



MANUAL - Lithuania

for legal practitioners dealing with cross-border enforcement of civil claims



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This Manual is intended to help practitioners (primarily authorities in the field of civil enforcement) facing a foreign enforcement title. It offers answers to the most pressing issues faced in cross-border enforcement proceedings in a step-by-step manner, starting with the visual inspection and identification of the elements of the enforcement title. However, the Manual should only be used as an assisting tool in an unofficial capacity and cannot replace the scrutiny of regular inspection. The materials for this Manual have been sourced from national reports and other deliverables obtained within the EU-En4s project.

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1. Judgement

1.1 Headlines that form part of the judgement

Lithuanian laws do not explicitly set out the “headlines” of a judgement, but there are Recommendations from the Supreme Court for instruction exposition. Civil procedure code enumerates that a judgement should contain an introductory part, an ordering part, a statement of ground (the Reasoning), and a legal instruction regarding an appeal. It stems naturally that headlines are a collateral necessity for the proper identification of these building blocks (article 270 of the Civil Procedure Code – later CPC).

The introduction is outlined by the statement that the judgment has been rendered in the name of the state. The introductory part is typically confined to the front page of the Judgement. In addition to the former statement, it features the reference number of the case, the name of the court, together with a graphic of Lithuanian coat of arms, the name and surname of the presiding judge and other members of the panel, the name and surname as well as the permanent or temporary residence of the parties and their representatives and/or attorneys, a brief description of the matter of dispute, the day on which the main hearing has been completed, and the day on which the judgment has been rendered.

Neither is there an explicit “Ordering part” in terms of a headline. Rather, the court outlines the operative part by stating in (usually) capital letters that it has “DECIDED”.

The Reasoning and the Legal instructions are marked by separate headlines in the judgement. Usually, these are written in all capital letters. Sometimes, a space between each letter is applied for visual impact or the letters are written in bold. All of the above headlines are usually numbered. The Reasoning of the judgement headline could be subdivided and named separately.

1.2 Structural and substantive division/sequence of the Reasoning

The Reasoning in Lithuanian judgements issued by courts of is usually structured into paragraphs and all the text numbered with Arabic integrally (including Reasoning part).

Usually reasoning part written in respect of the following sequence:

- The allegations of the claimant,
- The defence (objections) raised by the defendant,
- List of admitted and dismissal evidence
- Determination of disputed and undisputed facts of the case
- The intertwined legal and factual assessment of the case
- The costs of litigation

1.3 Textual identification of the elements comprising the judgement

“the introduction of the judgement”: ĮŽANGINĖ DALIS

“the operating part”: APRAŠOMOJI DALIS

“the reasoning of the judgement”: MOTYVUOJAMOJI DALIS

“legal instruction”: REZOLIUCINĖ DALIS

1.4 Short description of the elements of the judgement

The elements of the judgement are listed in Article 270 of the Code of Civil procedure of Lithuania.

Article 270. Contents of the judgement

1. The judgement of the court shall consist of the introduction, the recital, the motivation and the substantive provisions.
2. The following shall be indicated in the introduction of the judgement:
 - 1) time and place of the adoption of the judgement;
 - 2) the name of the court which adopted the judgement;
 - 3) the bench of the court (name(s) of the judge(s)), the recording clerk of the court hearing, the parties, other persons participating in the proceedings;
 - 4) the matter of the dispute.

1.5 Graphical separation of the elements of the judgement

Usually, different elements of the judgment are separated from one another by headlines.

1.6 Specification of time-period in which the judgement must be performed

Usually, no time period is specified in the judgment, however, such possibility is mentioned in the Code of civil procedure (Article 271: "1. When passing a judgement, the court shall, if necessary, set a specific procedure and time limit for enforcing the judgement, defer or schedule the enforcement.")

1.7 Identification of Parties

In procedural documents (e.g. claim) the following personal information must be specified for identification of parties: name, last name (surname) and unique (personal) identification number. Personal number consists of specific five numbers plus the birth date of a person (in the middle of the code) is provided to each citizen of Lithuania. All the legal persons are registered in Register of legal entities and the main data of the legal person could be reached to everyone https://www.registrucentras.lt/jar/index_en.php

The same data is in the resolution part of the judgement if the court adjudge amount.

1.8 Indication of the amount in dispute

The claimant specifies the concrete amount of the claim in introduction and resolution parts of the final action (article 135, part 1 item 1 of Civil procedure code).

The Court states it in the introductory part when summarizes the final claim.

All the procedural questions regarding amendments to claim occur during proceeding usually resolved by the court at the preparation stage, because at the stage of the trial such amendments could not be arisen (except exceptional cases and situations when amount claim is reduced, the court adjudges a partial dispute taking partial judgement or decision).

1.9 Indication of the underlying legal relationship

No data provided.

1.10 Information contained in the operative part

The precise elements of the operative part are stated in article 270.5 of the Code of civil procedure:

- 1) the conclusion of the court to grant the claim and/or counter-claim in full or in part, at the same time setting forth the contents of the allowed claim, or to dismiss the claim and/or counter-claim;
- 2) in the cases provided for by laws, the amount of the adjudged interest and the time period by which they shall be exacted;
- 3) direction as to the distribution of litigations costs;
- 4) the court's conclusions regarding other issues settled by the judgement;
- 5) the time limits and procedure of appeal against the judgement.

1.11 Existence of a threat of enforcement

The existence of a threat of enforcement is very unusual for Lithuania. However, the bailiff under the article 659 Civil procedure code calls the debtor to execute the decision in 10 days period voluntarily.

1.12 Final specification of debt

The debtor's obligations are set exclusively by the Court and the bailiff sets the execution fees of the judgement. According to Article 270(5) of the CPC the court determines whether the claim or counterclaim shall be satisfied or not. Also, the court has to decide on all litigation costs and distribution of the payment of litigation costs between the parties. Pursuant to the case law, a judgment is a motivated individual binding act of law adopted by a court on behalf of the Republic of Lithuania, which, when interpreting and applying legal norms to specific relations of the parties, substantially and definitively resolves a legal dispute: substantive legal relations of the parties are established, changed or terminated.

1.13 Partial rejection of a claim

When a claim is wholly or partially rejected it simply states that the claim is rejected, and brief reasoning is provided. Court in the operative part would only state that "the claim is rejected" or "the claim is rejected in so far as it concerns X, Y and Z" or "to find the defendant liable for X and reject all the other claims brought by the claimant".

The court would then add a sentence on the court's fees.

1.14 Set-off of a claim

The fact that the debtor invokes a set-off of a claim it is not reflected in the operative part. It is explained in the general reasoning.

As a general point, the operative part in Lithuanian judgements is extremely brief. It does not even say something like "for the reasons stated above". It mostly only states "the claim is rejected" or "the claim is upheld. The damages to be awarded to the claimant are X EUR".

1.15 References to the Reasoning found within the operative part

The operative part does not contain elements from or references to the reasoning of the judgment.

1.16 Wording used to mandate performance

In Lithuania the debtor may or may not be specifically “ordered” to perform by the wording of the operative part – both options are possible. But since in the enforcement document, the operative part of the judgement must be quoted directly, it is unequivocally understood as an order (item 4, p. 1, art. 648).

1.17 Reciprocal claims

No specific rules regarding reciprocal claims are provided by law since the judgement cannot contain such elements in the first place.

1.18 Indication of interest (rates)

Interest rate is stated in private laws. The debtor shall also be bound to pay a certain interest established by laws on the sum adjudged to the creditor for the period from the moment of the commencement of the case in the court until the final execution of the judgement (article 6.37 part 2 of Civil code). Under article 6.210 of Civil code where a debtor fails to meet his monetary obligation when it falls due, he shall be bound to pay an interest at the rate of five percent per annum upon the sum of money subject to the non-performed obligation unless any other rate of interest has been established by the law or contract. Where both parties are businessmen or private legal persons, the interest at the rate of six percent per annum shall be payable for a delay in payment unless any other rate of interest has been established by the law or contract.

The court in a judgement usually phrase like following: the defendant shall pay 5 or 6 percent (it depends on the legal status – corporal or legal person) interest from the day the claim was submitted until the debt is fully recovered.

1.19 Legal ramification for incomplete, undetermined, incomprehensible or inconsistent operative part

The matter is regulated by Article 278 of the Code of civil procedure: Construction of the judgement

1. If the judgement is unclear, the court that adopted the judgement shall have the right to construction, at the request of the participants in the proceedings as well as on its own initiative, of the judgement rendered by it, however, without changing its contents.
2. It shall be allowed to construct the judgement, provided it is pending, the period during which the judgement may be enforced has not expired or this period has not been resumed.
3. The issue regarding the construction of the judgement shall be settled at the court hearing. The persons participating in the proceedings shall be notified of the time and venue of the hearing. However, failure by such persons to appear does not prevent from determining the issue of construction of the judgement.
4. The court ruling regarding the construction of the judgement may be appealed against by a separate appeal

If it is the Bailiff who finds the decision unclear, the matter is regulated by Article 589 of the same Code: Construction of the procedural decision of the court and of enforcement thereof:

1. Where the procedure for enforcing the procedural decision of the court is unclear, a bailiff shall address the court, which has adopted the procedural decision, for the construction of the enforcement procedure.
2. A request of the bailiff provided for in paragraph 1 of this Article shall be considered by the court in accordance with the procedure prescribed in Article 593 of this Code.

1.20 Legal effects of the Reasoning of the judgement

Reasoning does not really have any legal effects as of itself.

1.21 Obtaining the *res judicata* effect

First instance court judgement has got *res judicata* characteristic after 30 days period from the first instance court judgement declared if appeal was not submitted or after the appellate procedure is finished (and the case has not been remanded) (article 307 part 1 of Civil procedure code). If the party miss the deadline for important reasons, the court has a right to renew the term to appeal but no later within 3 months period after the judgement was declared (article 307 part 3 of Civil procedure code). After the expiration of this term the judgement may be revoked only through reopen procedure with limited grounds.

Moreover, in the cases finished by the court decision adjudged on the basis of parties' peace treaty negative *res judicata* aspect is declared.

1.22 *Res judicata* of negative declaratory relief

Negative declaratory action is not possible in Lithuania.

1.23 Suspensive periods barring the enforcement of a judgement

No data provided.

2. Court settlements

2.1 Elements of a court settlement

There are no necessary elements, the only requirement is not to affect the rights of the third parties.

2.2 Formal requirements

The parties sign the document that the court approves by rendering a judgement. When such judgement is rendered, it becomes a 'normal' judgement that can, for example, be appealed.

2.3 Identification of Parties

Parties are identified from the personal details (personal codes for natural persons and register codes for legal persons).

3. Notarial deeds

3.1 Prerequisites for enforceability

A notarial deed is an enforcement title „*per se*“ in such cases:

- entry of enforcement clauses of the protested and non-protestable promissory notes and cheques;
- enforcement clauses from notarial approves contracts from which arise pecuniary obligations;
- notarial enforcement clauses on the compulsory recovery of debts under a mortgage (pledge) creditor's statement, executed and certified by civil claims.

3.2 Special clause

The notary can only issue deeds regarding monetary claims.

3.3 Consent

Debtor's consent is not considered as a part of a notarial deed.

3.4 Structure

There is no structure enshrined in the laws, except notarial enforcement clauses on the compulsory recovery of debts under a mortgage (pledge) creditor's statement, executed and certified by civil claims, which is defined by the Minister of Justice.

The procedure for making notarial enforcement clauses is regulated by the Act December 30, 2015, The Minister of Justice of the Republic of Lithuania by Order No. 1R-381 approved Form of "Executive Records", Description of the procedure for performing notarized transactions that gave rise to pecuniary obligations.

3.5 Personal information

Name, surname, and personal identification number must be specified for natural persons. For legal persons - a company document from the national registry of legal persons.

3.6 Obligations contained in attachments

Obligations, contained in a directly enforceable notary deed, must be set out specifically within the text of the notarial deed.

3.7 Conditional claims

There are no special conditions which have to be meet in notarial deeds or in enforcement procedure.