request). Moreover, it should be noted that the Art. 633 of the Code of Civil Procedure of the Republic of Lithuania, defining the parties to an enforcement proceeding establishes that a judgment creditor and debtor shall be considered parties to the enforcement proceeding. It is also specified in this rule that any persons, for whom execution actions are causing or may cause legal consequences, shall be considered interested parties to the enforcement proceeding. It could be dealt upon interpreting these legal rules systemically that the refusal to enforce a judgement may be appealed by persons the rights whereof in the enforcement procedure are influenced by the passed judgement.

Suspension and limitation of enforcement proceedings (Art. 44). How is it regulated in your legislation?

4.5. Protective measures.

4.6.1. Which protective measures are available, in National perspective, according to Art. 40?
4.6.2. What are the prerequisites for these protective measures?
4.6.3. How long do protective measures last (duration period)?
4.6.4. Effects of protective measures - *Auszahlungsverbot (Verfügungsverbot)* or pledge (mortgage).
4.6.5. Can an enforcement motion be refused entirely due to the objection regarding foreign enforcement title or is this just limited to the security measures?

4.6. Grounds for refusal.

4.7.1. What are the past characteristics in your member state regarding grounds for refusal of recognition? Do you see any new problems regarding grounds for refusal?
4.7.2. What is your opinion on the fact that the grounds for refusal in the B I (44/2001) apply in B IA as well?
4.7.3. Please comment on the most problematic grounds in your member state in more detailed manner.
4.7.4. Grounds regarding related actions and irreconcilable judgments. Do you find any open issues in your member state in this regard?

It could be said that B IA is a follow-on of B I therefore it should not supposed that prevision of analogous grounds for refusal to enforce a foreign judgement could raise doubts or contradictions. Whereas the practice of the Court of Appeal of Lithuania is not abundant in this respect, no major problems occurred upon applying separate grounds of refusal provided in BI A.