

Legalisation of Public Documents within the EU Member States

LITHUANIA

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PART I – Documents operating cross-border: Current legal practice as regards legalisation or other similar or equivalent requirements

OVERVIEW OF PART I

PART I.A. General

I.A.1. European Community Law

I.A.1.1. Introduction

I.A.1.2. Implementation of specific measures

Area of Justice - judicial cooperation in civil matters (Article 61(c) EC)

Article 19 of Regulation (EC) No 1346/2000

The implementation of EC Regulation doesn't require any legislative action of the Lithuanian authorities according to the rule of direct effect. No legislative action has been taken.

Insolvency proceedings in Lithuania are regulated by the Code of Civil Procedure of the Republic of Lithuania. Art. 818 states that "Member states court decisions and other enforceable documents under EC Regulations are recognized and they can be enforced under EC Regulations and this Code." No legalization is required.

Article 4(4) of Regulation (EC) No 1348/2000

No legalization is required under Art. 4(4) of Regulation 1348/2000. Under Art. 2 (1) of Reg. 1348/2000 every Member State designates the authorities competent for the cross border transmission of documents. Information communicated by Member States under Art. 23 of Council Regulation 1348/2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters states that:

Competent authorities:

a) Transferring authorities

The Republic of Lithuania has designated all courts of general competence of the Republic of Lithuania which deal with civil and commercial matters, i.e. all district courts of region and cities, county courts, the Appeal Court of Lithuania and the Supreme Court of Lithuania as competent transmitting agencies according to Regulation 1348/2000.

b) Receiving authorities (Art. 2 (2) Reg. 1348/2000)

Receiving authorities are the courts of 1st instance.

The documents need not be transmitted in original, transmission by fax or post is therefore possible. Apart from Lithuanian, the Republic of Lithuania will accept standard request completed in English and French.

Article 56 of Regulation (EC) No 44/2001

Decisions under Art 32 Regulation 44/2001 and documents under Art 55 (2) Regulation 44/2001 do not require any legalization. Art. 818 of the Code of Civil Procedure of Lithuania states that "Member states court decisions and other enforceable documents under EC Regulations are recognized and they can be enforced under EC Regulations and this Code. If European Community regulations don't declare Member States Courts decisions recognition and enforceability rules, then these decisions are recognized and can be enforced under VII part LX section 4, 5 and 6 paragraphs of this Code.

a) Competent authorities: - Incoming requests

Under Art 812 (1) of the Code of Civil Procedure of the Republic of Lithuania jurisdiction rests with the Appeal Court of Lithuania examining the application by the board of 3 judges.

b) Procedure

The request for recognition must be in writing. The request must be made in Lithuanian (Art. 811 (2) of the Code of Civil Procedure).

Article 57 of Regulation (EC) No 44/2001

See above.

Article 58 of Regulation (EC) No 44/2001

See above.

Article 46 Regulation (EC) No 2201/2003

Following Art 29, 68 Regulation 2201/2003, Lithuania notified the Commission about the competent court, which is the Appeal Court of Lithuania. The appeals provided for by Art. 33 shall be lodged with the same Appeal Court of Lithuania. The appeals provided for by Art. 34 may be brought to the Supreme Court of Lithuania; this complaint shall be examined under the cassation procedure regulated under the Code

of Civil Procedure.

Regulation was implemented by the 21st of April, 2005 law on the Regulation (EC) No. 2201/2003 which repeals Regulation (EC) 1347/2000 implementation, but it doesn't deal with "authentication of documents".

Article 52 of Regulation (EC) No 2201/2003

The recognition of decisions of foreign court is regulated under Civil Procedure Code. The application for recognition of foreign court decision shall be presented to the Appeal court of Lithuania. A party seeking for recognition shall produce the judgment, its translation into Lithuanian language, confirmation that the decision has come into force and evidentiary material that the party in default was duly informed about the place and time of the hearing of the case.

Judgments on access rights and judgments concerning the return of the child are recognised and enforceable in other Member States, without the need for a declaration of enforceability, provided they are accompanied by a certificate.

Article 52 Regulation (EC) No 2201/2003, certificates drawn up in the standard forms of ANNEX I (Article 39), II (Article 39), III (Article 41) or IV (Article 42)

Regarding Art 39:

Has to be declared enforceable under Art 818 of the Civil Procedure Code.

Regarding Art.41:

No need for a declaration of enforceability under Art. 3(2) of the 21st of April, 2005 law on the Regulation (EC) No. 2201/2003 which repeals Regulation (EC) 1347/2000 implementation,

Regarding Art.42:

No need for a declaration of enforceability under Art. 3(2) of the 21st of April, 2005 law on the Regulation (EC) No. 2201/2003 which repeals Regulation (EC) 1347/2000 implementation,

Article 27 of Regulation (EC) No 805/2004

a) Documents emanating from Lithuania

Competent authorities

In accordance with Article 4(2) of the Law, the authorities referred to in Article 25 of the Regulation, i.e. authorities designated to issue a European Enforcement Order concerning an authentic document, are notaries.

Article 4(2) of the Law:

"At the creditor's request, a European Enforcement Order concerning an authentic document as referred to in paragraph 1 of this Article shall be issued by the notary who drafted the authentic instrument. The

notary shall issue the European Enforcement Order not later than 5 days after the day on which the request for the issue of a European Enforcement Order was received.”

Procedure

The court which issued the European Enforcement Order certificate may rectify it at the request of an interested party (pursuant to Article 10(1) (a) of the Regulation, Article 5(1) of the Law and Article 648(6) of the Code). A European Enforcement Order certificate issued concerning an authentic instrument may be rectified by the district court at the place of business of the notary who made the enforcement record of the authentic instrument. No stamp duty is payable on an application for the rectification of a European Enforcement Order certificate.

The court which issued the European Enforcement Order certificate may, by means of a court order, withdraw it (pursuant to Article 10(1) (b) of the Regulation and Article 5(2) of the Law). A European Enforcement Order certificate issued concerning an authentic instrument may be withdrawn by the district court at the place of business of the notary who made the enforcement record of the authentic instrument. No stamp duty is payable on an application for the withdrawal of a European Enforcement Order certificate.

b) Incoming documents:

EC Regulation 805/2004 was implemented by the Law of the Republic of Lithuania implementing Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims and the Code of Civil Procedure of the Republic of Lithuania. Art. 2 in the above mentioned law states that European Enforcement Order is enforceable document.

In accordance with Article 2(4) of the above mentioned Law, the language to be used for the purposes of Article 20(2) (c) of the Regulation is Lithuanian.

Article 2(4) of the Law:

“The European Enforcement Order or a copy thereof to be enforced in the Republic of Lithuania shall be translated into Lithuanian and enforced without applying the provisions of Section 7 of Chapter LX of the Code of Civil Procedure of the Republic of Lithuania.”

A default court judgment based on the reasoned application of a party absent from the hearing and lodged within 20 days of the date on which default judgment was handed down may be reviewed (this 20-day time limit may, pursuant to Article 78 of the Code, be extended for persons who have failed to meet it for reasons which the court acknowledges to be compelling). After receiving the application, the court sends it, together with copies of its

annexes, to the parties and third persons and informs them that the parties are required and third persons are entitled to submit written observations within fourteen days. The court examines the application by written procedure within fourteen days of the deadline for submitting observations. If, after examining the application, the court observes that the party was absent from the hearing for compelling reasons about which he/she was unable to inform the court on time and the application refers to evidence which might affect the legitimacy and validity of the default judgment in question, the court withdraws the default judgment and reviews the case.

When a case is examined in accordance with the documentary procedure (Chapter XXII of the Code), the court is entitled, where justified by compelling reasons, to extend the defendant's time limit for lodging objections under Article 430(5) of the Code, and in those instances in which the case is being examined in accordance with the rules of Chapter XXIII of the Code (specific characteristics of cases relating to the issue of a court order), the court may, where there are compelling reasons, extend the defendant's time limit for lodging objections concerning a creditor's claim under Article 439(2) of the Code.

ANNEXES I (Article 9 - judgments), II (Article 24 – court settlements) and III (Article 25 – authentic instruments) of Regulation (EC) No 805/2004

See above.

Article 13(5) of Directive 2002/8/EC

Article 27 of the Law of the Republic of Lithuania on State-Guaranteed Legal Aid lays down that the Ministry of Justice of the Republic of Lithuania is the Lithuanian institution authorised to receive applications for the provision of State-guaranteed legal aid in cross-border disputes from the competent authorities of other EU Member States and also the Lithuanian institution authorised to transmit applications for the provision of State-guaranteed legal aid to the competent authorities of other Member States. The Ministry of Justice of the Republic of Lithuania, as the institution competent for transmitting and receiving applications, doesn't require documents to be legalized and enforces its competence throughout the territory of the Republic of Lithuania.

After receiving an application for legal aid from the competent institution of another EU Member State, the Ministry of Justice of the Republic of Lithuania is required to examine the application and take a decision on whether to forward it to the relevant municipal managing institution or the state-guaranteed legal aid service within 30 days of receiving the application and all necessary documents. The Ministry of Justice of the Republic of Lithuania is entitled to refuse to forward an application if not all of the documents referred to in the Law have been submitted. If it decides not to forward an application, it informs the applicant thereof immediately. The municipal managing institution or the state-guaranteed legal aid service is required to inform the applicant of the decision taken concerning the provision of state-guaranteed legal aid. If the application is denied, the reasons for this decision must be indicated.

Applications for legal aid can be received by post, fax and other electronic means of

communication.

Applications for legal aid and documents attesting to a person's right to receive state-guaranteed legal aid which are submitted to the receiving institution must be translated into Lithuanian or English.

Free movement of goods (Article 23 EC)

Article 250 of Regulation (EEC) No 2913/92

Regulation 2913/92 was implemented by the 27th of April, 2004 Customs law. There is no reference to Art. 250 of the Regulation, therefore it applies directly.

Free movement of workers - social security (Article 42 EC)

Article 85 Regulation (EEC) No 1408/71 read in conjunction with Regulation (EEC) No 574/72

This Article has not been specifically implemented, it applies directly.

I.A.1.3. Judicial control

I.A.2. Hague Convention of 5 October 1961 (the 'Apostille' Convention)

I.A.2.1. Status

Lithuanian accession was deposited on the 5th of November, 1996 and came into force on the 19th of July, 1997.

I.A.2.2. Scope

The geographical or material scope of application of the Convention has not been limited or extended by the legislator.

I.A.2.3. Legislative implementation

Lithuania's "1961 Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents" draft legislation commentary of the 18th of June, 1996 states that accession to this Convention would help to solve problems which are arising while legalising documents. Procedure which is established in the Convention would ease the recognition of documents and that is very important for our relationship with Western Europe and other countries.

Draft legislation commentary was followed by the 24th of September, 1996 law which ratifies the 1961 Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents. It came into force on the 2nd of October, 1996.

The Foreign Ministry instruction for the legalisation of documents (21st of July, 1997, order Nr. 39) was in force till 17th of November, 2006 and it dealt with legalisation procedure.

New Instruction for the legalisation and Apostille certification came into force on the 5th of November, 2006 (main points are described in I.A.2.4).

I.A.2.4. Practical implementation

1. Apostille can be requested only in person or by authorised person.
2. Competent authorities use samples of signatures and seals and compares them with the document.
3. Lithuanian text of Apostille reads:

APOSTILLE

(Convention de La Haye du 5
octobre 1961)

1. Valstybė:

.....
.....

Country:

**Šį dokumentą,
this public document**

2. kurį pasirašė

.....
.....

has been signed by

3. pagal pareigas

.....
.....

acting in the capacity of

4. užantspauduotą

.....

antspaudu,

bears the seal/stamp of

PATVIRTINO
Certified

5. (viet. pav.)

6. (data)

at the

7. (kas)

by

8. Nr.

..... 10.

Parašas:

N°

Signature:

9. Antspaudas

.....
Seal/Stamp

.....

4. The Apostille issued by the competent authority is placed on the document itself.
5. The number of pages is certified by the official and separate sheet with Apostille is added to the document.
6. Lithuanian and/or English.
7. All legalised or apostilled documents are registered in the computer system or in the legalised documents registration book.
8. Electronic system which is used.

9.

10. It takes no more than 5 days. It can take longer just if there is a need to verify the authenticity of the document.

11. According to the decision of Cabinet of Ministers Nr. 1135 of 16th November, 1994 which was amended by the decision of Cabinet of Ministers Nr. 1771 on the 11th of November, 2002, following fees are payable:

- a) for Lithuanian nationals at the Foreign Ministry – 1 euro (1 document);
for Lithuanian nationals at the diplomatic mission or consular post – 5 euro (1 document);
- b) for Estonians, Latvians and CIS country nationals – 10 euro (1 document);
- c) other country nationals – 15 euro (1 document);
- d) urgent legalisation: in 24 hours – 20 euro extra
in 48 hours – 15 euro extra;
- e) services provided in other places than diplomatic mission or consular post and on bank holiday, weekend or at night – double fee.

Regarding registration or card index requirement:

- 1) system is electronic. Each item consists of: unique serial number, information about applicant, date when application was submitted, date when document was legalised, Apostilled, submitted document, information about official who scrutinized the document, paid fee.

I.A.2.5. Judicial control

There is no case law on the application of the convention in Lithuania. Reference is made to the Convention in a number of cases, for example 3K-3-465 UAB “Mineraliniai vandenys” v. UAB “Importiniai gerimai”, 3K-3-451 IKKB “NSEK 30 indekso fondas” v. AB “Ekranas”, 3K-2-807 UAB “Laivininkystes kompanija” v. UAB draudimo kompanija “Hermis-Draudimas”.

I.A.2.6. Empirical analysis

I.A.3. Parallel international agreements

I.A.3.1. Status

Lithuania is not party to 1968 Council of Europe Convention for the Abolition of Legalisation of Documents Executed by Diplomatic Agents or Consular officers and 1987 Brussels Convention abolishing the Legalisation of Documents in the Member States of the European Communities.

Lithuania has entered into agreements abolishing the requirement of legalisation with several states in- and outside the European Union. Agreements with European countries are:

Bilateral agreement: a) Agreement between the Republic of Lithuania and the Republic of Poland on legal assistance and legal relations in civil, family, labour and criminal cases (concluded 26 January, 1993, in effect 18 October, 1993).

Documents issued by public authorities of the parties are recognized with no additional procedure (Article 15).

Trilateral agreement: Treaty between the Republic of Lithuania, the Republic of Latvia and the Republic of Estonia on legal aid and legal relations (concluded 11 November 1992, in effect 3 April 1994)

Documents issued by public authorities of the parties are recognized with no additional procedure (Article 13).

Lithuania is party to:

- 1) 1972 Convention on the Taking of Evidence Abroad in Civil or Commercial Matters. Entry into force 01/10/2000, but is in force only with those countries which agreed to the accession of Lithuania.
- 2) 1988 Convention on International Access to Justice. Entry into force 01/11/2000.
- 3) 1969 Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters. Entry into force 01/06/2001.
- 4) 1980 Convention on the Civil Aspects of International Child Abduction. Entry into force 01/09/2002, but is in force only with those countries which agreed to the accession of Lithuania.
- 5) 2002 Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children. Entry into force 01/09/2004.

I.A.3.2. Scope

1980 Convention on the Civil Aspects of International Child Abduction applies in relation to Lithuania to the following states: Poland; Norway; Belgium; Uruguay; Moldova; Slovakia; China Makau special administrative region; Israel; Serbia and Montenegro, Ireland; Brazil; Argentina; Turkey; Chile; Italy; Sweden; Malta; Estonia; Luxemburg; Slovenia; Bulgaria; Australia; Netherlands; Thailand; Greece; Czech Republic; Germany; New Zealand; Finland; Venezuela; Croatia; UK; Switzerland; France; Hungary; Latvia; Spain; Portugal; Cyprus; Bahamas; Austria; China Hong Kong special administrative region; Belize; Peru; Uzbekistan; Panama; Honduras; USA; Mexico.

1972 Convention on the Taking of Evidence Abroad in Civil or Commercial Matters. Entry into force 01/10/2000 applies in relation to Lithuania to the following states: Luxemburg; Slovakia; Australia; Germany; Argentina; Bulgaria; Portugal; Finland; Estonia; Switzerland; USA; Spain; Sweden; Israel; Norway; Poland; China Makau special administrative region; Latvia; France.

I.A.3.3. Legislative implementation

There wasn't any legislative implementation in Lithuania. All Conventions which are in force are part of Lithuanian legal order according to the rule of direct effect.

I.A.3.4. Practical implementation

1972 Convention on the Taking of Evidence Abroad in Civil or Commercial Matters was ratified by the 13 April, 2000 law which states that the central authority according to Article 2 part 1 of the Convention is the Ministry of Justice which will undertake to receive Letters of Request coming from a judicial authority of another Contracting State and to transmit them to the authority competent to execute them.

1988 Convention on International Access to Justice was ratified by the 13 April, 2000 law which states that the Ministry of Justice is the Central Authority under Articles 3, 4 and 16 of the Convention. Lithuania is not going to accept direct request under Article 16 of the Convention. Request will be accepted in Lithuanian, English, French and Russian languages; otherwise they need to be translated (Art. 7 and 17 of the Convention).

1969 Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters was ratified by the 9 May, 2000 law which states that the Central Authority under Art. 2 of the Convention is the Ministry of Justice. Lithuania objects the ways which documents are delivered under Art. 8 and 10 of the Convention. Date for appeal is not longer than 1 year.

1980 Convention on the Civil Aspects of International Child Abduction was ratified by

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the 9 May, 2000 law which states that Lithuania agrees that requests and other documents would be sent to the Central Authority just in English language. 2002 Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children was ratified by the 3 July, 2003 and amended by the 8 July, 2004 law sets the Ministry of Social Security and Labour as Central Authority under Art. 29(1) of the Convention.

I.A.3.5. Judicial control

There is no case law on the application of Conventions in Lithuania.

I.A.4. National Law

I.A.4.1. Legislative framework

The main legislative act concerning legalisation is the New Instruction for the legalisation and Apostille certification which came into force on the 5th of November, 2006 which repealed The Foreign Ministry instruction for the legalisation of documents (21st of July, 1997, order Nr. 39). The Instruction provides:

1) Verification by the official of the Consular department of the Ministry of Foreign Affairs or consular officer of diplomatic or consular agent of the authenticity of the signature, the capacity in which the person has acted and, the identity of the seal in order for the document to be capable of producing legal consequences in another State, where document is in use.

2) Documents issued by the Republic of Lithuania, in order to be legalised or apostilled, are required to be signed by the official acting in his private capacity and within the scope of his competence, verified by the stamp of the Institution which issued the document, with the official seal of the State.

For more information please look at I.A.2.4.

I.A.4.2. Scope

The Consular Act applies for legalisation of any public document that has been issued in a foreign state and which is used in Lithuania and vice-versa.

I.A.4.3. Practical implementation

There is no specific practical implementation.

I.A.4.4. Judicial control

There is no significant case law relevant to the functioning of the national law relating to legalisation of documents in Lithuania.

PART I.B. Specific

I.B.1. Introduction

I.B.2. Specific documents

1. Documents proving involuntary unemployment

The legal status of aliens in the Republic of Lithuania is regulated by the 29 April 2004 Law of the Republic of Lithuania On the Legal Status of Aliens, which sets out the rules for arrival, departure, stay and residence of aliens in the Republic of Lithuania and regulates other aspects of legal status of aliens in the Republic of Lithuania. An alien intending to live in the Republic of Lithuania for a period exceeding three months in any calendar half-year from the first day of entry into the Republic of Lithuania or intending to work or engage in other lawful activities in the Republic of Lithuania must obtain the temporary residence permit in the Republic of Lithuania. Alien can obtain permanent residence permit provided relevant information as to what are his grounds of seeking for

the permit, what aims etc.

Directive 2004/38/EC on the right of citizens to move and reside freely within the Member States was transported into Lithuanian National Legislation by S.I. No. 226 of 2006, the European Communities Regulations 2006.

S.I. 226 sets out the requirements for EU citizens and their family members to move and reside freely within the EU. The main legal documents required are either a passport or valid national identity card (Reg. 4 and 5). There are provisions regarding Dependants who are not qualifying family members.

A Union citizen can apply for residence card, by completing an application form and providing such 'documentary evidence as may be necessary to support the application' (Reg. 13(2), Reg. 15(2), and Reg. 16(2)). Schedules 2 and 4 sets out the particulars of the application form for the residence card for the EU citizens as well as schedule 6 for their family members. There is no legalization requirement in the provisions of the Regulation.

If a foreign resident is outside Lithuania, application for a temporary residence permit and supporting documents should be presented through the Lithuanian diplomatic or consular institution located abroad. If a foreign resident legally stays in Lithuania, he/she may present an application for a temporary residence permit together with supporting documents to the migration unit to the police office of place of residence.

A residence permit may not be granted because of the reasons, among others, that a foreign resident has no sufficient means for subsistence in Lithuania or he/she is not in a possession of a valid health insurance certificate (only in case when a temporary residence permit is requested). A foreign resident who is refused with the issue of a residence permit, may repeatedly file an application within one year after the date of making the decision or after the disappearance of circumstances, for which the issue of the residence permit was refused.

Foreign residents are eligible to obtain temporary residence permits in the Republic of Lithuania subject to:

- they have sufficient means of subsistence from lawful activity in the Republic of Lithuania or abroad;
- they register in the prescribed manner a foreign capital enterprise with the authorised capital or the value of shares is not less than Lit 250,000;
- they come to Lithuania to undertake scientific research or take up teaching positions at scientific or educational institutions;
- they have been enrolled as students at an educational institution or for improvement of their qualifications in the Republic of Lithuania;
- they have been issued with a work permit in the Republic of Lithuania;
- students coming for improvement of their qualification or work in the Republic of Lithuania under the international exchange programmes of public (non-governmental) organisations for a one-year period. This period could be prolonged for additional six months;
- kids, spouse or parents of foreign resident reside in Lithuania or right to Lithuanian citizenship is retained

In order to obtain a temporary residence permit a foreign resident must present a number of documents, which differ depending on the ground a temporary residence permit is requested.

The documents required to support the application for the residence permit vary depending on their relevance to the application. The forms used by the Migration Department (Copies of which are supplied) indicate that in practice applicants for residence permits and permanent residence permits may be required to submit the following documents:

- birth certificate
- their children, family members or dependants birth certificates if relevant
- an original marriage certificate, where applicable
- financial statement proving that persons will have sufficient finance to live in Lithuania
- documents proving alien's right to get resident permit
- document proving valid health insurance
- other documents if they are relevant to the application.
- Certificate of Incorporation, Employment, Studies

In practice, the procedure takes from 2 months (EC citizens) to 4 months (non-EC citizens). For the purposes of Lithuania, Residence card is called Residence permit, nonetheless, the document itself is still a card.

The competent authority under the statutory instrument is Migration Department of the Ministry of Interior of the Republic of Lithuania, based at Sventaragio 2, Vilnius. Tel. Citizenship Affairs Division +(370) 5 271 8670, Immigration Division +(370) 5 271 8695, Aliens' Affairs Division +(370) 5 271 8619.

In Lithuania birth, marriage and death certificates are issued by the Civil Registry offices under the authorization of the Ministry of Justice (Art. 3.281 of the Civil Code of the Republic of Lithuania). The rules setting out the procedures for the issuance of these documents are approved by Minister of Justice of the Republic of Lithuania.

2. Documents proving a family relationship or other durable relationship

The family relationship or other durable relationship in Lithuania is regulated by the Civil Code (3rd Book, Art 3.1 – 3.314) in conjunction with further legislations.

Lithuania is a member state of the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction. It has accessed the convention on 5th June 2002. The Convention entered into force on 1st November 3, 2006

Lithuania is a member state of the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the protection of Children (2002), which came into force on 1st January 2002.

Lithuania is a member state of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, which came into force on 1st March 1995.

Issuance of birth certificates, marriage certificates, civil partnership certificates, certificates proving or annulling/terminating a marriage/civil partnership and other documents proving family or other durable relationship falls within the scope of the competence of the Ministry of Justice of Lithuania. Ministry of Justice has delegated

administrative powers, in particular, issuance of certain certificates to the Civil Registry Offices and they exercise this power. The rules governing the procedure of issuance of these documents are laid down in Minister's of Justice order Nr. 1R-160 (19th March 2006).

In order to get Birth certificate in Lithuania, when both parents are Lithuanians and Birth occurred in Lithuania, following documents must be submitted:

- Passports of the parents (Original documents)
- Medical record regarding person's birth
- Marriage certificate (if applicable)
- Confirmation of Parenthood

If one or both of the parents are foreign residents and the birth occurred in Lithuania, following documents must be submitted:

- Passport of the parents (valid passport must be translated into the Lithuanian language)
- Medical record regarding person's birth
- Residence Card
- Marriage certificate (if applicable. If foreign, translated into the Lithuanian language and legalized according to the established procedures)
- Confirmation of Parenthood

The Birth must be registered within three months from person's birth. It is worth noting, that there are no actual penalties applied.

In Order to get the marriage certificate in Lithuania, following documents must be submitted:

- Passports or Identity Cards
- Birth Certificates
- Former partner's death certificate or certificates proving or annulling/terminating a marriage/civil partnership (if previously married).

If any of the partners is alien, documents to be submitted are as follows:

- Passport or Identity Cards (Translated into the Lithuanian language)
- Birth Certificates (Legalized according to the established procedures and translated into Lithuanian language)
- Document proving person's right to get married, issued by the competent institution of the country of origin (Legalized according to the established procedure and translated into the Lithuanian language)

The application form is filled in the Civil Registry Office.

The Competent Authority is Ministry of Justice, based at Gedimino Av. 30/1, LT-01104, Vilnius. Tel. 0037052662982. Email tminfo@tic.lt

3. Documents proving or contesting a parent-child relationship

Documents proving a parent- child relationship fall out of the scope of EC regulation no. 2201/2003, which in practice means, that foreign document has to be legalized by the competent institution of the country of origin. See 4. below.

4. Documents proving the name and forenames of a child or adult

Regarding the legalization of the foreign documents, EC regulation No 2201/2003 is in force in Lithuania, nonetheless the scope of the regulation is not wide enough to simplify the procedures required to legalize documents, such as documents proving person's civil status (Marriage certificates) or documents establishing a parent- child relationship, which still need to be legalized by the competent institution of the country of document's origin and translated into the Lithuanian language, which surely may cause some difficulties for the person wanting to prove his or her civil status, (especially when change of person's civil status occurred abroad).

Having in mind that Lithuania is the Member State of the Hague Convention on Jurisdiction, Applicable law, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children, documents falling within the scope of the convention are exempt from any legalization or any analogous requirements. There is a slight ambiguity what documents fall within the scope of the convention. In practice, public documents, proving person's civil status or parent-child relationship that were issued abroad still have to be apostilled or legalized according to the established procedures.

Documents issued in Latvia, Estonia and Poland exempt from any legalization requirements as a result of intergovernmental agreements between Lithuania and these states.

Lithuania has entered into an agreement concerning legal support and relationship in civil, family and criminal cases with the Republic of Latvia, Republic of Estonia and Poland.

Person can change his or her name in Lithuania if he so wishes.

Person may change his name by filling an application form at the Civil Registry Office. The documents proving following information must be submitted:

- Name and place of residence
- Date of birth, place of birth, nationality, citizenship
- Marital status
- Records regarding person's parental status
- Criminal records

If the person, willing to change his name is not Lithuanian National, but is national of EU member state, the documents proving the information listed above must be apostilled or otherwise legalized according to the established procedures and

depending on the country of document's origin.

The competent authority is The Ministry of Justice of the Republic of Lithuania. The procedures for changing Name is regulated by the order 2001 06 20 nr. 111 by the Minister of Justice, which sets out the rules of civil procedures regarding this.

5. Documents proving or annulling/terminating a marriage/civil partnership or other durable relationship

In Lithuania there is no general requirement to register birth, death or marriage which occurred abroad. They have only got to be registered if birth, death or marriage occurred in Lithuania according to the Civil Metrication Rules (Minister's of Justice order Nr. 1R-160 (19th March 2006). This means that there is no need for foreign civil status documents to be registered.

Nevertheless, there might be such requirement in particular circumstances, for instance, when alien wants to register marriage in Lithuania he must submit the following documents:

- a valid passport;
- birth certificate;
- divorce certificate (if divorced) or death certificate of spouse (if a widow/widower);
- a document issued by a competent authority of his/her country certifying that there are no obstacles to contracting a marriage;
- a receipt of paid due.

These documents (except for the passport and receipts of paid due) must be translated into the Lithuanian language and legalised according to the established procedure, if not otherwise provided for by international agreements of the Republic of Lithuania.

Foreign nationals must contact a competent body of their country for legalisation of documents.

As well as registering the marriage in Lithuania, alien seeking to annul or terminate the marriage, must submit the documents, such as:

- a valid passport;
- birth certificate;
- marriage certificate, which is a document issued by a competent authority of his/her country
- a receipt of paid due.

These documents (except for the passport and receipts of paid due) must be translated into the Lithuanian language and legalised according to the established procedure, if not otherwise provided for by international agreements of the Republic of Lithuania.

There's no *general* requirement to register marriage entered into abroad in Lithuania; however, to keep his civil status up to date, a person can register his

marriage in Lithuania:

Marriages of nationals of the Republic of Lithuania registered by institutions of a foreign state are entered into the records of the civil registry office of their place of residence in the Republic of Lithuania thus a marriage record entry is made and a marriage certificate is issued.

Marriages of nationals without permanent residence in the Republic of Lithuania are entered by the Civil Registry Office of the City of Vilnius.

The following documents must be submitted for entry of marriage registered in a foreign state:

a copy of the marriage certificate issued by a foreign institution, certified by a notary public, translated into the Lithuanian language and legalised, if not provided for otherwise by international agreements of the Republic of Lithuania;
valid passports of citizens of the Republic of Lithuania or identity cards, a passport of a foreign national or copies thereof certified by a notary public;
a receipt of paid due.

An application for a marriage to be entered must be submitted to the civil registry office. Citizens living abroad may submit their application to enter marriage into the records through a diplomatic mission or consular post of the Republic of Lithuania abroad.

6. Documents proving a person's legal establishment for the purpose of pursuing specific regulated professional activities

See 7. below.

7. Documents proving a person's professional qualifications (diplomas)

The recognition of the foreign qualifications and diplomas in Lithuania is regulated by the Directive 2005/36/EC, National Legislations, mainly nr. 60 2005 01 21 Order of the Government of the Republic of Lithuania, further legislations in conjunction with intergovernmental agreements.

In order to get the recognition of the foreign qualification, person must apply for evaluation and recognition of foreign higher education diplomas, presenting following documents:

Filled in application form for assessment of foreign qualification
Filled application form for recognition of foreign qualification
Notarized copy of Diploma(s)
Notarized copy of academic transcript(s)
Notarized translation of all the above mentioned documents into the Lithuanian (Or English)
Notarized copy of the identification pages from the passport
Payment check (70 Litass)

Other documents if it is necessary (asked by the centre)

Documents required may vary depending on the way person is applying for the assessment, for instance, if one is applying via post, there may be additional documents required, it is left for the discretion of the Centre for Quality Assessment in Higher Education.

Documents witnessing education acquired abroad are subject to legalization , if they have been issued in the state having not acceded to the 1961 Hague Convention concerning abolition of legalization requirements of documents issued in foreign countries, or approved by "Apostille" if they have been issued in the state having acceded to the above mentioned Convention.

Documents from countries with which the Republic of Lithuania has entered into an agreement concerning legal support and relationship in civil, family and criminal cases (including Russian Federation) are not subject for legalization

Lithuania has entered into intergovernmental agreement with Latvia and Estonia, (Nr. 2001). Under the agreement, Latvian and Estonian qualifications are automatically recognized in Lithuania without any further requirement to assess and recognize the qualification by the competent authorities

Nonetheless, from the 1st of January 2007 according to the order of the Ministry of Justice, national legislation and international legal acts, documents submitted for the evaluation of the foreign qualification issued by the authorities in the countries like Estonia, Latvia and Poland, must be apostilled.

As we can see, even though directive 2005/36/EC is in force in Lithuania and in theory, there should be no extra requirement of legalisation of the documents, in practise, Authorities still require certain documents to be notarized and translated into Lithuanian language.

The competent authority, which recognises foreign qualifications is the Ministry of Education and Science of the Republic of Lithuania, based at A. Volano g. 2/7, LT-01516 Vilnius, Lithuania.

The assessment of the qualification is undertaken by LITHUANIAN CENTRE FOR QUALITY ASSESSMENT IN HIGHER EDUCATION, based at Suvalku 1, LT- 2600, Vilnius, under the authorisation of the Ministry of Education and Science.

8. Documents proving a person's death

See 9. below.

Social Insurance Pensions in Lithuania is regulated by the Law on the State Social Insurance Pensions of the Republic of Lithuania (1991, No 59-1153) and decision of the Government of the Republic of Lithuania regarding the ratification of the regulations of the state social insurance pension prescription and payment thereof (1994, No 91-1781)

The spouse and children of the dead person (or that is acknowledged dead or by the established order there is no information about a person's place of staying) as well as the persons equal to them shall have the right to get the

pension of the widower or orphans if the dead person had the right to get the social insurance disability or old-age pension or received such pension.

The widower pension shall be allocated to the widow who raises the children of the dead person, also to the widow or widower who raises the children of the dead person, also to the widow or widower of the retirement age or who has acknowledged as disabled up to the death of the spouse or being of the adequate age or acknowledged the disabled within 5 years after the death of the spouse or at that time when a person raised a children of the dead person.

Among other documents which must be submitted in order to apply for the pension, widower or widow must prove his former partner's death, which means that he has to submit death certificate.

According to the regulations, if foreign person is applying for the pension and he has to submit death certificate, this document must be translated into the Lithuanian language and legalized

9. Documents proving a person's date of birth

The main statutory instrument regarding alien's civil status in Lithuania is the Law on the Legal Status of Aliens 29 April 2004 No. IX-2206. Article 1 states that, this Law shall establish entry and exit, temporary or permanent residence, granting of asylum, integration and naturalisation procedure as well as the procedure for appealing decisions on the legal status of aliens and regulate other issues relating to the legal status of aliens in the Republic of Lithuania.

Regulations 1408/71/EEC and 1612/68.EEC are in force in Lithuania.

Services available under EU Regulation 1408/71 during a temporary stay in Lithuania

The information for insured persons who come to Lithuania from European Union and Liechtenstein, Norway, Island and Switzerland

The State Patient Fund under the Ministry of Health of Lithuania (SPF) is competent institution responsible for benefits in kind of sickness and maternity. Compulsory health insurance in Lithuania is implemented by State Patient Fund and 5 local Territorial Patient Funds (TPF).

When person visits Lithuania, he is required to hold with him one of these documents confirming his entitlement to reimbursement of health care services:

European Health Insurance Card (EHIC)
Provisional Replacement Certificate (PRC)
Certificate E 106
Certificate E 109

Person's family members who are visiting Lithuania together with him have to hold their EHIC or the certificate E 106 or E 109.

If person (or family members) has EHIC, he is entitled to necessary medical care services which are free of charge in the health care institutions belonging to the

Lithuanian National Health System. The list of the health care providers which belong to the Lithuanian National Health System (that means - have signed a contract with the TPF) you could find on the website

http://www.vlk.lt/vlk/en/?l=cont_int. Each doctor consulting him as a patient has to take into account the planned length of his stay in Lithuania. According to the EU legislation aliens are entitled to obtain the required medical treatment with a view to prevent them from being forced to return to their competent country until they have planned.

Alien don't need to register at TPF if he (or his family members) have EHIC. If person doesn't have any document confirming his entitlement to reimbursement of health care services or it was lost/stolen, he is asked to contact the closest TPF. TPF will refer him to competent institution with request to send him a provisional replacement certificate.

In the case if alien owns E106 (or his family members have certificate E 106 or E 109) he must register at TPF as soon as possible after arrival to Lithuania. Then, TPF will issue the Lithuanian health insurance certificate for him (or for his family members). The holders of the Lithuanian health insurance certificate can get free of charge all kind of medical care (not only the necessary medical care) at health care institutions belonging to Lithuanian National Health System.

If alien will seek medical care at the institutions that do not belong to the Lithuanian National Health System, he will have to cover all the expenses of medical services by himself and these expenses will be not reimbursed.

When applying to private medical institutions, alien is advised to ask if they have a contract with TPF for providing medical care free of charge.

Regulation (EEC) 1612/68 is in force in Lithuania which basically means, that State must grant migrant workers and their family members the same social and tax advantages as national workers. The regulation sounds nice and feasible, but what is the reality in the light of legalization of the documents proving person's date of birth in order to be granted these advantages?

There is no certain requirement in the regulations of the procedures of application for social insurances or in the legislation regarding social security, that the documents needs to be translated and legalized, but in accordance with the information provided by the officials from the State Social Insurance Fund Board of the Republic of Lithuania under the Ministry of Social Security and Labour, which is the competent institution regarding social insurances, if alien wants to apply for any kind of social insurance or pension, he must prove his date of birth, which can only be done by submitting either a valid passport, birth certificate or ID cards issued by the countries which Lithuania has got intergovernmental agreement regarding recognition of the national identity cards . These documents must be translated into Lithuanian language.

Disregarding legalization requirement, the Republic of Lithuania Law on the State language provides that:

Article 4. All institutions, offices, enterprises and organizations which function in the Republic of Lithuania shall conduct business and keep records, reports, financial and technical documents in the state language.

Article 5. State and local government institutions, offices, enterprises and organizations of the Republic of Lithuania shall conduct correspondence with each other in the state

language.

Which would basically mean, that any foreign documents must be translated into Lithuanian language.

In the Light of Social taxation and social security, any foreign document required by the competent institution (except passport and ID card), must still be legalized in accordance with the established procedure.

10. Documents proving the establishment by incorporation of a company

Registration of companies

All companies together with all other legal persons are registered with a unified Register of Legal Persons of the Republic of Lithuania administered by the State Enterprise Centre of Registers. A company registered with the register of legal persons is issued a certificate of a legal person of an established form and allocated a legal person's code. Companies must notify the administrator of the Register of Legal Persons about any changes in their registration data within 30 days.

Main Steps in Establishing a Business Company in Lithuania

Documents Required From Foreign Investors- Legal Persons:

1. A copy of the incorporator's registration certificate (extract from the Trade Register), which must be notarised and apostilled.
2. A document confirming the decision of the foreign company's managing body to invest capital, preferably notarized and apostilled.

Note: These documents must be submitted to the Register of Legal Persons and translated into the Lithuanian language by an authorised translator.

No specific documents are required from foreign investors- natural persons.

Preparation of Documents Related to Company's Registration

A. The following documents are necessary for the registration of a Private Company

- Incorporation Agreement (original or notarized copy) or Act of Incorporation (original or notarised copy), if the company is incorporated by one person;
- Company's Articles of Association;
- The minutes of the Founding Meeting (with annexes), or a written decision of the sole incorporator (original or notarised copy);
- The statement of one of Lithuanian banks ascertaining that the initial contributions have been made into the accumulative account of the company.

B. The following documents are necessary for the registration of a Public Company:

- Incorporation Agreement (original or notarised copy) or Act of Incorporation (original or notarised copy), if the company is incorporated by one person;
- Company's Articles of Association
- The minutes of the Founding Meeting (with annexes) or a written decision of

- the sole incorporator (original or notarised copy)
- The statement of one of Lithuanian banks ascertaining that the initial contributions have been made into the accumulative account of the company;
- Documents confirming the registration of Company's shares with the Securities Commission;
- Report on the establishment of the Company and the Auditor's Opinion on this report;

Note: depending on the kind of activities of the Private or Public company (e.g. banking, insurance services, pharmaceutical activities, etc.) or the territory of activities (e.g. in free economic zones) certain additional documents (such as licenses, permits, etc.) shall be required for the registration thereof.

C. For the registration of a General or Limited Partnership prepare these documents:

- A Partnership Agreement concerning the establishment of a Partnership and carrying on a business jointly, signed by each partner member and certified by a notary;
- Comanditaire's agreement (for incorporation of Limited Partnership);

D. The documents which are necessary for the registration of an Individual Company:

- Company's Article of Association.

E. Other Documents to be submitted in for the Registration of All Kinds of Enterprises:

- An application for the registration of an enterprise;
- A permission of the owner of the premises for registration of company's registered office in these premises accompanied with a copy of the ownership documents. The permission issued by legal persons should be signed by the head of company and sealed; issued by natural person - notarised. If the premises are owned by the incorporator, only the certified copy of the ownership document should be attached;
- A receipt confirming the payment of the registration fee.

Note: Incorporation documents must be presented to the Lithuanian public notary before submitting them to the Register of Legal Persons. In certain cases the public notary may also require some additional documents in addition to those listed above.

Lithuania's Investments law conforms to European Union standards with a new Company law and Civil Code taking effect in 2001.

11. Documents proving the constitution of a company, including any official translation thereof

See the answer at 10. above.

12. Documents proving the latest banking accounts of a company

The main law regulating latest banking account and financial statements is Republic of Lithuania Law on Financial Statements of Entities 6 November 2001 No IX-575.

For the purposes of this Act, Entities are defined as profit-seeking legal persons.

There are no other law in Lithuania applied for the companies incorporated outside Lithuania, which establish a place of business within Lithuania, so this law applies to such companies.

Article 1 sets out the purposes of this Law:

1. This Law shall set forth the procedure for drawing up and presenting financial statements, the rules for the valuation of assets, equity and liabilities when drawing up the financial statements.

2. This Law has the objective of harmonising the procedure for drawing up and presenting financial statements and regulation of the valuation of assets, equity and liabilities when drawing up the financial statements with the EU legal acts listed in the Annex to this Law.

In particular, EU legal acts implemented hereby are as follows:

1. Fourth Council Directive 78/660/EEC of 25 July 1978 based on Article 54 (3) (g) of the Treaty on the annual accounts of certain types of companies.

2. Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards.

3. Commission Regulation (EC) No 1725/2003 of 29 September 2003 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council.

Article 15. General Requirements for Financial Statements

1. Entities shall draw up annual financial statements at the end of their financial year.

2. Entities shall draw up interim financial statements where necessary or on a periodic basis specified by other legal acts.

3. Newly registered entities shall draw up a balance sheet of the commencement of economic activities indicating the assets, equity and liabilities of an entity at the commencement of activities.

4. Financial statements shall be drawn up in compliance with this Law, Business Accounting Standards and other legal acts.

The Act sets out the concrete procedure how the financial statements should be drawn

up. There are certain provisions on financial year, correction of errors, comparison of financial statements, signature and approval of financial statements, publication of them, components, description, requirements for the layout of the financial statements, valuation rules etc. (see the copy of the act attached)

There is no certain requirement of the legalisation of documents. In article 15, there is a provision 8, saying that Financial statements shall be drawn up in the Lithuanian language and, where necessary, in a foreign language.

Nonetheless, having in mind the Republic of Lithuania Law on the State Language, it should be fairly clear that all the documents should be translated into the Lithuanian language, because of the Article 4, which provides:

All institutions, offices, enterprises and organizations which function in the Republic of Lithuania shall conduct business and keep records, reports, financial and technical documents in the state language.

There is no certain provision in the article 15 or further of the Law on Financial Statements of Entities where it might be necessary to draw up financial statements in foreign language.

13. Documents proving the deposit of cash or certificates of deposit

PART II – Incoming documents: Effects in the Member State’s legal order

OVERVIEW OF PART II

II.A.1. European Community Law

There are no certain rules regulating the recognition and legal status of foreign documents in Lithuania, which basically means that recognition of the documents falls within the scope of discretion of the competent authority which receives it. However, the EC regulations mentioned in Part I take direct effect in the Lithuanian legal order, therefore certain documents should be *de jure* exempt from any legalisation requirement and should be automatically recognized.

Nonetheless, various practical rules and regulations of the activity of the competent institutions in question indicate that a wide range of the documents in question would not be recognized if they are not apostilled or otherwise legalised and it seems that there is no need to abolish such formalities.

Regarding the status of the foreign documents in Lithuania, the Civil code of Civil Procedure read in conjunction with the Instruction of the Consular on the Legalisation of Documents (Nr. 1079, 30 10 2006) indicates, that legalised foreign public documents are granted the same legal status in Lithuania as domestic public documents.

The common practise in respect of practise rules and regulations for the public

authorities is as soon as the new law, EC regulation, EC directive or any other regulation as regards administration of domestic and foreign documents, competent institutions are issued with the new practical rules and regulations indicating how exactly their tasks should be carried out.

For example, if there is any law coming into force in Lithuania or in European Union as regards the tasks carried out by the Ministry of Foreign Affairs, Minister issues competent departments with an order how to deal with one or the other issue.

Basically, in respect of the administration of foreign public documents, the work and process of carrying out the tasks of the officials is based on the Instruction of the Consular on the Legalisation of Documents.

II.A.1.2. Admissibility and evidentiary weight in judicial proceedings

1. Legalised documents

Lithuanian Civil procedures code does not differentiate between foreign public documents falling within the scope of the Hague Convention and others. In order for the document to be recognized by the court and other public authorities it must be either apostilled or legalised in accordance with the applicable formalities and established procedures, and translated into Lithuanian language.

Article 197 of the Civil Procedure Code indicates that documents issued by public authorities acting within their area of competence and which are established in accordance with certain other requirements as regards the form of the documents are considered to be written evidence and they are accordingly granted a higher evidential weight.

Article 197. Written evidence

1. Written evidence encompasses documents, business or personal correspondence, other letters containing data on circumstances relevant to the case. Written evidence is divided into official and private.
2. Documents issued by state and municipal authorities, approved by public officials within the limits of their competence and in accordance with requirements applied to the form of particular documents shall be considered official written evidence and shall have bigger evidential value. Circumstances indicated in official written evidences shall be considered fully proved until and unless they are denied by other relevant proofs except for witness evidence. A ban to employ witness evidences shall not apply if this contradicts the principles of fairness, justice and reasonability. Evidential value of official written evidence may be statutory conferred upon other documents as well.

Code of Civil Procedures doesn't expressly differentiate between public documents issued by the domestic public authorities and legalised foreign documents, however, general principle, developed by the courts is that legalised foreign documents are granted the same legal status as domestic documents, however, there were number of cases, particularly, adoption cases where Vilnius County court satisfied the application for adoption from USA, Italy and Israel citizens after submission of foreign documents, which were not either legalised or apostilled. (Cases Nr. 2-778/98, 2-472/97, 2-136/98 etc.) This was not because there were no requirement for them to be legalised or apostilled, but because court actually disregarded that requirement and satisfied application without legalisation of certain documents.

Nonetheless, there is a requirement found in the practise of the Courts, that all the foreign documents submitted to court must be apostilled or legalised according to the established procedures.

An example of this can be the Procedure for Registry of Adoption in the Republic of Lithuania (by the 10 September 2002 Resolution no. 1422 of the Government of the Republic of Lithuania):

39. The citizens of the Republic of Lithuania permanently residing abroad and the foreigners shall write an application in their national language and attach the translation into Lithuanian. All the documents submitted to the Adoption Service shall be legalised and accompanied by the translations into Lithuanian, certified in the established procedure.

These documents afterwards will go to Vilnius County court (which is the competent institution in Lithuania in respect of adoption) and will have legal weight and will be capable of producing legal consequences.

Another legal source, where it is expressly stated, that legalised or apostilled document is of the same legal status as domestic one is the Instruction of the Consular on the Legalisation of Documents (Nr. 1079, 30 10 2006). Definition of the legalisation of the public documents is as follows:

Verification by the official of the Consular department of the Ministry of Foreign Affairs or consular officer of diplomatic or consular agent of the authenticity of the signature, the capacity in which the person has acted and, the identity of the seal in order for the document to be capable of producing legal consequences in another State, where document is in use.

'Higher evidential weight' for the purposes of Lithuanian Civil Procedure Code is the presumption that written evidence is an ultimate truth and whether the content of the document is true or not, the authenticity of it cannot be further questioned. Article 197 (above) stands for this presumption.

As regards requirement as to documents form, Instruction of the Consular on the Legalisation of the Documents, part 2, article 5 provides:

Documents issued by the Republic of Lithuania, in order to be legalised or apostilled, are required to be signed by the official acting in his private capacity and within the scope of his competence, verified by the stamp of the Institution which issued the document, with the official seal of the State.

Regarding community instruments seeking to simplify the procedures in the judicial cooperation between member states, there are number of provisions that are in force in Lithuania:

As regards jurisdiction, mutual recognition and enforcement of judgments, following instruments are in force:

-Brussels I Regulation concerning jurisdiction and the recognition and enforcement of judgments in civil and commercial matters

-Brussels II Regulation concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters, and a new Council Regulation concerning the same subject matter, Brussels IIbis which replaced the Brussels II Regulation;

- Regulation relating to insolvency proceedings

- Regulation creating a European enforcement order for uncontested claims, which aims to make judgments on uncontested claims given in a Member State enforceable throughout the Community with no need for intermediate measures in the Member State where enforcement is to be sought;

Regarding Co-operation between Member States (these instruments aim to improve the judicial cooperation in practice.):

-Regulation relating to the service of documents in cross-border cases

-Regulation concerning taking of evidence in civil and commercial matters

-Council adopted a decision establishing a European judicial network in civil and commercial matters.

Regarding access to justice:

-Directive on legal aid for cross-border litigants

-Directive relating to compensation to crime victims

Legal practice concerned recognition and enforcement of foreign judgments in Lithuania:

The Court of Appeal of Lithuania as a court of first instance processes applications for the recognition and (or) enforcement of foreign judgments and arbitral awards in the civil cases in the Republic of Lithuania.

The peace treaties confirmed by foreign courts in the civil cases and the decisions made by foreign courts in the civil cases due to the application of temporary protective measures are accepted in the same way.

The application for the recognition and (or) enforcement of the foreign judgment and arbitration award in the Republic of Lithuania can be submitted by a person interested in the recognition and (or) enforcement of the foreign judgment and arbitral award

(Part 1 of Article 811 of the Code of Civil Procedure of the Republic of Lithuania (hereinafter referred to as the Code of Civil Procedure)).

Article 811. Request for recognition of a judgment

1. Any persons having a legal interest in the proceedings may apply to the Court of Appeal of Lithuania for recognition of a judgment of a foreign court (arbitral award).

Foreign effective judgments concerning property related arguments between non-citizens of the Republic of Lithuania do not require to be recognized, except the cases when this judgment is the basis of the registration of marriage or any other civil act, as

well as the basis of the registration of other rights in the public register (Part 2 of Article 809 of the Code of Civil Procedure).

Article 809. Legal meaning of recognition of judgments of foreign courts (arbitration tribunals)

2. Recognition is not required for res judicata foreign judgments concerning disputes among/between persons which are not citizens of the Republic of Lithuania, except for cases when such judgments serve as a basis for contracting a marriage or registration of any other acts of civil status, registration of other rights in the Public Register.

Judgments of other EU Member State courts (except for those of the Kingdom of Denmark) concerning the dissolution of marriage, separation or recognition of void marriage, which cannot be appealed under the law of that Member State, can be used to replace and update records of civil status records in the Republic of Lithuania. These judgments do not require to be recognized by the Court of Appeal of Lithuania based on Paragraph 2 of Article 21 of Regulation (EC) No. 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility adopted on 27 November 2003, repealing Regulation (EC) No. 1347/2000).

While applying for the recognition and (or) enforcement of a foreign judgment or arbitral award in the Republic of Lithuania you have to submit an application to the Court of Appeal of Lithuania in order that the particular foreign judgment or arbitration award could be recognized and (or) enforced in the Republic of Lithuania.

The party applying for the recognition and (or) enforcement of the foreign judgment or arbitration award in the civil case in the Republic of Lithuania shall, at the time of the application, supply (Articles 111-114, 805, 811 and 818 of the Code of Civil Procedure):

- the name of the court – the Court of Appeal of Lithuania – which is produced with the procedural document; the name of the court which rendered the judgment in the State of origin
- the procedural position, name, surname, identification card, actual residence of the interested persons, and when they are legal persons the party shall supply their name, official residence, code, the number of the settlement account and other references of the credit agency. If the party wishes the procedural documents to be served via telecommunications terminal equipment you have to supply the address of such a telecommunications terminal equipment;
- the type of the procedural document – the application for the recognition and (or) enforcement of the foreign judgment in the Republic of Lithuania;
- the circumstances confirming the procedural document and the evidence supporting these circumstances- evidential documents that might be relevant to the case.
- appended documents attached to the application;
- the signature of the person serving the procedural document and the date when the document was signed.

Obviously, document may vary depending on the case; however legalisation, apostillisation and translation requirements are all the same.

If the judgment debtor does not live in the Republic of Lithuania and he did not authorize

any representative residing in the Republic of Lithuania to be served with the procedural documents, the party also has to supply the address in the Republic of Lithuania where the debtor could be served with the procedural documents in the application for the recognition and (or) enforcement of the foreign judgment or arbitration award.

If the application to the court is submitted by the representative, such data as the representative's name, surname, identification card, actual residence are to be given in the application too. The document evidencing the representative's rights and duties is also to be attached.

It is noted that in the court of the Republic of Lithuania natural persons can be represented by (Part 1 of Article 56 of the Code of Civil Procedure):

- attorneys;
- attorney assistants having the power of attorney to represent somebody in a particular case;
- one of the associates upon the authorization of other associate;
- persons having the degree in law if they represent their relatives or spouses (common-law wives and husbands);
- trade unions if they represent their members in the labour cases.

All the other persons who have not been mentioned above can represent natural persons in the court only by the instrumentality of the attorneys or their assistants (Part 2 of Article 56 of the Code of Civil Procedure).

In the courts of the Republic of Lithuania the cases concerning legal persons can be processed by the participants of the case who act according to their rights and duties (it is considered that the case is processed by the legal person himself). Legal persons can be represented by their certain employees, attorneys or attorney assistants having the power of attorney to represent somebody in a particular case (Article 55 of the Code of Civil Procedure).

There are some documents to be attached to the application for the recognition and (or) enforcement of the foreign judgment or arbitration award in the Republic of Lithuania:

- 1) the application for the recognition of the foreign judgment or arbitration award and the certified translation of the judgment into the Lithuanian language
- 2) the official confirmation that the judgment is effective and its certified translation into the Lithuanian language (arbitration awards do not have to comply with this condition)
- 3) evidence that the party absent from the proceedings was duly notified about the time and venue of the hearing of the civil case and its certified translation into the Lithuanian language;
- 4) with respect to the recognition of the arbitration award – an authentic arbitration agreement or clause or its duly certified copy;
- 5) a particular number (this depends on the number of the interested parties, except the declarant of the copies of the request and its appended documents);
- 6) the application and other appended documents translated into English language or any other one if the interested persons do not know the Lithuanian language.

The translation of these documents considered to be a public document, which has to be legalised or apostilled. According to general practice, the translation of foreign

documents is done in Lithuania. In this way, translation must be verified by the notary, if, however, person wants to translate the document in foreign country, he can go to the Embassy of Lithuania and get that translation verified. Verification of the document by the embassy abroad is equal to the verification of domestic Lithuanian notary. If translation of the document is not verified either by the consular agent or notary, documents, in theory, are not admitted to the process.

Foreign judgments and other foreign public documents must be legalised by a consular officer or APOSTILLE (Article 807 of the Code of Civil Procedure; Article 3 of the 1961 Hague Convention Abolishing the Requirement for Legalisation for Foreign Public Documents). Special certificates evidencing the authenticity of the judgment, its effectiveness, issued by the courts which delivered the judgments are pointed out in the regulations of the European Union.

If the interested persons residing in a foreign country (where the tax for service of procedural documents produced by the courts of the Republic of Lithuania is fixed according to its domestic laws and international agreements, e.g., in the USA, Canada, etc) apply for the recognition of the foreign judgment or arbitration award, they have to pay in a deposit into the account of the Court of Appeal of Lithuania

The sum of the deposit depends on the tariffs fixed by the foreign country and commission charged by the bank for the international money order. If the declarant wants to serve the procedural documents produced by the Court of Appeal of Lithuania to the interested persons personally (Part 2 of Article 117 of the Code of Civil Procedure), he/she has to submit a certain request to the Court of Appeal of Lithuania.

While applying for the recognition and (or) enforcement of foreign judgments and arbitration awards in the Republic of Lithuania (there are bilateral agreements on legal assistance in the civil and domestic cases signed between the foreign countries and the Republic of Lithuania), the requirements established in these bilateral agreements, which can differ from the ones given above, are to be satisfied. In the agreements you can find the abolition of the foreign public documents legalised by a consular officer, the possibility of producing documents written up not in the Lithuanian language, etc (it appears that this refers to bilateral agreements like the ones with Poland and Latvia). (see II.A.3.11)

The stamp tax is not imposed on the applications for the recognition and (or) enforcement of foreign judgments and arbitration awards in the Republic of Lithuania (Part 3 of Article 811 and Part 4 of Article 818 of the Code of Civil Procedure).

The application and appended documents are to be delivered directly to the Court of Appeal of Lithuania or by mail: the Court of Appeal of Lithuania, Gedimino pr. 40/1, LT-01503, Vilnius, Lietuva (Lithuania).

The applications for the recognition and (or) enforcement of foreign judgments (*except the Member States of the European Union, but not the Kingdom of Denmark*) and arbitration awards are processed in an order of verbal process in a public hearing of the Court of Appeal of Lithuania. The individuals who are not applicants are to be notified about venue and time of the proceedings. They are also set a term to submit a response to the Court of Appeal of Lithuania concerning the recognition and (or) enforcement of the foreign judgment or arbitration award. Deciding upon the recognition and (or) enforcement of the foreign judgments or arbitration awards, the Court of Appeal of

Lithuania does not verify the validity or legitimacy of the judgment (Part 4 of Article 810 of the Code of Civil Procedure), it just verifies whether there are no presumptions declared in Article 810 of the Code of Civil Procedure or in the international treaties to reject the recognition and (or) enforcement of the foreign judgment or arbitration award in the Republic of Lithuania.

If the declarant did not follow the order declared in the Code of Civil Procedure or the international treaties, the application for the recognition and (or) enforcement of the foreign judgment or arbitration award in the Republic of Lithuania is left untried in an order of written process by the Court of Appeal Lithuania.

The judgments of EU Member State courts, except for those of the Kingdom of Denmark, are recognized and enforced in the Republic of Lithuania in the order of written process by one judge of the Court of Appeal Lithuania. In the first stage of recognizing the judgment of the EU Member State court in the Court of Appeal of Lithuania the interested persons are not notified about the hearing. In this stage it is only verified whether the application to recognize and enforce the foreign judgment or arbitration award conforms to the requirements of the form and content, set in the Code of Civil Procedure and in the legal acts of the European Union.

If it does not conform to the requirements, the declarant is asked to eliminate defects during the term set by the court, when the declarant provided an address for correspondence in Lithuania or the address of telecommunications terminal equipment, and if he/she did not provide that data, the application is recognized as not submitted or left untried.

If the application conforms to the requirements of the form and content, the judgment of the EU Member State court is recognized and enforced in the Republic of Lithuania without verifying whether there are any presumptions to reject the recognition of the judgment of the EU Member State court in the regulations of the European Union.

Having processed the application for the recognition and (or) enforcement of the foreign judgment or arbitration award (*except the EU Member States, but not the Kingdom of Denmark*) in the Republic of Lithuania, the Court of Appeal of Lithuania can make the following decisions:

- A decision to recognize and enforce in the Republic of Lithuania
- A decision to recognize in the Republic of Lithuania
- A decision to enforce in the Republic of Lithuania
- A decision to reject the application for the recognition and enforcement in the Republic of Lithuania
- To satisfy the application for the recognition and (or) enforcement of the foreign judgment or arbitration award partially (to recognize and (or) enforce only a part of the foreign judgment (arbitration award) and likewise.
- To leave the application untried
- To cease the case

The decision of the Court of Appeal of Lithuania concerning the recognition and (or) enforcement of the foreign judgment or arbitration award in the Republic of Lithuania becomes effective on the day it is rendered and a cassation appeal may be lodged against such decision to the Supreme Court of the Republic of Lithuania within a month after coming into force of the decision (Part 1 of Article 812 of the Code of Civil

Procedure).

The *decision concerning the recognition and enforcement of the judgment of the EU Member State court in the Republic of Lithuania made solely in the order of written process* by the judge of the Court of Appeal of Lithuania becomes effective when the term to submit an application concerning the revision of the decision ends if such application was not submitted. This decision can be requested to be revised within one month after the service of the transcript of the decision.

If the official residence of the party is not in the Republic of Lithuania, the application for the revision of the decision can be submitted within two months after the personal service of the transcript of the decision to the party mentioned or after the day of the service to his/her official residence.

Having processed the application to revise the *decision concerning the recognition and (or) enforcement of the judgment of the EU Member State court in the Republic of Lithuania made solely in the order of written process* by the judge of the Court of Appeal of Lithuania, the Court of Appeal of Lithuania can make the following decisions:

- To satisfy the application for the revision of the decision
- To satisfy the application for the revision of the decision partially
- To reject the application for the revision of the decision
- To cease the process of the revision of the decision
- To recognize the application as uncommitted and to return it to the declarant

Upon consideration of the application for review of the decision on permission to enforce the judgment of a Member State court the Court of Appeal of the Republic of Lithuania renders its decision. Such decision is effective when rendered. A cassation appeal may be lodged against such decision to the Supreme Court of the Republic of Lithuania within three months after coming into force of the decision (Part 6 of Article 818, Article 345 of the Code of Civil Procedure).

The Code of Civil Procedure distinguishes between application falling within the scope of Regulations 2001/44 and 2201/2003 and the ones out of them, however the procedure of application is the same and the requirements for the documents are the same.

PROCEDURE FOR PERMISSION TO ENFORCE JUDGMENTS OF FOREIGN COURTS (ARBITRATION TRIBUNAL)

Article 813. Enforceability

1. Judgments/awards of foreign courts/arbitration tribunals may be enforced if:
 - a) the judgment/award is enforceable in the state which court passed the judgment/award;
 - b) the judgment/award is recognized in the procedure specified in Part VII, Chapter LIX, Section Four of the Code.
2. Requirements of paragraph 1 of this Article shall also apply to judgments of a Justice of the Peace passed in a foreign country.
3. Conditions for enforcement of foreign arbitral awards are defined by the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958.

4. The creditor must enclose to the request to permit enforcement of a judgment/award of a foreign court/arbitration tribunal the documents specified in Article 811, paragraph 2, of the Code as well as confirmation that the judgment/award is enforceable in the state which court passed the judgment/award.

Article 814. Hearing

Petitions on permission to enforce judgments of foreign courts (arbitral awards) shall be heard in the procedure specified in Article 812 of the Code.

If there is no bilateral agreement between the countries which rendered the judgment and Lithuania, New York Convention 1958 will be applied.

Article 810. Conditions for recognition of judgments of foreign courts (arbitration tribunals)

1. Judgments of foreign courts based on international treaties shall be recognised in accordance with the provisions contained therein.
2. Conditions for recognition of awards of foreign arbitration tribunals are defined by the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958

II. A.1.3 Admissibility and evidentiary weight in administrative matters

There are no certain law in Lithuania regulating the way of recognition of the public documents in respect of their authenticity, which means it is within the competence and discretion of the competent authorities to recognize document as authentic or not.

Various interviews have indicated general principle, that if document appears on its face to be authentic, having taken into account requirements as to the documents form, it is considered to be authentic.

For instance, the Embassy of the Republic of Lithuania possess the samples of the documents which fall within the scope of the competence of the Embassy and these samples indicate how various documents should look like. The examples of the passports, birth certificate, education diplomas and certificates are the basis upon which the document's authenticity will be questioned.

Interview of the official State Social Insurance Fund Board of the Republic of Lithuania indicated the same principle as regards authenticity. If document on its face appears to be authentic according to requirement as to the documents form and samples, it is considered to be authentic. Moreover, if document is apostilled or legalised according to the established procedures, officials tend not to question documents authenticity if it satisfies basic requirements.

Obviously, it may cause a great possibility for the documents fraud. However, in the Ministry of Foreign Affairs there are an electronic register for the documents which have been legalized. In this way if there is a doubt whether the document is authentic, institutions in question may contact the Ministry and make sure, that certain document has been legalized. Embassies, instead of having electronic register, have a journal where the information as regards documents which have been legalized is kept. So in

practice, if institution in question is not sure whether the certain document with legalization stamp is authentic and has been really legalized by the embassy, it can contact embassy and find out.

II.A.2. Hague Convention of 5 October 1961 (the 'Apostille' Convention)

The effect of implementation of requirements of the Hague Convention

The same Instruction on Consular on the Legalization of the Documents applies in the context of the apostilization. For the purposes of residence of Lithuanians in the member states where Hague Convention is in force, cases in which a person seeks to legalize a document occur very rarely. Mainly persons seek to get the document apostilled, however, Lithuanian authorities abroad, haven't got a right to issue the document with an apostille, which puts them in a position of a link between individual seeking an apostille and Ministry of Foreign Affairs, which is the competent institution in Lithuania regarding apostilisation. The documents which need to be apostilled and the copy of a valid passport of a person seeking apostile are sent to the Consular Department of the Ministry`. It is worth noting, that only official documents of the republic of Lithuania are admitted and can be apostilled. The content of the document must be readable; the document cannot be laminated. Foreign documents issued by the institutions of the member states, confirmed or certified by the notary acting on behalf of Lithuania are not apostilled.

As regards legal status of the documents which have been apostilled, they're granted the same legal status a domestic official documents. (see II.A.1.2.)

II.A.3. Parallel international agreements; and II.A.4. National Law

The effect of implementation of requirements of parallel agreements

Official documents issued by the countries which has signed an international bilateral treaty on legal assistance and legal relations in civil, family and criminal cases with the Republic of Lithuania are exempt from apostilisation or legalization requirement as a result of the provisions of these treaties, therefore, these documents are recognized in Lithuania and are granted the same legal status as domestic official documents. This exemption is applied to the official documents issued by the competent Lithuanian authorities when they're in use abroad. Noteworthy, that these provisions are applied to the official documents, issued by the competent institution with its official seal or stamp on the document itself.

Despite the treaties mentioned above, in practice, certain difficulties arise with the states like Kazakhstan, Russia, Ukraine, where competent institutions still require an apostille on the official documents issued by Lithuanian institutions.

The decision to require apostille is based and justified by the institutions of these countries by the Hague Convention.

Nevertheless, Article 3 of the 'Apostille' Convention provides:

The only formality that may be required in order to certify the authenticity of the

signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears, is the addition of the certificate described in Article 4, issued by the competent authority of the State from which the document emanates.

However, the formality mentioned in the preceding paragraph cannot be required when either the laws, regulations, or practice in force in the State where the document is produced or an agreement between two or more Contracting States have abolished or simplified it, or exempt the document itself from legalization.

This exemption can, precisely, be applied to the official documents falling within the scope on the treaties mentioned above. In practice, officials of the competent authorities in Lithuania are advised to refuse to issue the document with an apostille or otherwise legalize them, and direct person, seeking to get the documents legalized or apostilled to the institution abroad asking to justify the decision to require legalization or apostillation. If the problem is not solved at this stage, a person is advised to contact the Ministry of Foreign Affairs of that particular state indicating the breach by the foreign public authority's official of the treaty obligation.

Only in the exceptional cases document will be legalized by the Lithuanian Authority (basically, treaties on legal assistance and legal relationship do not prohibit legalization or apostillation), but it must not be common practice in order to give an effect to the treaties.

In respect of bilateral treaties with Poland and Latvia, which exempts certain documents from legalization or apostillation, practically, treaties are given effect and competent institutions in Lithuania, as well as in Latvia and Poland do not require documents falling within the scope of the treaties to be legalized or apostilled. Interview of the official of the Consular department of the Ministry of Foreign Affairs indicated that, in practice, incoming documents from Poland and Latvia are admitted without legalization or apostillation. This practice is based on reliance principle between Lithuania and Poland and Latvia.

PART III – Incoming documents: Difficulties

PART IV – Outgoing documents: Difficulties

PART V – Justification of legalisation or other similar or equivalent requirements identified in Part I

PART VI – Suggested action

OVERVIEW OF PART VI

VI.1. European

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VI.2. Intergovernmental

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VI.3. National

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