

**COMPARATIVE STUDY OF "RESIDUAL JURISDICTION"
IN CIVIL AND COMMERCIAL DISPUTES IN THE EU
NATIONAL REPORT FOR:**

LITHUANIA

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(A) General Structure of National Jurisdictional Rules for Cross-Border Disputes

Considering the fact, that the integration of the countries is growing, entities are developing their activities in different states, natural persons are travelling, living and working in the foreign countries, the nowadays life can not be imagined without cross-border disputes. The rules of the cross-border disputes allow choosing the competent court which should resolve the dispute. This is a very important issue while determining applicable law of the procedural rules, litigation expenses, recognition of foreign court judgements, *etc.* Therefore the rules of cross-border disputes are one of the most important rules in international civil procedure. Following the restoration of the independence in Lithuania and after Lithuania's accession to the European Union, more and more attention is paid to cross-border disputes in Lithuania as well.

1. Main legal Sources

Legal sources of jurisdictional rules in civil and commercial matters as well as legal sources of the rules of recognition and enforcement of foreign court judgements could be divided into:

- national legal sources and
- international legal sources.

According to Article 138 of the Constitution of the Republic of Lithuania international treaties ratified by the Seimas (Parliament) shall be a constituent part of the legal system of the Republic of Lithuania. The Constitutional Court of the Republic of Lithuania in the decision dated 17 October 1995 and the Supreme Court of Lithuania in the ruling No 3K-3-427/1999 dated 8 September 1999 stated that only international treaties ratified by the Seimas shall have the effect of national laws. International treaties which are not ratified by the Seimas shall have the effect of secondary legislation. However legal doctrine acknowledges that in case the Republic of Lithuania is a member of any international treaty, irrespective of the fact whether it is ratified by the Seimas or not, that international treaty shall have the effect of national law. In international disputes the question of jurisdiction should be resolved according to the rules of international treaties, conventions or bilateral agreements and only if there is no such treaty, convention or agreement the national laws are applied.

Different legal sources provide different rules of jurisdiction; therefore it is of great importance to establish the hierarchy between the legal sources. As a general principal in case of conflict between European Union law, international treaties and, national law, European Union law prevails over international treaties and national law. If the parties of bilateral agreement are also the parties of international treaty which does not allow in any event determining any specific rules, the provisions of the international treaty should be applied. Sometimes international treaties also set different criteria in solving jurisdiction questions. Then the relationship between treaties should be determined, or the hierarchy between them should be estimated by common rules, for example, the more recent rule overrules the previous rule, *etc.* In case there is no European Union compulsory act, bilateral agreement or international treaty which determines jurisdiction rules, then national jurisdiction rules should be applied to international disputes as well.

International sources for cross-border disputes

European Union legal acts are applied in Lithuania. The main legal act which regulates the jurisdictional rules for cross-border disputes in the European Union is Council Regulation No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

Besides, the following main European Union legal acts are applied in the discussed fields:

- Council Regulation No 1347/2000 on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility for children of both spouses;
- Council Regulation No 1346/2000 on insolvency proceedings, etc.

According to the Law on Courts of the Republic of Lithuania, the Supreme Court of Lithuania is empowered to analyse and summarise the practice of courts of general jurisdiction, applying the rules of European Union law in accordance with the practice of the judicial institutions of the European Union; it shall also provide recommendations on the co-operation between the courts of general jurisdiction of Lithuania and the judicial institutions of the European Union in ensuring a uniform interpretation and application of European Union law in the Republic of Lithuania. The same competence is delivered to the Supreme Administrative Court of Lithuania, which shall in analysing and summarising the practice of administrative courts, apply the provisions of the European Union law.

Lithuania is a party to many international treaties, conventions and bilateral agreements, which are applied in international disputes¹.

National sources for cross-border disputes

International jurisdiction is determined by domestic law only in the absence of international treaties or other regulations.

The Constitution of the Republic of Lithuania (effective as of November 2, 1992) establishes the main procedural principals, human rights, the court system, the effect of legal acts, etc.

The main legal act regulating cross-border disputes is the Code of Civil Procedure of the Republic of Lithuania, which came in force from 1 January 2003. Besides, the following main national legal acts are also very important in cross-border disputes:

- the Law on Courts of the Republic of Lithuania (effective as of June 17, 1994);
- the Law on the Implementation of the 21 April 2004 Regulation of the European Parliament and Council (EC) No. 805/2004 creating a European Enforcement Order for uncontested claims (effective as of 21 October 2005), etc.

It should be noted that the court practice is also a very important legal source of jurisdictional rules. The Law on Courts of the Republic of Lithuania provides the duty of the supreme courts of Lithuania (there are two supreme courts in Lithuania – the Supreme Court of Lithuania and the Supreme Administrative Court of Lithuania) to provide a uniform practice of courts – Article 23 provides, that

¹ The list of such conventions, agreements and treaties is provided in Part 8 of this report – Conventions with Third States.

the Supreme Court of Lithuania shall formulate a uniform practice of courts of general jurisdiction in the interpretation and application of laws and other legal acts and Article 31 states, that the Supreme Administrative Court of Lithuania shall formulate a uniform practice of administrative courts in the interpretation and application of laws and other legal acts.

Recently, the Constitutional Court of Lithuania adopted the decision according to which the precedents were named as a very important source of law. On 28 March 2006 the Constitutional Court of Lithuania stated – *“the instance system of courts of general jurisdiction established in the Constitution must function so that the preconditions are created to form the same (regular, consistent) practice of courts of general jurisdiction, <...> the same (analogous) cases must be decided in the same way, i.e. they have to be decided not by creating new court precedents, competing with the existing ones, but by taking account of the already consolidated ones.”*

2. Specific Rules (or Not) for Transnational Disputes

The Code of Civil Procedure of the Republic of Lithuania is based on the following structure – the jurisdictional rules applied for national disputes and a separate chapter for jurisdictional rules for international disputes. However, the Code of Civil Procedure of the Republic of Lithuania sets only a very few rules concerning jurisdictional rules for international disputes. Because of this fact law professionals discuss if jurisdictional rules for national disputes should be applied when there are no jurisdictional rules for international disputes. Despite these discussions and the absent of clear answer of this question in legislation or court practice, the dominant position is that jurisdictional rules for national disputes are applied in international cases as well.

3. Specific Rules (or Not) for Article 4(1) Jurisdiction

The Code of Civil Procedure of the Republic of Lithuania or any other laws do not establish special jurisdictional rules regarding Article 4(1) of the Brussels I Regulation. The Code of Civil Procedure of the Republic of Lithuania determines special jurisdictional rules with regard to international process in general and national jurisdictional rules which should be applied in case international jurisdictional rules are silent.

4. Influence of EU Law

Usually the parties of the dispute and the courts quote the judgements of national case law, though there are more and more cases in which Lithuanian courts and the parties give direct references to the judgements of the European Court of Justice (especially in cases related with intellectual property), the European Court of the First Instance and the European Court of Human Rights.

5. Impact of Other Sources of Law

Article 135 of the Constitution of the Republic of Lithuania establishes that in implementing its foreign policy, the Republic of Lithuania shall follow the universally recognised international law principles and rules; therefore they are the constituent part of the Lithuanian legal system. Consequently, they are followed and applied by Lithuanian courts. The attention should be paid to the fact, that presently the plaintiffs refer to such principles and national courts more and more tend to base their decisions on them.

Principles of constitutional law (such as rationality, justice, honesty, adequacy, equality, legal clarity, good faith, etc.) are recognised as a very important legal source, because all legal system is based on them. They are also followed and applied by Lithuanian courts in both – interpreting statute law and filling the gaps of law.

Human right principles are also very important in Lithuanian legal system. The Lithuanian courts quite often make references to these principles, analyse their content and pay attention to them while making their decisions.

The legal doctrine is recognised as secondary legal source of the jurisdiction rules in Lithuania. However in practice the impact of legal doctrine is very general and the courts usually do not quote it in jurisdiction questions.

6. Other Specific Features

Special rules with respect to the jurisdiction and recognition and enforcement of foreign court judgments are discussed in appropriate chapter of this report.

7. Reform

The action group, which is preparing the proposals of the changes of the Code of Civil Procedure of the Republic of Lithuania, is formed in Lithuania, however this action group has not presented any essential official changes regarding jurisdiction applicable in cross-border cases yet.

(B) Bilateral and multilateral conventions

8. Conventions with Third States

In case one party of the dispute is a foreign person from the country with which Lithuania has concluded agreement on legal assistance and legal relations in civil, family and/or criminal cases, the jurisdictional rules determined in that agreement are applied.

At the moment Lithuania has one trilateral agreement on legal assistance and legal relations in civil and commercial cases with Estonia and Latvia (effective as of April 3, 1994). Besides, bilateral agreements on legal assistance and legal relations are concluded with:

- Belarus (effective as of July 11, 1993);
- Poland (effective as of October 18, 1993);
- Ukraine (effective as of November 20, 1994);
- Russia (effective as of January 21, 1995);
- Moldova (effective as of February 18, 1995);
- Uzbekistan (effective as of July 10, 1998);
- Kazakhstan (effective as of April 8, 1999);
- China (effective as of January 29, 2002);
- Azerbaijan (effective as of November 22, 2002);
- Turkey (effective as of August 15, 2004);
- Armenia (effective as of July 8, 2005).

Lithuania is a party of number multilateral conventions (including but not limited):

- the 1956 Convention on the Contract for the International Carriage of Goods by Road (CMR);
- Convention for the Unification of Certain Rules Relating to International Carriage by Air, 12 October 1929;
- Convention Concerning International Carriage by Rail of 9 May 1980;

- UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (Rome, 24 June 1995);
- International Convention on Civil Liability for Oil Pollution Damage;
- Hague Convention on the Law Governing Transfer of Title in International Sales of Goods, 15 April 1958;
- Hague Convention on the Choice of Court, 25 November 1965;
- Convention on the Grant of European Patents (European Patent Convention), 5 October 1973;
- Vienna Convention on Civil Liability for Nuclear Damage, 1963;
- Convention for the Unification of Certain Rules for International Carriage by Air, 28 May 1999, etc.

9. Practical Impact of international conventions with third states

Agreements on legal assistance and legal relations determine such questions as general principles of legal assistance and legal relations, special rules of legal assistance and legal relations in different cases, rules of jurisdiction, recognition and enforcement of court judgements, etc.

Agreements on legal assistance and legal relations determine quite different rules of jurisdiction; however, the basic principle is that jurisdiction is exercised by the country in which the defendant is domiciled, regardless of his or her citizenship. In contrast to the above mentioned principal jurisdictional rule, alternative provisions are also provided – depending on the particular legal relations jurisdiction is also determined according to such criteria as citizenship, the location of immovable property, prorogation of jurisdiction, residence of branch of legal entity, etc.

Some differences of the jurisdictional rules of transnational and internal disputes arise because of the change of the legal rules. The attention should be paid to the fact, that many bilateral agreements were concluded before new Code of Civil Procedure of the Republic of Lithuania came into effect. Notably the new Code of Civil Procedure of the Republic of Lithuania distinguishes domicile and residence of natural persons as two separate definitions. As the above mentioned definitions were not separated in the old Code of Civil Procedure of the Republic of Lithuania, these definitions are not separated in some bilateral agreements as well.

The attention should be paid to the fact that Lithuania concluded quite a lot of bilateral agreements with European Union non Member States or the countries with which no international treaty regarding jurisdiction issues is concluded. Therefore bilateral agreements are treated as very important source of law as it helps a lot to solve jurisdictional questions.

However, some problems in applying bilateral agreements and multilateral conventions may arise. Firstly, bilateral agreements and multilateral conventions do not determine some definitions and leaves the determination of them to the members of the bilateral agreements and multilateral conventions. Therefore the situation, when different states interpret the same provisions differently is possible. Secondly, the scope of different bilateral agreements and multilateral conventions are limited, and because of that the question which agreement – bilateral and/or multilateral convention should be applied can be problematic. Also, the translations of some bilateral agreements and multilateral conventions are sometimes misleading and inappropriate.

(C) Applicable National Rules Pursuant to Article 4 of the Brussels I Regulation

10. Structure

As it was already mentioned above, the international treaties have priority against national laws, so the laws of the Republic of Lithuania are applied only if no international treaty or bilateral agreement exists. As multilateral and bilateral agreements establish different jurisdictional rules, the jurisdictional rules of the Republic of Lithuania are provided below.

11. General Jurisdiction

As a general rule, the claim should be brought to a court according to the defendant's place of residence. A claim against a legal entity is brought according to the residence of a legal entity, indicated in the register of legal entities. In case the defendant is a state or a municipality, the claim is brought according to the residence of an institution representing the state or a municipality. A claim against a defendant who has no place of residence in the Republic of Lithuania may be brought according to the *situs* of his/her property or the last known place of residence in the Republic of Lithuania.

According to Article 783 of the Code of Civil Procedure of the Republic of Lithuania, regional courts as courts of the first instance shall exercise civil cases if one of the parties is a foreign state.

The Supreme Court of Lithuania passed a summary review of court practice regarding the application of the provisions of international private law (the attention should be paid to the fact, that this summary review was adopted on 21 December 2000, thus before the joining the EU. Besides according to Lithuanian laws such summary reviews have only recommendatory effect) in which noticed, that cases involving foreign element should be examined by Lithuanian courts only when the connection between the dispute and the Republic of Lithuania exists and due to such connection the case falls under the competence of Lithuanian courts. Such connecting factors may be the place of residence of the parties of the dispute, the place where damages occurred or have to be occurred, the location of the branch of legal entity, the location of the property, etc.

If at the moment of filing a claim the case falls under the jurisdiction of Lithuanian courts, this jurisdiction shall remain regardless of the later changes of the conditions, if any. If according to the rules of jurisdiction set in the Code of Civil Procedure of the Republic of Lithuania, Lithuanian courts are competent to examine civil cases, this competence shall not disappear when the same case is examined in a foreign court. The Supreme Court of Lithuania in the ruling No 3K-7-560/2004 dated 9 December 2004 stated, that if the insolvency proceedings are applied for the company in a foreign country, this fact does not automatically determine the incompetence of Lithuanian courts to finish examining the started property disputes unless the extritoriality of insolvency procedures started in foreign countries and the legal consequences in the territory of Lithuania related with that is provided for in the bilateral or multilateral conventions, and Lithuania is a party of to these conventions at the moment when the insolvency proceedings in the foreign state were started. If at the moment when the claim is brought Lithuanian courts are competent to examine the dispute, the national jurisdiction remains despite that insolvency proceedings are started in foreign state court.

Most of the bilateral agreements establish the rule, that the courts of the parties of the agreement are competent to examine the cases if the defendant has a residence in one of these states (of course the parties of the dispute may also agree to transfer the dispute to the courts of such states). Some exceptions from this rule are provided in the agreements.

The Supreme Court of Lithuania in its decision No 3K-3-363/2006 dated 31 May 2006 stated, that if the parties of the dispute have concluded the agreement in which agreed on the court's jurisdiction, such agreement is compulsory to the parties; therefore, Lithuanian courts can not accept the claim and can not examine the case and such claim should be brought to the court agreed by the parties.

12. Specific Rules of Jurisdiction

The Code of Civil Procedure of the Republic of Lithuania as well as most of the bilateral or trilateral agreements and multilateral conventions provide the possibility for the plaintiff in some cases to choose one of the several courts which will settle the dispute on his/her own discretion.

a) Contract

According to Article 30 (9) of the Code of Civil Procedure of the Republic of Lithuania a claim regarding contracts in which the venue of enforcement is specified may be also brought according to that venue of enforcement.

b) Tort

The general rule (the jurisdiction is established according to the defendant's place of residence) is also applied for claims in tort. However, the Code of Civil Procedure of the Republic of Lithuania set forth some special jurisdictional rules for different kind claims in tort.

Article 30 (5) of the Code of Civil Procedure of the Republic of Lithuania provides the possibility to bring a claim for damages suffered regarding injury of natural person's health and regarding the cause of the death to the:

- plaintiff's place of residence or
- the place where the damage was done.

According to Lithuanian court practice the possibility to apply the above mentioned jurisdictional rules regarding injury of natural person's health or regarding the cause of the death exists even if the duty to compensate damages is transferred to the other person (the ruling of the Supreme Court of Lithuania No 3K-3-134/1999 dated 10 May 1999).

Besides, Article 30 (6) of the Code of Civil Procedure of the Republic of Lithuania allows the plaintiff to bring a claim for damage done to persons' property to the court of:

- the plaintiff's place of residence or
- the place where the damage was done.

The Supreme Court of Lithuania in the ruling No 3K-392/1997 dated 2 July 1997 stated, that *"an agreement between the Republic of Lithuania and the Republic of Belarus on legal assistance and legal relations in civil, family and criminal cases was signed on 20 October 1992. Article 20 of this agreement regulates the competence of the courts in civil and family cases. The mentioned article states that the courts of both contracting countries are competent to hear the cases brought against legal persons if they have their managing institution, representative office or the branch in the contracting state. The governmental enterprise of the defendant named "Avers" has a registered office in the Republic of Belarus. According to the Article 20 of the agreement the claim should be brought before the competent courts of the Republic of Belarus. Article 41 of the agreement states that obligations to compensate damages are determinable under the laws of contracting state in which the action happened or the other factor which is the ground for the claim to compensate damages occurred. In this case Article 41 of the agreement is not applicable. It is clear from the submitted documents that a car accident, during which the plaintiff's car was damaged, happened in the third country – Russia. Consequently, the rule of the territory in which the action happened cannot be applied. The factor that the car is registered in the Republic of Lithuania and that the competent organs of Lithuania have estimated the amount of damages is not the ground from which the right of enforcement to compensate damages derives, so this*

factor cannot be understood as the other factor "because of which the claim is brought to the courts of the Republic of Lithuania". In obligations to compensate damages the ground for liability for damages is the act which caused the damage, but not the place in which the amount of damages was estimated. Accordingly, Article 20 of the agreement shall be applied and the claim shall be brought under the defendant's (legal person's) registered office which is in the Republic of Belarus".

According to Article 30 (7) of the Code of Civil Procedure of the Republic of Lithuania a claim for damages suffered because of imposing unlawful conviction, unlawful application of custody measures, unlawful detention, unlawful application of procedural means of constraint, unlawful administrative punishment – arrest, as well as for damages suffered due to unlawful actions of a judge or a court upon hearing a civil case, may be brought according to the plaintiff's place of residence.

Article 30 (8) of the Code of Civil Procedure of the Republic of Lithuania provides that a claim for damages suffered after the collision of ships and for compensation for aid and rescue provided in the sea as well as in all other cases when a dispute arises because of the relations of the shipping by sea, may be also brought according to:

- the defendant's ship's location or
- the ship's registration port.

c) Criminal Proceedings

If a dispute regarding civil claim or restitution is based on an act giving rise to criminal proceedings the plaintiff may choose himself/herself:

- to bring a separate civil claim which should be examined separately from a criminal case;
- to bring a civil claim to the court which examines the criminal case. If the plaintiff decides to protect his/her violated rights in this way, the Code of Criminal Procedure of the Republic of Lithuania as well as other laws regulating the compensation for damages should be applied. It should be also noted, that in practice occasionally the court resolves the dispute (and the question regarding civil action) in criminal case, but leaves to determine the precise amount of damages to the court in a civil case.

d) Secondary Establishment

Article 30 (3) of the Code of Civil Procedure of the Republic of Lithuania states, that a claim arising out of the operation of a branch of a legal entity may also be brought according to the location of the branch.

e) Trust

The general rule (the jurisdiction is established according to the defendant's place of residence) is also applied for the trusts.

f) Arrest and/or location of Property

Lithuanian courts have exclusive jurisdiction in the proceedings solving the questions on the rights *in rem* (including arrest of property) related to an immovable property located in the Republic of Lithuania.

Besides, arrest of property may be used as a provisional measure. The court may pass a ruling regarding the provisional measures for securing the claim only if the non-application of these measures would make the enforcement of a future court judgment impossible or more difficult, thus an application on provisional measures must be reasoned and based on the evidence.

The plaintiff may request the provisional measures:

- before filing a claim to the court. In this case, a person applying for imposition of provisional measures has to pay half of the stamp duty. The court determines the period not exceeding 14 (fourteen) days for filing a claim to the court. The stamp duty will not be refunded if a claim is not brought;
- at the moment of bringing a claim or thereafter.

According to the laws of the Republic of Lithuania and the judicial practice of Lithuanian courts if a provisional measure is concerned with the property which is located in Lithuania, the provisional measure may be applied in the Republic of Lithuania while the case is being examined in the foreign court. The Supreme Court of Lithuania passed a summary review of court practice when applying the norms of international private law (this review was passed before Regulation No 44/2001 has come into effect) where also the issue of application of provisional measures while examining the case in the foreign court has been discussed. The Supreme Court of Lithuania noticed that as a general rule, the foreign court shall be entitled to apply provisional measures in the cases falling under its jurisdiction. If, however, the provisional measure relates to attachment of the assets located in the foreign country, the Lithuanian court may not attach such assets. In such case the court shall explain the plaintiff's rights to address the foreign court with the application on provisional measures or address it mandated by the court.

g) Family relations

The Code of Civil Procedure of the Republic of Lithuania determines the exclusive jurisdiction of Lithuanian courts in family matters, thus when both spouses are domiciled in the Republic of Lithuania, disputes regarding family matters shall be heard exclusively by the Lithuanian courts.

Besides, the Code of Civil Procedure of the Republic of Lithuania establishes that proceedings regarding family relations shall fall under the jurisdiction of Lithuanian courts if at least one of the spouses is a citizen of the Republic of Lithuania or a person with no citizenship but is domiciled in the Republic of Lithuania. Moreover Lithuanian courts are competent to examine the disputes regarding family relations in cases when both spouses are foreigners domiciled in the Republic of Lithuania.

h) Other disputes

According to the Lithuanian laws, the disputes are examined in Lithuania according to ordinary court proceedings or special court proceedings. This differentiation is also important while determining the rules of jurisdiction.

The courts of the Republic of Lithuania are competent to solve disputes according to the rules of **ordinary court proceedings** which are not mentioned above in the following cases:

- at the moment of filing a claim to the court (i) the defendant is in Lithuania, (ii) the defendant domiciles in Lithuania, (iii) the defendant resides in Lithuania;
- the defendant has a property or holds ownership rights in Lithuania;

- the dispute relates to (i) a property which is in Lithuania, (ii) device which is in Lithuania or (iii) an obligation that has occurred or should be performed in Lithuania.

All civil cases shall be heard by district courts as the first instance courts, except for the following civil cases:

- where the amount of a claim exceeds one hundred thousand Litas, except for family cases regarding distribution of property;
- regarding author's non-pecuniary relations;
- regarding civil public tender relations;
- regarding bankruptcy and restructuring;
- according to interim bank administrator application on reducing the authorised capital of the bank;
- where one of the parties is a foreign state;
- regarding compulsory selling of shares (dividends, interest);
- regarding investigation of a legal entity's activities;
- other civil cases, which are heard by regional courts as the first instance courts following the laws.

Only Vilnius Regional Court, as the first instance court, shall examine the following civil cases:

- disputes under the Law on Patents of the Republic of Lithuania;
- disputes under the Law on Trademarks of the Republic of Lithuania;
- on international adoption.
- other civil cases, which are examined solely by Vilnius Regional Court as the first instance court under the laws.

Besides, in some cases the plaintiff may himself/herself choose jurisdiction from several opportunities. For example, a claim against a defendant, whose place of residence is unknown, may be brought according to:

- the location of his/her property or
- his/her last known place of residence.

A claim against a defendant, who does not have place of residence in the Republic of Lithuania, may be brought according to:

- the location of his/her property or
- the last known place of residence in the Republic of Lithuania.

A claim for maintenance award and affiliation may also be brought according to the plaintiff's place of residence.

A claim regarding the duties of guardian, custodian or property administrator may be also brought according to the residence of a guardian, custodian or residence or domicile of property administrator.

According to the Code of Civil Procedure of the Republic of Lithuania, the devisor creditors' claims, submitted before inheritors have accepted a heritage, shall be brought only under the jurisdiction of a court in the same location as the heritage or the main part thereof.

According to the Lithuanian laws, while examining the disputes according to the **special court proceedings** the courts of the Republic of Lithuania have exclusive jurisdiction in some cases related to the status or legal capacity of natural persons².

Lithuanian courts are also competent to examine the disputes according to the rules of special proceedings if at least one participant in the proceedings is a citizen of the Republic of Lithuania. In this case the jurisdictional rules for national disputes should be applied if the jurisdictional rules for international disputes do not regulate otherwise.

13. Protective Rules of Jurisdiction

The Code of Civil Procedure of the Republic of Lithuania is constructed in such a way as to protect weaker party, therefore some jurisdiction rules which are more favourable to the weaker party are established.

a) Consumer Contracts

Article 30 (11) of the Code of Civil Procedure of the Republic of Lithuania states, that a claim arising out of consumer contracts may also be brought according to the consumer's place of residence. Therefore the consumer may bring the claim against professional according to his or professional place of residence and professional may bring a claim against consumer only according to the consumer's place of residence. The consumer who has residence in the European Union may bring a claim before the court of the European Union Member State against a professional who has residence in a non-EU state. And the professional who has residence in the European Union may not bring a claim before the courts of the European Union Member States against a consumer, who has no place of residence in the European Union. While deciding the question of jurisdiction it is important to determine the residence, but not the domicile of the parties of the dispute. Therefore, for example if the consumer has several places of residence, the claim may be brought in each place of residence. However, as it was mentioned earlier, a claim against a legal entity is brought according to the residence of a legal entity, indicated in the register of legal entities. The exception is made only to the claims arising out of the operation of a branch of a legal entity. In this case the claim may be also brought according to the location of the branch.

b) Individual Employment Contracts

Under Article 411 (2) of the Code of Civil Procedure of the Republic of Lithuania claims in labour cases can be brought pursuant to the general rules of jurisdiction or according to the location where the work (i) is being performed, (ii) was performed, or (iii) had to be performed. Therefore, in case the location where the work is being performed, was performed, or had to be performed is in the European Union, even in the places of residence of the employee or employer are in non-EU states, the claim may be brought before the courts of European Union Member States. The attention should be paid to the fact, that these special rules are applied in all labour cases except cases concerning compensation for damages and in the event of the other labour disputes established in the Code of Civil Procedure of the Republic of Lithuania. If the case concerns compensation for damages, the claim should be brought according to the general rules of jurisdiction.

c) Insurance Contracts

² As the scope of Regulation No 44/2001 does not cover these relations, the particular Lithuanian jurisdictional rules regarding the status or legal capacity of natural persons are not provided in this report.

In case the dispute arises out of insurance contract and insured person, policyholder or beneficiary is a consumer, the jurisdiction rules regarding consumer contracts should be applied. However, in case the insured person, policyholder or beneficiary is not a consumer, the general jurisdiction rules are applicable. Besides, if the dispute arises from the damages caused to the health or property, the above mentioned jurisdiction rules regarding these relations should be applied. Therefore, sometimes the insured person, policyholder or beneficiary may bring the claim to the court of European Union Member State even if the place of residence of these persons is outside the European Union.

d) Distribution Contracts

The Code of Civil Procedure of the Republic of Lithuania determines no special protective jurisdiction rules regarding distribution contracts; therefore the general rules should be applied unless parties agree otherwise.

e) Protective Rules in Other Matters

The Lithuanian laws do not establish any other protective jurisdictional rules.

14. Rules for the Consolidation of Claims

The Code of Civil Procedure of the Republic of Lithuania determines some special jurisdiction rules concerning related claims.

a) Co-Defendants

According to Article 33 (1) of the Code of Civil Procedure of the Republic of Lithuania a claim against several defendants residing or located in different places shall be brought according to the place of residence of one of the defendant at the discretion of the plaintiff. Therefore, in case defendants have residences in different states, the defendant who does not have place of residence in European Union may be brought to the court of European Union Member State if the other defendant has residence in the European Union. However, in this case the plaintiff may not ignore the international jurisdictional rules, therefore he/she should pay attention if all courts of different states have jurisdiction to solve the problem. The possibility to solve such requests in one court exists only if they are connected with the same state.

The Supreme Court of Lithuania in the decision No 3K-3-640/2003 dated 28 May 2003 analysed the jurisdiction question where the claim was filed against several defendants from different states. Mr Gervė worked as a driver in Lithuanian entity AB "Eura". During his work hours the vehicle driven by Mr Dubinskas crashed into the vehicle which belonged to Belarus entity "Minskžilstroj". The second driver Mr Gervė died. The plaintiff's wife brought the claim to Lithuanian court against the defendants AB "Eura" from Lithuania and "Minskžilstroj" from Belarus. Mr Dubinskas also brought a claim against the same defendants. Lithuanian courts refused to examine the case. Under the bilateral agreement with the Belarus, the claims should be brought to the courts of the defendant's place of residence. The Supreme Court of Lithuania stated that this rule might be applied in case the defendants were only Belarus entities. However the plaintiff named AB "Eura" from Lithuania was the only defendant in the primary claim. The second defendant "Minskžilstroj" were named as defendant only later. Therefore the claim against Lithuanian defendant should be examined in Lithuanian courts despite the fact that the Belarus courts are competent to examine the case against "Minskžilstroj". The cause of claims against defendants AB "Eura" and "Minskžilstroj" are different; therefore they could be examined separately.

b) Third Party Proceedings

The competent court is determined according to the place of residence of the defendant, but not to the place of residence of the third parties, therefore the third party who has residence in non-EU state may be brought to the court of the European Union Member State.

c) Counter-Claims

Article 33 (2) of the Code of Civil Procedure of the Republic of Lithuania states, that a counter claim, irrespectively of its jurisdiction, shall be brought to the court where the principal claim has been examined. However, if submission of a counter claim changes the specific jurisdiction of a case, the court, which is examining the principal claim, shall transfer the entire case matter to be solved according to the rules of special jurisdiction. Besides, under Article 33 (3) of the Code of Civil Procedure of the Republic of Lithuania the attention should be paid to the fact that if one of the plaintiff's claims falls under the exclusive jurisdiction of a particular court, then all claims shall be brought following the rules of exclusive jurisdiction. And as is stated in Article 33 (4) of the Code of Civil Procedure of the Republic of Lithuania if one of the plaintiff's claims is under the jurisdiction of a regional court, all claims shall be heard in a regional court.

d) Related Claims

If the claims are connected and one claim may not be examined separately, all claims should be examined in one case. The attention should be paid to the main claim in deciding jurisdiction of the whole case. Besides, the Code of Civil Procedure of the Republic of Lithuania establishes some rules when the case may be transferred from one court to another (for example, the case may be examined in other court more operatively and economically, etc.).

The Supreme Court of Lithuania in the ruling No 3K-3-727 dated 12 June 2002 acknowledged that *"the agreement for jurisdiction is obligatory for contracting parties. Article 7.4 of the agreement concluded on 26 June 1995 between the parties of the dispute states that if there is no possibility to solve a dispute peacefully, it should be solved in defendant's Arbitration court. This provision expresses the agreement for jurisdiction between the parties, so this case falls under the jurisdiction of the Arbitration court of the Russian Federation. The fact that one of the defendant's (K. Puidokas) has residence in the Republic of Lithuania does not mean that the plaintiff has the right to choose one of the Lithuanian courts, whereas this plaintiff's right is restricted by the rules of international jurisdiction. The rules of international jurisdiction state that it is possible to choose the court of the other country without restrictions only when the case falls under the jurisdiction of the courts of both contracting states or when the requests are related and the courts of both countries have jurisdiction for all of them. Considering the material legal relations between the parties of the dispute it is concluded that the main request is alleged for defendant RAB "Avtonord" who is liable as the primary debtor under the sale-purchase agreement. Defendant K. Puidokas as a warrantor is liable subsidiary (Articles 192 and 220 of the Civil Code of the Republic of Lithuania). The plaintiff has a right to request to perform an obligation from the defendant K. Puidokas only if he did not get the complete fulfilment of the requests from the primary debtor. Whereas the primary request does not fall under the jurisdiction of the courts of the Republic of Lithuania, the courts also cannot hear the subsidiary request. The counter claim jurisdiction question had to be solved accordingly as it is caused by the claim. Consequently, the judicial bench states that this case falls under the jurisdiction of the Arbitration court of the Russian Federation by the rules of territorial and contractual jurisdiction"*.

e) Any Problems Pertaining to Lack of Harmonisation

All practical problems regarding the jurisdictional rules are discussed in this report at the appropriate place above and below.

15. Rules of Jurisdiction Pursuant to Annex I of Brussels I

a), b), c) There is no Lithuanian court practice regarding the rules of jurisdiction listed in Annex 1 of the Brussels I Regulation and jurisdictional rules listed in Annex I of the Brussels I Regulation were not applied by the Supreme Court of Lithuania and the Court of Appeals.

16. Forum *necessitatis*

The Lithuanian laws do not provide directly the possibility to exercise jurisdiction on the basis that there is no other forum available abroad. However, the general principle exists that the right of defence should be guaranteed to everyone. Therefore, in case there is no other forum available abroad, theoretically person might try to convince the court to exercise such case, though it would be quite difficult to do. There is no publicly available court practice regarding such situations.

Proceedings beyond jurisdiction of Lithuanian courts

The courts of the Republic of Lithuania accept a restrictive state immunity doctrine when a dispute arises out of the economical activities of the state or state entities.

Besides, as a general rule, persons exercising diplomatic immunity and their family members may not be defendants in Lithuanian courts. This rule shall not be applied in the following cases:

- a dispute arises in relation to an immovable property located in the Republic of Lithuania and held by the persons exercising diplomatic immunity and their family members or relevant international organisations;
- a dispute arises out of inheritance legal relations;
- a dispute arises out of other economic relations where persons exercising diplomatic immunity and their family members are not involved as persons exercising diplomatic immunity.

The following persons also may not be qualified as defendants in Lithuanian courts if claims are brought against performance of their official functions:

- civil servants carrying out consular functions on behalf of other countries regardless of their citizenship;
- foreign administration or technical employees of diplomatic missions or consulates of foreign countries or other persons equivalent to the aforesaid by the power of international agreements, laws or international practices.

This rule shall not be applicable for the civil servants carrying out consular functions as well as administration and technical staff members of consulates if a claim against them is brought for damages made by a motor vehicle.

The above mentioned exceptions (when Lithuanian courts are not competent to exercise the disputes) shall not apply in cases when upon commissioning persons the State clearly refuses application of immunity to them. Non-application of immunity to officers of international organisations could be declared exclusively by those international organisations. Besides, if these persons bring a claim in Lithuanian court, a counter claim against them can be brought in the procedure stipulated by the Code of Civil Procedure of the Republic of Lithuania.

(D) National Jurisdiction & Enforcement of Non-EU Judgments

17. National rules of jurisdiction barring the enforcement of a non-EU judgment

Normally, the procedure of recognition and enforcement of judgments passed by non-EU courts is established under bilateral agreements. Usually such agreements provide that the court decisions may not be recognised if imperative jurisdictional rules are violated. In the absence of such agreements, judgments of non-EU courts are recognised and enforced as prescribed by the Code of Civil Procedure of the Republic of Lithuania.

Applications for recognition and enforcement of non-EU court judgments may be submitted to the Court of Appeals by any person who has legal interest in a particular case.

The Court of Appeals does not recognise non-EU court judgments if the party interested in non-recognition of a particular judgment proves the existence of at least one of the following facts:

- the judgment is not effective under the laws of the country where it was adopted; and/or
- under the provisions of Lithuanian law or international agreements, the case falls under the exclusive jurisdiction of the courts of the Republic of Lithuania or any third country (the cases which fall under the exclusive jurisdiction of the courts of the Republic of Lithuania are described above). The Supreme Court of Lithuania in the ruling No 3K-3-1375/2001 dated 19 December 2001 also acknowledged that the breach of exclusive jurisdictional rules may result the refusal to recognise and enforce such court decision in foreign state; and/or
- the party absent from the hearing was not duly notified about the commencement of a civil claim and no procedural defence was available during the proceedings or any appropriate representation during incapacity of that party; and/or
- the judgment sought for recognition is inconsistent with the judgment passed by the court of the Republic of Lithuania in a dispute between the same parties; and/or
- the judgment is against the public order established by the Constitution of the Republic of Lithuania; and/or
- the issues of legal capacity or suability of the Lithuanian citizen, statutory representation matters, or legal family, property or succession relationships have been resolved by a foreign court decision, which is inconsistent with international private law of the Republic of Lithuania except where Lithuanian courts would have passed the same judgments in that particular case.

Moreover, the Court of Appeals may refuse to recognise non-EU court judgments on the grounds established in the international agreements.

(E) Declining Jurisdiction

18. Forum Non Conveniens

The Code of Civil Procedure of the Republic of Lithuania does not establish any special rule allowing the court to decline jurisdiction / stay the proceedings. However, the Supreme Court of Lithuania in summary review of court practice while applying the norms of international private law (as it was already mentioned this summary review was adopted on 21 December 2000, thus before the joining the EU. Besides according to Lithuanian laws such summary reviews have only recommendatory effect) noticed, that the court should pay attention not only to the jurisdictional rules established in the Code of Civil Procedure of the Republic of Lithuania but also to the following facts while solving jurisdiction question in all international disputes:

- if it is possible to recognise a future court judgement in foreign state. In case no bilateral agreement between Lithuania and a state in which the future court judgement should be recognised is concluded, the future court judgement may stay unexecuted. Therefore the court should analyse if the claim does not fall under the jurisdiction of defendant's place of residence that is under the jurisdiction of the court of the state in which the future court judgement should be enforced. If the court in which the enforcement will be sought is also competent to examine the dispute, the Lithuanian court should refuse to examine it and suggest the plaintiff to bring the claim to the court in which the future court judgement will be enforced;
- Lithuanian court should analyse if the claim does not fall under the exclusive jurisdiction of the courts of the foreign state in which the enforcement will be sought. If Lithuanian court finds out that the foreign courts have exclusive jurisdiction to examine the case, Lithuanian courts should also refuse to accept it and suggest the plaintiff to bring the claim to the court in which the future court judgement will be enforced;
- the court should pay attention to the location of evidences. If the defendant and most evidences are in foreign state, with which no bilateral agreement is concluded, the examination of the case may become very difficult, therefore if the dispute does not fall under the exclusive jurisdiction of Lithuanian courts, Lithuanian courts might refuse to examine the case and suggest the plaintiff to bring the claim to the court in which the defendant and most evidence are located.

Consequently according to the above discussed Lithuanian court practice (it is not very recent and it is hard to foresee if Lithuanian courts follow the same position now) in some particular cases Lithuanian courts may decline jurisdiction. In legal theory it is also noticed that although forum non conveniens doctrine is not directly provided by Lithuanian laws, this doctrine may be derived from Article 34 of the Code of Civil Procedure of the Republic of Lithuania which states – a court transfers a case for examination in another court only in the exceptional circumstances if it acknowledges that this specific case will be examined in another court more operatively and economically, to be more concrete – according to the location of the most of evidence, except for cases of exclusively jurisdiction. However legal theory acknowledges that in such cases the court should be very careful and may not refuse to examine the dispute if the parties of the dispute do not have the real opportunity to solve the dispute in foreign court which is formally competent to examine the case or the examination of the case in foreign court would be very unfavourable to the parties of the dispute.

19. Declining Jurisdiction when the Defendant is Domiciled in a Third State

(a) Non-EU Jurisdiction Agreements

According to Article 788 of the Code of Civil Procedure of the Republic of Lithuania economic entities may agree in writing to examine the disputes arising out of contractual legal relations in foreign courts, if such agreement does not contradict the law of the country to which the examination of dispute is expected to be referred. The mentioned agreement is not allowed in the proceedings falling under the exclusive jurisdiction of Lithuanian courts. Thus, it can be clearly seen that such regulation is too narrow – firstly, it restricts the possibility to conclude derogation agreement to some persons (not economic entities), secondly, it restricts the possibility to conclude derogation agreement in relations arising out of non-contractual legal relations. Besides, such agreement shall be observed by the court only at a request of the party concerned. Such request may be filed before the beginning of the hearing on the merits.

(b) Parallel Proceedings in a non-EU court

According to Article 781 of the Code of Civil Procedure of the Republic of Lithuania if Lithuanian courts are competent to examine civil cases, this competence shall not disappear when the same case is heard in a foreign court. The interpretation of this provision has raised many discussions in the legal doctrine. Some lawyers state that the above mentioned provision clearly ignores the *lis pendens* rule. The others interpret this rule differently – Lithuanian courts may not examine the dispute if it is examined in foreign court, however if the foreign court could not solve the dispute, it might be examined in Lithuanian courts as Lithuanian courts do not lose the competence when the same case is examined in a foreign court. Such authors also refer to the national jurisdictional rules – Articles 137 and 296 of the Code of Civil Procedure of the Republic of Lithuania which state – a court shall refuse to accept a claim if there is a case brought with the court concerning a dispute between the same parties, concerning the same subject, and on the same grounds and a court shall leave a claim unexamined if a dispute between the same parties regarding the same dispute and on the same ground is pending before the court. The court may apply the *lis pendens* rule only if the claim does not fall under the exclusive jurisdiction of Lithuanian courts.

However, to avoid any misunderstandings, it would be advisable clearly state the existence of the *lis pendens* rule for international disputes in:

- the Code of the Republic of Lithuania or
- in the judicial practice.

Besides, the *lis pendens* rule is applied only if the claims are identical. The Supreme Court of Lithuania in its ruling No. 3K-3-203/2000 dated 21 February 2000, stated that the identity of the claims should be defined by 3 criteria: (i) the parties of the litigation; (ii) the cause of a claim; and (iii) the subject - matter of a claim. According to the Supreme Court of Lithuania two claims are identical if they are between the same parties and they have the same cause of claim and the same subject matter of claim. When it is necessary to identify if the cause of claims of two claims are identical it is important to rely on the material relation in the case (which includes the defence technique and object of the legal proceedings) but not on linguistic interpretation of the claim. The new claim is possible only when new circumstances which were not the subject of proceedings in the former case are indicated.

(c) "Exclusive" Jurisdiction in a non-EU State

Please see the answer to question No 18.

20. Declining Jurisdiction When the Defendant is Domiciled in the EU

The Code of Civil Procedure of the Republic of Lithuania does not establish any special rules regarding declination of jurisdiction when the defendant is domiciled in an EU State and the jurisdiction is based on the uniform rules of the Brussels I Regulation. Therefore the above mentioned rules should be applied if the legal relations are not regulated by the European Union laws and if they do not contradict the European Union law. Besides, the attention should be paid to the fact that the Supreme Court of Lithuania admitted a summary review of court practice when applying the norms of international private law before Regulation No 44/2001 came into effect, therefore the interpretation of declination of jurisdiction provided in this report in answer No 18 may not be directly applied for declination of jurisdiction when the defendant is domiciled in an EU State. However, to our best knowledge there is no publicly available judicial court practice regarding this issue after No 44/2001 came into effect.

(F) The Adequate Protection (or lack thereof) of EU Nationals and/or Domiciliaries through the Application of Domestic Jurisdictional Rules

21.-24. Judicial practice regarding adequate protection of EU nationals and/or domiciliaries

To our best knowledge there is no publicly available court practice regarding adequate protection of EU nationals and/or domiciliaries.

(G) Residual Jurisdiction under the new Brussels II Regulation

25. Applicable National Rules Pursuant to article 14 of the New Brussels II Regulation (Parental Responsibility)

According to Article 785 of the Code of Civil Procedure of the Republic of Lithuania the courts of the Republic of Lithuania have exclusive jurisdiction in the cases regarding the legal relation of the parents and children, proceedings on adoption relations if any of the parties is a citizen of the Republic of Lithuania or a person with no citizenship but who is domiciled in the Republic of Lithuania. When both parties of the dispute domicile in the Republic of Lithuania, their matters specified above shall be examined exclusively by Lithuanian courts.

Besides, courts of the Republic of Lithuania are competent to solve the disputes regarding the legal relation of the parents and children and proceedings on adoption relations in cases when both parties are foreigners but their domiciles are in the Republic of Lithuania.

SUPPLEMENTAL REPORT FOR:

LITHUANIA

PREPARED BY:

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26. NA

27. Conventions with Third States in Matters of Parental Responsibility (and maintenance of children)

What are the international (and in particular bilateral) conventions concluded between your country and non-EU countries that include rules of jurisdiction in matters of parental responsibility (and maintenance of children)?

1. Till the date of issuing this memorandum, Lithuania has concluded the following international agreements with non-EU countries which include rules of jurisdiction in matters of parental responsibility:

Agreement between the Republic of Lithuania and the Republic of Armenia on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases (Official Journal Valstybės Žinios, 2005, No 7-189). Came into force on 8 July 2005.

Agreement between the Republic of Lithuania and the Republic of Azerbaijan on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases (Official Journal Valstybės Žinios, 2002, No 75-3217). Came into force on 22 November 2002.

Protocol to the Agreement between the Government of the Republic of Lithuania and the Government of the Republic of Kazakhstan on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases (Official Journal Valstybės Žinios, 1998 Nr.51-1399). Came into force on 8 April 1999.

Agreement between the Republic of Lithuania and the Republic of Belarus on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases (Official Journal Valstybės Žinios, 1994, No 43-779). Came into force on 11 July 1993.

Agreement between the Republic of Lithuania and the Republic of Moldova on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases (Official Journal Valstybės Žinios, 1995, No 19-440). Came into force on 18 February 1995.

Agreement between the Republic of Lithuania and the Russian Federation on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases (Official Journal Valstybės Žinios, 1995, No 13-296). Came into force on 21 January 1995.

Agreement between the Republic of Lithuania and Ukraine on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases (Official Journal Valstybės Žinios, 1994, No 91-1767). Came into force on 20 November 1994.

Agreement between the Republic of Lithuania and the Republic of Uzbekistan on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases (Official Journal Valstybės Žinios, 1997, No 101-2552). Came into force on 10 July 1998.

Hague Convention on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations (Official Journal Valstybės Žinios, 2002, No 51-1390). Came into force on 2 April 2002.

28. Jurisdiction as a Ground for Resisting the Enforcement of non-EU Judgment in Matters of Parental Responsibility

Can the judgment of a non-EU State relating to matters of parental responsibility (for instance, a judgment given the guardianship of a child to one of the parents) be denied recognition or enforcement in your country on the basis that the courts of your country are the only ones who have jurisdiction to entertain the matter? If so, what is (are) the ground(s) of these “exclusive” rules of jurisdiction (e.g., habitual residence of the child in your country, citizenship of one or several of the parties, etc.)

1. Under the Lithuanian law the grounds for the refusal to recognise and enforce non-EU court judgments are established in international agreements and the Code of Civil Procedure of the Republic of Lithuania (“Code of Civil Procedure”). According to Article 810 of the Code of Civil Procedure foreign court judgments shall be recognised on the basis of international treaties, and, only in case of absence of the international treaty, recognition of foreign judgments is based on the rules of the Code of Civil Procedure.

2. Bilateral agreements concluded by the Republic of Lithuania, among other grounds for refusal to recognise and enforce foreign court judgements, provide that foreign court judgements may not be recognised if under the international agreement or under the Lithuanian law the case falls under the exclusive jurisdiction of the Lithuanian courts or under the exclusive jurisdiction of the courts of a state where the judgement is being recognized.

3. Hague Convention on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations (1973) determines the following grounds for a refusal to recognise or enforce the foreign court judgement:

3.1. If recognition or enforcement of the decision is manifestly incompatible with the public policy (“ordre public”) of the State addressed; or

3.2. If the decision was obtained by fraud in connection with a matter of procedure; or

3.3. If proceedings between the same parties and having the same purpose are pending before an authority of the State addressed and those proceedings were the first to be instituted; or

3.4. If the decision is incompatible with a decision rendered between the same parties and having the same purpose, either in the State addressed or in another State, provided that this latter decision fulfils the conditions necessary for its recognition and enforcement in the State addressed.

4. Although Hague Convention on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations does not provide that the recognition and enforcement of foreign court judgements can be denied on the ground that the case falls under the exclusive jurisdiction of the courts of the countries which signed this Convention (Lithuania did not make such reservation either) it might be possible that the courts of the Republic of Lithuania could decide that the breach of the rules of exclusive jurisdictions is incompatible with the public policy of the Republic of Lithuania. However it should be mentioned that the right of interpretation of a notion "public policy" belongs to the courts and to our best knowledge the courts of the Republic of Lithuania never heard a case where they had to decide whether the fact that the case falls under the exclusive jurisdiction of the state means the incompatibility of the public policy.

5. Article 810 of the Code of Civil Procedure provides that foreign court judgments (other than those of EU Member States) should not be recognised if under the provisions of Lithuanian law or international agreements the case falls under the exclusive jurisdiction of the Lithuanian courts or any third country.

6. Consequently, under the rules of international agreements concluded by the Republic of Lithuania (with the exception of Hague Convention on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations) and under the Code of Civil Procedure, the Lithuanian courts may refuse to recognise and enforce non-EU court judgments relating to matters of parental responsibility on the basis that the Lithuanian courts have the exclusive jurisdiction to decide the case.

7. According to Article 785 of the Code of Civil Procedure the Lithuanian courts have exclusive jurisdiction in cases regarding parents and children legal relation and adoption proceedings if any of the party is a citizen of the Republic of Lithuania or a person without citizenship and this party domiciles in Lithuania. When both parties of the dispute domicile in Lithuania, the above specified disputes shall be heard exclusively by the Lithuanian courts.

8. Furthermore, the Lithuanian courts are competent to decide disputes regarding parents and children legal relation and adoption proceedings in cases when both parties are foreigners but their domicile is in Lithuania.

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