

Template for the EFFORTS Practice Guide for the application of the Regulation on the European Order for Payment

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I. Introduction

The paragraphs below address the implementation of Regulation No 1896/2006 (as amended by Regulation No 2015/2421) creating a European order for payment (hereinafter indicated as “EOP” and “EOP Reg.”) into the national law of [BE, DE, FR, HR, IT, LT, LU]. In doing so, it integrates and supplements the European Practice Guide published by the Commission on the [e-Justice Portal](#)⁽¹⁾, which expressly recognizes that questions that are not regulated by the Regulation itself should be governed by national procedural law⁽²⁾.

¹ The European Practice Guide prepared by the Commission is available at: ‘European E-Justice Portal – European Payment Order’ <https://e-justice.europa.eu/41/EN/european_payment_order> accessed 13 April 2022.

² As explained by the Practice Guide of the Commission (EC PG I): “National law is applicable, on a subsidiary basis, to questions which are not regulated in the EOP Regulation”.

Following the structure of the European Practice Guide, the present section will address in turn the questions related to the scope of application of the EOP procedure (II), the issues arising in connection with the procedure itself (III), and finally the procedural rules related to the recognition and enforcement in [BE, DE, FR, HR, IT, LT, LU] of EOPs rendered in another Member State (0).

II. Scope of application of the EOP procedure

1. Cross-border case. The EOP Regulation applies only in cross-border cases. Art. 3 EOP Reg. defines such a case as one in which at least one of the parties is domiciled or habitually resident in a Member State other than the Member State of the court seized (EC PG II.2.2.). In this respect, Art. 3(2) EOP Reg. provides that the domicile should be determined according to Art. 59 and 60 Brussels I Regulation (today Art. 62 and 63 BI bis). According to these provisions, the domicile of physical persons should be determined in accordance with internal law. Which are the internal rules determining whether one of the parties has its domicile in LT?

Domicile is determined according to various criteria. The domicile of a legal person is normally the place indicated in the Register of Legal Entities of the Republic of Lithuania and where a claim relates to the activities of a particular branch, it may be submitted according to the domicile of the branch. Where a claim is submitted against the State or a municipality, such claim shall be submitted according to the domicile of the institution representing the State or the municipality. The domicile of a natural person may be determined according to the place of his/her domicile as declared in the Population Register of the Republic of Lithuania or according to the place of actual domicile. However, there are alternative rules that affect the place where a claim shall be submitted. For example, if the person's place of residence is unknown, a claim may be submitted according to the last known place of residence or according to the location of property. A claim against a defendant who is not domiciled in the Republic of Lithuania may be submitted either according to the place where his/her property is located or according to the place where he/she was last known to be domiciled in the Republic of Lithuania. A claim concerning consumer contracts may also be submitted according to the domicile of the consumer.

III. The EOP procedure

When LT is the Member State of origin

A. Application for an EOP

1. **Amount claimed.** Pursuant to Article 7 EOP Reg., an application for a EOP shall be made using the annexed standard form A and should state the amount of the claim, including the principal and, where applicable, interest, contractual penalties and costs.

a. **Principal.** The EOP procedure is available for the collection of pecuniary claims for a specific amount that have fallen due. Nevertheless, procedural rules of the Member State of origin may regulate certain aspects regarding the amount of money to be claimed. Are there any rules or practices, at a national level, that the claimant must take into account when calculating the principal amount claimed as an EOP (e.g., does the law of the Member State of origin impose any conditions as to the currency in which the amount of the claim has to be calculated? Does the law of the Member State of origin allow the creditor to claim only a part of an overall monetary claim, and reserve the remaining for a future claim?)?

b. **Calculation of interest.** The EOP Regulation provides that details of the interest rate and the period of time for which interest is demanded should be provided in section 7 of Form A (EC PG III.1.1.), unless statutory interest is automatically added to the principal under the law of the Member State of origin (Art. 7(2)(c) EOP Reg.). Regarding the relevant time period for the calculation of interest, the guidelines for the completion of Form A state that if interest is demanded up to the date of the decision of the court the last date box should be left blank, while the Regulation is silent about whether interest can be claimed after that date (EC PG III.1.1.). Which procedural rules in LT govern the calculation of interest? Please address, amongst others, issues such as the possibility and conditions to claim for interests accrued after the issuance of the payment order.

c. **Costs.** The details of any costs due are included in section 9 of Form A. While the main costs envisaged here are court fees, the guidelines for the completion of Form A state that other costs could include the fees of a claimant's representative or pre-litigation costs. In accordance with Art. 25 court fees can include fees and charges paid to the court, the amount of which is fixed in accordance with national law. The guidelines also clarify that if the court fees are not known by the claimant the amount box can be left blank to be completed by the court (EC PG III.1.1.). Are there any applicable court fees or other charges that the claimant should include in the amount claimed? How should such payments be settled? Are there any national rules or practices regarding the kinds of costs that can be included in the amount claimed, such as representative costs or pre-litigation costs?

(a) The amount of the claim shall be calculated and presented in euros. Although the amount of the debt claimed may be denominated in another currency, the claimant should also state the amount claimed in euros, as that is the basis for calculating the stamp duty. It is the claimant who chooses to what extent to submit a claim, therefore, he/she may claim either the total debt or part of it.

(b) Two types of interest may be claimed in Lithuanian civil proceedings. The normal interest rate is calculated as 6% (for legal entities and where both parties are

natural persons who are entrepreneurs) or 5% (for natural persons who are not entrepreneurs) on the amount claimed from the debt occurrence until the claim submission date (Article 6.210 of the Civil Code of the Republic of Lithuania). Interest may also be calculated in accordance with the Law on the Prevention of Late Payment in Commercial Transactions of the Republic of Lithuania (the fixed interest rate increased by 8 percentage points as applicable to the most recent principal refinancing operation of the European Central Bank, if the most recent main refinancing operation of the European Central Bank was carried out by means of a fixed rate tender procedure, or the marginal interest rate, if the most recent main refinancing operation of the European Central Bank was carried out by means of a variable rate tender procedure). Procedural interest shall be of the same amount and shall be calculated from the date of submission of the claim until the date of enforcement of the judgment. Where both rates of interest may be applied according to the content of the claim, the requested interest rate shall be normally chosen by the claimant.

- (c) A claim is subject to the stamp duty defined Article 80 of the CCP of the Republic of Lithuania. In pecuniary disputes, the stamp duty shall be calculated on the amount of the claim: up to EUR 30,000 – 3 per cent, but not less than EUR 20; exceeding EUR 30,000 and up to 100,000 – EUR 900 plus 2 per cent calculated from the amount exceeding EUR 30,000; exceeding EUR 100,000 – EUR 2,300 plus 1 per cent from the amount exceeding EUR 100,000. Total amount of the stamp duty should not exceed EUR 15,000.

In non-pecuniary disputes, the stamp duty of EUR 100 shall apply. When a statement of claim (claim) is submitted electronically via the E-Service Portal of Lithuanian Courts, 75% of the stamp duty shall be payable.

A party may request compensation of litigation costs; such application shall be submitted before the end of the case hearing on the merits. The costs of representation, as well as translation costs, the costs of expert examinations, postage and stamp duty may be requested as litigation costs. The documents supporting the expenses incurred shall be submitted to the court – invoices, their detailing (in the case of representation costs) and the documents proving payment. The principle “the loser pays” applies, however, the court may depart from this rule by applying the theory of cause and may award costs by taking into account other circumstances, such as the circumstances giving rise to the costs. The court may reduce the costs to be awarded in accordance with the recommendations adopted by the Minister of Justice.

2. Cause of action and description of evidence. The EOP Regulation requires the claimant to state the cause of the action – including a description of the circumstances invoked as the basis of the claim and, where applicable, of the interest demanded – and to provide the court with a description of evidence supporting the claim (Art. 7(2)(d)(e) EOP Reg.). [The Regulation does not specify the level of detail that an applicant should provide, nor does it prescribe the way that a court should carry out the examination of a claim \(EC PG III.1.2.\).](#)

- a. General rule.** There is no requirement to attach supporting documentation, but applicants are free to do so if they wish. Section 11 allows the applicants to provide additional statements and further information, if necessary (*ibid.*). Are there relevant

rules or practices in your jurisdiction concerning the level of detail that an application should include?

- b. Consumer contracts.** The European Court of Justice has clarified that in cases involving consumer contracts, the competent authority is allowed to request from the creditor additional information relating to the terms of the agreement relied on in support of the claim at issue, in order to carry out an *ex officio* review of the possible unfairness of those terms ⁽³⁾. Which are the national procedural rules for an *ex officio* review of the contractual terms in case of consumer contracts?

(a) No, the national law does not define the level of detail that an application should include.

(b) According to the case law consistently developed by the Supreme Court of Lithuania on the interpretation and application of the law under the cassation instance, Lithuanian courts shall *ex officio* define consumer contracts and carry out a review of unfair terms of such contracts in accordance with the criteria set out in Article 6.228⁴ of the [CC](#) of the Republic of Lithuania, which implements Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (Supreme Court of Lithuania, ruling of 15 June 2011 in civil case [No. 3K-7-272/2011](#); ruling of 11 April 2012 in civil case [No. 3K-3-156/2012](#); ruling of 16 May 2017 in civil case [No. 3K-3-245-611/2017](#), p. 32; ruling of 9 February 2018 in civil case [No. e3K-3-17-701/2018](#), p. 38; ruling of 19 May 2021 in civil case No. e3K-3-130-611/2021, p. 41, 42).

- 3. Competent courts.** The competent courts for the EOP are those that have been designated by the Member States and officially notified to the Commission (EC PG III.1.3). Should the application be sent to a court that is not competent, it is a matter for national law what action that court should take (*ibid.*). Hence, the EOP Regulation does not directly designate the national court competent to deal with applications under the EOP procedure. Indeed, Art. 5 EOP Reg. defines the term “court” as “any authority in a Member State. Similarly, Art. 6 EOP Reg. provides that the jurisdiction for claims made under the EOP procedure is to be established in accordance with the Brussels I Regulation⁽⁴⁾, but does not lay out any rules of territorial competence allocating cases among the competent national authorities. Which are the national “courts”, within the meaning of the Regulation, competent for the EOP procedure (outgoing)? If more than one court is competent under national law, which are the rules of material and territorial competence governing the allocation of cases among them? What are the mechanisms set out in national law regarding cases where an application is first sent to a court that lacks competence?

³ CJEU, 19 December 2019, in cases C-453/18 and C-494/18, *Bondora AS v. Carlos V.C. and Bondora AS v. XY*.

⁴ Which has today been replaced by the BI bis Regulation (Regulation No 1215/2012). This rule is however subject to one exception. When the case concerns a consumer contract and the consumer is the defendant, the jurisdiction has to be that of the Member State where the defendant is domiciled (EC PG II.4).

Applications for a European order for payment shall be submitted according to the rules of jurisdiction set out in the Code of Civil Procedure of the Republic of Lithuania. The general rule is territorial jurisdiction, which is determined according to the domicile of the defendant, either a natural person or a legal person, as indicated in the Register of Legal Entities of the Republic of Lithuania.

However, the rule of alternative jurisdiction allowing the claimant to choose any other district court may be applied in the following cases (only the rules relevant are noted below):

- A claim against the claimant whose domicile is unknown may be submitted either according to the place where his/her property is located or according to the last known place of his/her residence.
- A claim against the defendant who is not domiciled in the Republic of Lithuania may be submitted either according to the place where his/her property is located or according to the place where he/she was last known to be domiciled in the Republic of Lithuania.
- A claim relating to the activities of a branch of a legal entity may also be submitted in the place where the branch has its domicile.
- A claim for the compensation of damage caused to a natural person's health or for his/her death may be submitted at the place of the claimant's residence or at the place where the damage has been caused.
- A claim for damage to personal property may be submitted at the place of the claimant's residence (domicile) or at the place where the damage has been caused.
- A claim for the compensation of damages as a result of collision between vessels and for the recovery of compensation for assistance and salvage at sea, as well as in all other cases where the dispute arises out of the legal relationship relating to carriage by sea, may also be submitted in the place where the defendant's vessels are located or where the vessel's port of registry is situated.
- A claim concerning contracts with an indication of the place where it should be performed may be also submitted to the court of the contract performance area.
- A claims relating to the performance of the duties of a guardian, trustee or administrator of the estate may also be submitted in the place of residence or domicile of the guardian, trustee or administrator of the estate.
- A claim concerning consumer contracts may also be submitted according to the domicile of the consumer.

The right to choose one of the several courts having jurisdiction in the specified cases of alternative belongs to the claimant.

If a claim is submitted to the court without complying with the rules on jurisdiction, the court shall refuse to accept such a claim stating that the case is outside the jurisdiction of this court. However, the court shall refer the case for hearing to another court or another chamber of the court by a ruling:

- (1) if it acknowledges that it would be more expeditious and cost-effective to hear the case in another court or chamber, in particular in the place where the majority of the evidence is to be found, except in cases of exclusive jurisdiction;
- (2) if the defendant, whose place of residence was not previously known, requests that the case be transferred to the court of the place of his/her residence or to the chamber of the court of the place of his/her residence;
- (3) if, following the recusal of one or more judges or the resignation of judges in a district court or in a chamber where the court is composed of chambers, or in the Civil Cases Division of the regional court, there are no more entitled to hear the case;
- (4) if it comes out to light after the institution of proceedings at that court that it has been

accepted in breach of the rules on jurisdiction;
(5) if the proceedings have been suspended on the grounds that the defendant is in bankruptcy or restructuring proceedings. In this case, it shall be referred to the court hearing bankruptcy or restructuring proceedings.

4. How to submit an application for an EOP. Art. 7(5) EOP Reg. provides that: “The application shall be submitted in paper form or by any other means of communication, including electronic, accepted by the Member State of origin and available to the court of origin”. Furthermore, Art. 7(6) EOP Reg. provides that the application shall be signed by the claimant or, where applicable, by his representative, and that where the application is submitted in electronic form in accordance with par. 5, it shall be signed in accordance with Art. 2(2) of Directive 1999/93/EC. However, the last requirement does not apply if the Member State of origin has set up an electronic communications system which is available to a certain group of pre-registered authenticated users and which permits the identification of those users in a secure manner. What are the relevant rules and practices concerning the filing of the initial application? Are there any specific steps or conditions to be mentioned in particular? What are the means of communications accepted by national law regarding the initial application for an EOP? Does national law accept applications filed in languages other than its official language? When an application is filed by paper, what are the relevant rules and requirements set out by national law regarding the application (e.g., does national law require the application to be filed in person, by letter, by registered post, etc.)? Does national law allow an application to be filed by electronic means? In the affirmative, what are the relevant rules or practices governing electronic applications?

Claims may be submitted (i) by delivering them to the document reception unit of the court; (ii) by sending them by post; (iii) by submitting through the E-Service Portal of Lithuanian Courts (www.e.teismas.lt).

Where documents are submitted electronically, a scanned or separate electronic signature is not required on them because the electronic signature is generated by the system to which the person must log in by one of the methods ensuring reliable authentication of the logged-in person. Where documents are submitted by post or at the court, the number of copies to be submitted to the court shall be equivalent to the number of parties involved in the proceedings, plus one additional copy for the court. Documents shall be submitted in the official Lithuanian language and if a document is in the language other than the official language, it shall be accompanied by a translation into the Lithuanian language certified by a translator. Documents shall be submitted via the E-Service Portal of Lithuanian Courts, sent by post or delivered to the court no later than 24:00 on the last day of the time limit. The same rules shall apply to evidence (annexes). The court serves documents by post or through the judicial system. The court shall serve procedural documents to lawyers, assistant lawyers, judicial officers, assistant judicial officers, notaries, state and municipal enterprises, institutions and organisations, financial institutions, insurance and audit companies, forensic experts, insolvency administrators by means of electronic communications (via the e-system).

5. Appendix to the application. Pursuant to Art. 7(4) EOP Reg., the claimant may indicate to the court whether s/he opposes a transfer to civil proceedings within the meaning of point (a) or point (b) of Art. 17(1) EOP Reg. in the event of opposition by the defendant. Alternatively, the claimant may also indicate which, if any, of the procedures listed in points (a) and (b) of Art. 17(1) EOP Reg. s/he requests to be applied to his claim in the subsequent civil proceedings in the event that the defendant lodges a statement of opposition against the European order for payment. This does not prevent the claimant from informing the court thereof subsequently, but in any event before the order is issued. Are there any relevant rules or practices regarding the time limits and formal requirements that the claimant must abide by when such choice is made? Which are the “appropriate national civil procedures” applicable in case of opposition in accordance with Art. 17(1)(b) EOP Reg.?

In the cases referred to in Article 17(1) of Regulation (EC) No 1896/2006, the proceedings shall be continued by applying *mutatis mutandis* the provisions of Article 439, paragraphs 3, 5 and 6 of the Code of Civil Procedure of the Republic of Lithuania.

Upon receipt of the debtor's objections, the court shall, not later than within three working days, inform the creditor that the creditor has the right to submit a claim under the general case hearing rules under the contentious procedure and to pay the balance of the stamp duty not later than within 14 days after service of the court's notice. The provisional protective measures applied by the court may not be revoked during the time limit set in this paragraph to submit a claim.

The court's order or its relevant part shall be revoked by a ruling on the admissibility of the claim by the court seized, which has issued the order, and, if necessary, the case shall be transmitted according to jurisdiction.

If the creditor fails to submit a suitably drawn up claim to the court within the set time limit, the creditor's application shall be considered not to have been filed and shall be returned to the creditor by a court ruling, and the court order and the provisional protective measures imposed shall be revoked. This ruling may be appealed against under a separate appeal. This shall not preclude the creditor from submitting a claim under the general procedure.

B. Conduct of the procedure before the court

1. Examination of the application. Pursuant to Art. 8 EOP Reg., The court seized on an application for an EOP shall examine, as soon as possible and on the basis of the application form, whether the claim falls within the scope of the EOP procedure, whether the application complies with the requirements set out in Art. 7 EOP Reg., and whether the claim appears to be founded. **Furthermore, the Regulation makes clear that the examination of an application for an EOP need not be carried out by a judge and, under Art. 8 EOP, may take the form of an automated procedure (EC PG III.1.2).** What are the national rules and practices regarding the examination of the application by the competent court (e.g. which is the authority/desk competent under national law to carry out the initial examination of the application? Is the examination carried out in the form of an automated procedure)? Are there any limits/relevant national practices regarding the time between the filing of the application and the initial determination of the application by the court?

All cases in Lithuanian courts are heard by judges (natural persons), who make the decisions. Currently, the decision-making procedure is not automated. In certain categories of cases, such as in the cases concerning the issuance of national court order, draft procedural decisions and court notices to the parties are generated by a semi-automatic software, but the principle decision is, nevertheless, taken and approved by the judge. Cases are heard in accordance with the rules of territorial jurisdiction.

2. Completion and rectification. If the application for an EOP does not meet the requirements of Art. 7 EOP Reg., i.e., it is incomplete or contains an error, the court which has jurisdiction shall give the claimant the opportunity to complete or rectify the application (see Art. 9 (1) EOP Reg.) using the standard form B as set out in Annex II (EC PG III.5.1.1.). Where the court requests the claimant to complete or rectify the application, it shall specify a time limit it deems appropriate in the circumstances. The court may, at its discretion, extend that time limit (EC PG III.2.1.)⁽⁵⁾. Are there any relevant rules or practices concerning the examination of the request for completion or rectification? How does the court communicate its request to the claimant? Are there any relevant rules or practices concerning the time limit applicable to the completion and rectification of the claim under Art. 9(2) EPO Reg.?

If the court finds any deficiencies in a claim, it shall order by a ruling that they be remedied and shall set a time limit for doing so. The setting of such time limit and the explanation of the deficiencies shall be made in writing, by a ruling of the court.

3. Modification of the application. If the requirements are met for only part of the claim, the court shall inform the claimant to that effect. The claimant shall be invited to accept or refuse a proposal for an EOP for the amount specified by the court and shall be informed of the consequences of his decision, by using form C. Are there any relevant rules or practices concerning the modification? In this scenario, how does the court communicate with the claimant and vice versa?

a. Acceptance of the proposal. If the claimant accepts the court's proposal, the court shall issue an EOP for that part of the claim accepted by the claimant. The consequences with respect to the remaining part of the initial claim shall be governed by national law (EC PG III.2.1.)⁽⁶⁾. In such cases does national law prevent the claimant from filing a new claim/action with respect to the remaining part of the initial claim?

b. Time limits. The claimant shall reply within the time specified by the court (see Art. 9(2) EOP Reg.) using standard form C. If the claimant fails to send his reply within the time limit specified by the court, the court shall reject the application in its entirety. See above §2 "Completion and rectification".

⁵ See also EC PG III.5.1.1.

⁶ See Art. 10 EOP Reg.

The court is free to decide to what extent it will grant the claim.

- (a) In the case referred to in Article 10(2) of Regulation (EC) No 1896/2006, the claimant may submit a claim for the remaining part of the claim to the court under the rules of contentious litigation or submit a new application to issue a European order for payment, if the obstacles for which the court refused to issue a European order for payment for the whole claim have been eliminated.
- (b) Under Lithuanian law, a procedural time limit that has been missed may be restored at the request of a party if the court is provided with information as to why the time limit has been exceeded.

4. Rejection of the application. The court shall reject the application, using form D, if: (i) the requirements set out in Art. 2, 3, 4, 6 and 7 EOP Reg. are not met; or (ii) the claim is clearly unfounded; or (iii) the claimant fails to send his reply (in response to the court's proposal to modify the application) within the time limit specified by the court; or (iv) the claimant fails to send his reply within the time limit specified by the court or refuses the court's proposal, in accordance with Art. 10 EOP Reg. The claimant shall be informed of the grounds for the rejection (EC PG III.2.2.). How is the decision communicated to the claimant? Are there any procedural rules or practices to be mentioned in particular concerning the rejection of the application?

The court shall serve documents by post or through the Judicial Information System LITEKO. The court shall serve procedural documents to lawyers, assistant lawyers, judicial officers, assistant judicial officers, notaries, state and municipal enterprises, institutions and organisations, financial institutions, insurance and audit companies, forensic experts, insolvency administrators by means of electronic communications (via the Judicial Information System LITEKO) because the Code of Civil Procedure of the Republic of Lithuania imposes a statutory obligation on these categories of persons to accept the service of procedural documents sent by courts in civil cases in this particular method.

C. Issuing & serving the EOP

1. Completion of Form E. Once the application (Form A) has been lodged and, if necessary, duly modified or rectified at the court's request, the court issues the EOP using form E as set out in Annex V when, if applicable, the relevant court fees have been paid (EC PG III.3.1.). Is the national authority/desk competent to carry out the initial examination of the claim also competent to issue the EOP? Are there any rules or practices to be mentioned concerning the issuance of the initial EOP using standard form E? Which are the relevant court fees that the claimant should pay before the issuance of the initial EOP and how should the payments be settled?

A claim is heard by the first instance court. There are no additional rules in the Lithuanian civil procedure on the issuance of Form E. The stamp duty is payable before submitting an application. It is verified whether it has been paid when a decision is made on the acceptance of the claim rather than during the acceptance of Form E.

2. Service of the EOP on the defendant. The EOP has to be served on the defendant in accordance with the national law of the Member State of origin. However, such a method has to meet the requirements set as minimum procedural standards in the Regulation (Art. 13 to 15 EOP Reg.). In general, two types of service are possible: either service with proof of receipt by the debtor (Art. 13 EOP Reg.) or service without proof of receipt by the debtor (Art. 14 EOP Reg.); each of them can be used in relation to the defendant's representative (EC PG III.3.3.). Additionally, Form E reminds the defendant of his rights and options (EC PG III.3.1.). Please describe the relevant rules of service concerning the notification of the initial EOP to the defendant that comply with such minimum procedural standards. In particular, does national law require to provide the defendant with any additional information regarding his/her rights and options?⁽⁷⁾

The court shall serve documents by post or through the Judicial Information System LITEKO. The court shall serve procedural documents to lawyers, assistant lawyers, judicial officers, assistant judicial officers, notaries, state and municipal enterprises, institutions and organisations, financial institutions, insurance and audit companies, forensic experts, insolvency administrators by means of electronic communications (via the Judicial Information System LITEKO) because the Code of Civil Procedure of the Republic of Lithuania imposes a statutory obligation on these categories of persons to accept the service of procedural documents sent by courts in civil cases in this particular method.

Procedural documents shall be served on a person in the national language or in the language he/she knows. The procedural rules state that the rights and obligations of the parties shall be explained to them at the hearing, except when the parties or third persons pursue the proceedings not on their own but through a lawyer or are represented by persons with a university degree in law. The procedural rights and obligations are normally also explained in the first procedural documents sent to the parties concerned.

D. Opposition (defendants' rights/options)

1. Opposition to the EOP. A defendant can lodge a statement of opposition to the EOP by making use of Form F in accordance with Art. 16 EOP Reg. It is not necessary for the defendant to give reasons for his/her opposition. The statement of opposition should be sent within 30 days of service of the order on the defendant. The period is calculated in accordance with Council Regulation (EC) No 1182/71 determining the rules applicable to periods, dates and time limits (OJ. EC 1971 L 124/1) (EC PG III.4.1.)⁽⁸⁾. The statement of opposition should be submitted in either paper form or by any other means of communication, including electronic, accepted in the Member State of origin and available to the court of origin. The statement of opposition can also be made by a representative of the

⁷ When answering these questions, please take into account that cross-border service in another Member State shall be governed by the Service Regulation (cf Reg. No 1393/2007 and Reg. No 2020/1784 recast). In this regard, the CJEU has clarified that where service has been carried out in violation of the requirements set out in the Service Regulation, the EOP does not become enforceable and the period in which the defendant may lodge a statement of opposition cannot start to run, so that Art. 20 EOP Reg. cannot apply (CJEU, 6 September 2018, in case C-21/17, *Catlin Europe SE v O.K. Trans Praha spol. s r.o.*)

⁸ See also EC PG III.5.2.1.

defendant (*ibid.*). Please address the relevant rules and practices concerning the filing of an opposition. Amongst others, please address issues such as the following: does national law accept applications filed in languages other than its official language? When an application is filed by paper, what are the relevant rules and requirements set out by national law regarding the application (e.g., does national law require the application to be filed in person, by letter, by registered post, etc.)? Does national law allow an application to be filed by electronic means?

Procedural documents may be submitted (i) by delivering them to the document reception unit of the court; (ii) by sending them by post; (iii) by submitting through the E-Service Portal of Lithuanian Courts (www.e.teismas.lt). Where documents are submitted electronically, a scanned or separate electronic signature is not required on them because the electronic signature is generated by the system to which the person must log in by one of the methods ensuring reliable authentication of the logged-in person. Where documents are submitted by post or at the court, the number of copies to be submitted to the court shall be equivalent to the number of parties involved in the proceedings, plus one additional copy for the court. Documents shall be submitted in the official Lithuanian language and if a document is in the language other than the official language, it shall be accompanied by a translation into the Lithuanian language certified by a translator. Documents shall be submitted via the E-Service Portal of Lithuanian Courts, sent by post or delivered to the court no later than 24:00 on the last day of the time limit. The same rules shall apply to the evidence attached to procedural documents.

2. Effect of the lodging of a statement of opposition. In accordance with Art. 17(1) EOP Reg. if a defendant submits an admissible statement of opposition the proceedings shall continue before the competent courts of the Member State of origin in accordance with the rules of ordinary civil procedure unless the claimant has explicitly requested that the proceedings be terminated in that event. Under Art. 7(4) EOP Reg. the claimant can make such a request at any time until the EOP is issued (see *supra*, pt. 5). In accordance with Art. 17(2) EOP Reg. the transfer to ordinary civil proceedings is governed by the law of the Member State of origin. Nothing under national law shall prejudice the claimant's position in any subsequent ordinary civil proceedings (EC PG III.4.1.). Which are the relevant rules and procedures governing the termination of the claim or the transfer of cases in accordance with Art. 17 EOP Reg.? Which is the competent authority/desk to make a determination concerning the termination or the transfer following an opposition?

When proceedings are terminated, the parties shall be informed of their rights and obligations, as well as of the consequences of their actions.

The court shall, subject to the rules of jurisdiction, decide the merits of the case it has accepted, even if it subsequently falls into the jurisdiction of another court, except for specified exceptions.

The court shall refer the case for hearing to another court or another chamber of the court by a ruling:

(1) if it acknowledges that it would be more expeditious and cost-effective to hear the case

in another court or chamber, in particular in the place where the majority of the evidence is to be found, except in cases of exclusive jurisdiction;

(2) if the defendant, whose place of residence was not previously known, requests that the case be transferred to the court of the place of his/her residence or to the chamber of the court of the place of his/her residence;

(3) if, following the recusal of one or more judges or the resignation of judges in a district court or in a chamber where the court is composed of chambers, or in the Civil Cases Division of the regional court, there are no more judges entitled to hear the case;

(4) if it comes out to light after the institution of proceedings at that court that it has been accepted in breach of the rules on jurisdiction;

(5) if the proceedings have been suspended on the grounds that the defendant is in bankruptcy or restructuring proceedings. In this case, it shall be referred to the court hearing bankruptcy or restructuring proceedings.

3. Enforceability. If no statement of opposition is lodged within the 30-day period the EOP is declared enforceable, subject to the court allowing sufficient time for the statement of opposition to arrive. (EC PG III.4.1.). The court will use Form G to declare that the EOP is enforceable and will send this to the claimant (*ibid.*). In accordance with Art. 18(2) EOP Reg., the formal requirements for enforceability are governed by the law of the Member State of origin (*ibid.*). Which is the authority/desk competent to declare an EOP enforceable and/or issue certificates of enforceability? Are the relevant rules or practices regarding the determination of the “sufficient time” between the expiry of the 30-day period for opposition and the issuance of a certificate of enforceability? How is the certificate of enforceability sent to the claimant? Which are the formal requirements for enforceability under your national law?

The judgment shall be declared as enforceable and final by the court that has rendered the judgment and heard the case. A certificate may be sent by post, collected at the registry of the court or submitted through the electronic system.

E. Possible remedies/defences for the parties

1. Remedies available to the claimant. See *supra*, pts. (B) 2-4.

2. Lodging of a statement of opposition. See *supra*, pts. (D) 1-2.

3. Review in exceptional cases in the Member State of origin (Art. 20(1) EOP Reg.). Once the 30-day period for lodging a statement of opposition has expired, the defendant shall be entitled to apply for a review of the EOP before the competent court in the Member State of origin in the following cases:

- a. The order was served by one of the methods provided for in Art. 14 EOP Reg., i.e. without proof of receipt by the defendant, and service was not effected in sufficient time to enable him to arrange for his defence, without any fault on his or her part.
- b. The defendant was prevented from objecting to the claim by reason of force majeure or due to extraordinary circumstances without any fault on his part, provided in either case that he acts promptly (EC PG III.5.2.2.).

4. Review in the Member State of origin where the European Order for Payment was wrongly issued (Art. 20.2 EOP Reg.). Once the 30-day period for lodging a statement of opposition has expired, the defendant shall be entitled to apply for a review of the EOP before the competent court in the Member State of origin where the order was clearly wrongly issued, having regard to the requirements laid down in the Regulation, or due to other exceptional circumstances (EC PG III.5.2.3.).

Which are the competent authority and the relevant rules of procedure regarding the application for review? Are there any steps or conditions to be mentioned in particular (e.g., need for an adversarial procedure, hearing?) How is the requirement that the defendant acts promptly and that s/he acts without fault appreciated? Are there any indications on the level of scrutiny applied by a court considering whether the EOP was “clearly wrongly issued” or whether there are any domestic rules that might impact the characterization of what constitutes “exceptional circumstances”?

A European order for payment shall be reviewed in the cases referred to in Article 20, paragraphs 1 and 2 of Regulation (EC) No 1896/2006 by the court which has issued the European order for payment.

Upon receipt of an application to review the European order for payment, the court shall forward copies of the application and its annexes to the claimant and shall inform that the latter shall provide a written answer within fourteen days. The court shall deal with the application to review the European order for payment under the written procedure not later than within fourteen days after the expiry of the time limit to submit an answer to the application and shall render a ruling with one of the decisions referred to in Article 20(3) of Regulation (EC) No. 1896/2006.

The court shall assess the circumstances for which no statement of opposition has been lodged on its own discretion; the criteria are not laid down in the law.

5. Remedy in case of lack of service of the initial EOP. In cases C-119/13 and C-120/13, the European Court of Justice held that the procedures laid down in Art. 16 to 20 EOP Reg. are not applicable where it appears that a EOP has not been served in a

manner consistent with the minimum standards laid down in Art. 13 to 15 EOP Reg.⁽⁹⁾. Which are the remedies under national law in cases where the EOP has been declared enforceable despite a lack of service of the initial order? ⁽¹⁰⁾ Please address, amongst others, issues such as competent authority, time limits, procedure for filing an application, hearing of the parties, etc.

In case if it becomes apparent after a European order for payment has been declared enforceable that that order has not been served in a manner which complies with the minimum standards laid down in Articles 13 of Regulation (EC) No 1896/2006, the defendant shall have the right under the Code of Civil Procedure of the Republic of Lithuania to request the reopening of the procedure for issuing the European order for payment. Such an application to reopen the procedure shall be lodged with the court that has issued the European order for payment within three months as of the date on which the defendant became aware or should have become aware of the ground for reopening the procedure. The extinctive (not-renewable) time limit for applying for the reopening of procedure shall be five years from the date the relevant procedural decision of the court became enforceable.

⁹ CJEU, 4 September 2014, in cases C-119/13 and C-120/13, *eco cosmetics GmbH & Co. KG v Virginie Laetitia Barbara Dupuy*, and *Raiffeisenbank St. Georgen reg. Gen. mbH v Tetyana Bonchyk*.

¹⁰ “Where it is only after a European order for payment has been declared enforceable that such an irregularity is exposed, the defendant must have the opportunity to raise that irregularity, which, if it is duly established, will invalidate the declaration of enforceability.”, CJEU in case C-119/13, just mentioned.

IV. Recognition and enforcement of EOP in other Member States

When LT is the Member State of enforcement

1. Competent authorities and applicable law. The authorities in the Member State of enforcement cannot review the circumstances or procedures that led to the issuing of the order except in the situations provided for by Arts. 22 and 23 (see *below*). No review as to the substance is allowed in the Member State of enforcement (EC PG IV.1.). The procedure for enforcement is governed by the law of the Member State of enforcement, without prejudice to the provisions of the Regulation (*ibid.*). The claimant must apply for enforcement to the court or authority competent for enforcement in the Member State where enforcement is required (EC PG IV.2.). Please provide a general overview of the first steps to be taken for the enforcement of an EOP under your national law, insofar as the answer to this question is not already covered by the Appendix on Enforcement.

The general rules set out in the above-referred Appendix shall apply.

2. Documents for enforcement. The claimant should provide the competent court or authority with a copy of the order, as declared enforceable by the court of origin, which satisfies the conditions necessary to establish its authenticity, and a declaration of enforceability (form G) (EC PG IV.2.). Which kinds of copy satisfy the conditions necessary to establish the authenticity of an EOP? How can the parties obtain such a copy (procedural steps, competent authority/desk, etc.)? Are there any applicable fees or other taxes and how should the applicant settle such payments?

Form G shall be completed by the judge who issued the European order for payment. No additional stamp duty shall be charged.

3. Languages and translations. The claimant may be required to provide a copy of the EOP in a different language from that used by the court of origin. As a general rule the EOP should be provided in the official language, or one of the official languages, of the Member State of enforcement unless that Member State has indicated that it will accept orders in another official language or languages of the European Union. Details of which languages are accepted by each Member State are available on the European Judicial Atlas. When checking the details a claimant should also bear in mind that in Member States where there is more than one official language it may be necessary to provide a translation into the language specified for a particular part or region of that Member State. Any translation shall be certified by a person qualified to do so in one of the Member States (EC PG V.3.). In LT, which are the languages accepted for the purposes of enforcing an EOP? Which are the

persons qualified to do translations of an EOP when needed⁽¹¹⁾? Which are the costs that the creditor sustains for such translation?

Documents shall be submitted in the official language – Lithuanian. Translations of documents shall be made by a qualified translator and signed by his/her signature. Such expenses shall be paid by the claimant, however, he/she may request during the proceedings to award the translation costs that have already been actually incurred.

4. Application for refusal of enforcement under Art. 22 EOP Reg. The defendant has the possibility to apply for a refusal of enforcement if one of the grounds for refusal set out in Art. 22 EOP Reg. apply (see EC PG IV.4.1.). Which is the national authority and the applicable rules and procedures regarding an application for refusal of enforcement? Are there any specific steps or conditions to be mentioned in particular (e.g., is the procedure adversarial, does the procedure require a hearing, does national law require that the parties be represented by a lawyer?)?

Such applications shall be heard by the Court of Appeal of Lithuania. Representation shall not be obligatory.

Such applications shall conform to the general requirements set for procedural documents, including the requirement to submit the application and its annexes in the official language or attach the translation of these documents into the Lithuanian language. If the applicant resides outside the Republic of Lithuania and has not designated a representative in the proceedings or an authorised person for the service of procedural documents who resides (has a professional domicile) in the Republic of Lithuania (Article 805 of the Code of Civil Procedure of the Republic of Lithuania), the application to allow enforcement of a judgment of the Member State of the European Union shall state the address in the Republic of Lithuania or the address of telecommunication terminal equipment to which procedural documents would be served to the applicant. An application to allow enforcement of a court judgment of the Member State of the European Union shall be exempt from the stamp duty.

Such applications shall be heard by a single judge of the Court of Appeal of Lithuania. Upon identifying that the application has been submitted without adhering to the procedure set out in the regulations of the European Union, this Law or the Code of Civil Procedure of the Republic of Lithuania, the court shall consider that it has not been submitted and shall return it to the applicant and the application, which has already been accepted by the court, shall be left unconsidered. The court shall set the time limit to eliminate the shortcomings of the form or content of the application (Article 115 of the Code of Civil Procedure of the Republic of Lithuania), if the applicant resides in the Republic of Lithuania, has indicated an address in the Republic of Lithuania or an address of communications terminal equipment for the service of procedural documents to the applicant, or has designated a representative in the proceedings or an authorised person to accept procedural documents who resides (or has a professional domicile) in the

¹¹ Please note that it is not specified that the translation shall be asked in the Member State of origin or in the Member State addressed: both should be possible.

Republic of Lithuania (Article 805 of the Code of Civil Procedure of the Republic of Lithuania). If the shortcomings are not eliminated within the time limit set by the court, it shall be considered that the application has not been submitted and shall be returned to the applicant, and the application, which has already been accepted by the court, shall be left unconsidered. The court shall decide on the issue by rendering a ruling under the written procedure.

An application for review a ruling rendered by of a single judge concerning the application at issue shall be heard by a chamber of three judges of the Court of Appeal of Lithuania. The rules for hearing separate appeals shall apply *mutatis mutandis* to such applications. A judge who has rendered this ruling may not be appointed to the chamber of judges of the Court of Appeal of Lithuania to review the ruling passed by a single judge. After examining the application for review and deciding to revoke the ruling, the court shall dispose of the matter on the merits. This ruling shall become enforceable as of the day of its rendering. The court's ruling may be appealed against by an appeal in cassation to the Supreme Court of Lithuania under the procedural rules at the court of cassation.

5. Stay or limitation of enforcement Art. 23 EOP Reg. The defendant may apply for a stay or limitation of enforcement of the EOP (see Art. 23 EOP Reg.) where the defendant has applied for a review within the meaning of Art. 20 EOP Reg. In such cases, the competent court in the Member State of enforcement may: (i) limit the enforcement proceedings to protective measures; or (ii) make enforcement conditional on the provision of such security as it shall determine; or (iii) under exceptional circumstances, stay the enforcement proceedings (see EC PG IV.4.2.). Considering the cases in which the creditor has pursued the enforcement in LT and at the same time the debtor has filed for a review under Art. 20 EOP Reg. in the Member State of origin, how does the debtor apply for stay or limitation of enforcement under Art. 23 EOP Reg. in LT? Are there any procedural steps or conditions to be mentioned in particular? Considering the measures listed under Art. 23 EOP Reg., which measures do your national courts have the power to issue (please compare specifically with letters (a), (b) and (c))?

The applications referred to in Article 23 of Regulation No. 1896/2006 to stay or limit the enforcement of the European order shall be heard by the district court of the place of enforcement. National law does not impose any restrictions on the court's choice of any of the alternative measures set out in the above-referred Article of the Regulation. Any issues reserved for the court's discretion shall be decided by the court in accordance with the criteria of justice, reason and fairness (Article 3(8) of the CCP of the Republic of Lithuania).