

Template for the EFFORTS Practice Guide for the application of the Regulation on the European Small Claims Procedure

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I. Introduction

The paragraphs below address the concrete implementation of Regulation No 861/2007 (as amended by Regulation No 2015/2421) establishing a European Small Claims Procedure (hereinafter indicated as “**ESCP**” and “**ESCP Reg.**”) into the national law of [BE, DE, FR, HR, IT, LT, LU]. In doing so, it integrates and supplements the European “Practice Guide for the Application of the European Small Claims Procedure” published by the Commission on the [e-Justice Portal](#)⁽¹⁾.

Following the structure of the European Practice Guide, the present section will address, in turn: questions related to the scope of application of the ESCP (II), the commencement of the procedure (III), the procedure to be followed after the court receives the claim (IV), the rules applicable to the establishing of the facts (V), the ESCP judgment (VI), the review and appeal mechanisms (VII), and the recognition and enforcement of ESCP judgments (VIII).

II. The ESCP: Scope of application

When LT is the Member State of origin

1. Material scope of the ESCP Reg. Pursuant to Art. 2 ESCP Reg., the Regulation applies to “civil and commercial matters, whatever the nature of the court or tribunal, where the value of a claim does not exceed EUR 5 000 at the time when the claim form is received by the court or tribunal with jurisdiction, excluding all interest, expenses and disbursements”. Regarding the financial limit, Art. 2(1) ESCP Reg. sets out how the value of the claim is to be determined (EC PG 2.1.1.). Unlike the procedure for the European Order for Payment which is limited to monetary claims, non-monetary claims can be the subject of a claim under the ESCP (EC PG 2.1.2.). If the claim is non-monetary, it must be given a value which falls within the financial limit of the ESCP (EC PG *ibid.*). Which are the relevant rules or practices regarding the evaluation of a non-monetary claims in LT? How have they an impact on the applicability of the ESCP Reg. in LT?

Where a non-monetary claim can be evaluated in an amount of money (i.e. if the claimant acquires a property of a specific amount or avoids a liability of a specific amount if the claim is settled), then the amount of the claim shall be determined on the basis of such amount of money. Article 85 of the Code of Civil Procedure of the Republic of Lithuania lays down the following rules for determining the amount of the claim:

- (1) in cases concerning the recovery of money – according to the amount claimed;
- (2) in cases concerning the recovery of property – according to the market value of the property to be recovered;
- (3) in cases concerning the recovery of awarded maintenance in periodic payments – according to the total amount of the payments for one year;
- (4) in cases concerning fixed-term payments or allowances – according to the total amount of all payments or allowances, but not for more than three years;
- (5) in cases concerning open-ended or life-long benefits or allowances – according to the total amount of the benefits or allowances for three years;
- (6) in cases concerning the reduction or increase of benefits or allowances – according to the amount by which the benefits or allowances are reduced or increased, but not for more than for one year;

¹ The European Practice Guide prepared by the Commission is available at: ‘European E-Justice Portal – Small Claims’ <https://e-justice.europa.eu/42/EN/small_claims> accessed 21 April 2022.

(7) in cases concerning the termination of benefits or allowances – according to the total amount of outstanding benefits or allowances, but not for more than one year;

(8) in cases concerning the non-material damages – according to the amount claimed;

(9) in cases concerning rights *in rem* in respect of property – according to the market value of the property;

(10) where a claim consists of several independent claims – according to the total amount of all the claims;

(11) in cases concerning the annulment of transactions – according to the amounts to be repaid by the defendant or according to the market value of the assets to be returned by the defendant, if the annulment of the transaction would lead to restitution.

Where the amount of a claim cannot be determined in accordance with these rules, the claim shall be treated as non-pecuniary (not subject to valuation).

2. Geographical scope of the ESCP Reg. (cross-border cases). The ESCP only applies to cases defined as 'cross-border', that is cases in which at least one of the parties is domiciled or habitually resident in a Member State other than that of the court or tribunal seised with the claim (EC PG 2.2.2.). In Article 3(3) it is provided that the relevant moment for determining whether a case is a cross-border case is the date on which the Claim Form is received by the competent court or tribunal (EC PG *ibid.*). Furthermore, Art. 3(2) ESCP Reg. provides that the domicile should be determined according to Art. 62 and 63 BI bis Reg. According to these provisions, the domicile of physical persons should be determined in accordance with national law. Which are the national 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 is 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. Commencing the Procedure

When LT is the Member State of origin

1. Access to the form. In accordance with Art. 4 ESCP Reg., the claimant shall commence the procedure by filling in Claim Form A (Annex 1) (EC PG 3.1). The Claim Form should be available at all courts and accessible through relevant national websites (Article 4(5)) (*ibid.*). Which are the offices/desks/website where a claimant may find the ESCP Claim Form A? Please include any relevant information on how to access it, including any relevant hyperlinks and/or references to the pertinent section of the e-Justice Portal, etc.

The forms are available on the E-Service Portal of Lithuanian Courts <https://e.teismas.lt/public/home/>. E-Justice portal also has a link to this website. The link, however, is to the Lithuanian language version of the website and not to the specific forms, but to the home page of the website. The forms can also be accessed via this link: https://e-justice.europa.eu/177/EN/small_claims_forms?clang=en.

2. Practical assistance. Since through Art. 11 ESCP Reg. the Member States are under the duty to ensure that the parties can receive practical assistance in filling in the forms, such assistance should be available in all the Member States as regards completion of the Claim Form as well as all the other forms (EC PG 3.1). In accordance with Article 25(1)(c) information on the organisation of the practical assistance has to be provided to the European Commission. This information is made available on the e-Justice Portal (*ibid.*) (on practical assistance, cf. also EC PG 9.2.2.). Which are the authorities/institutions/offices set up to provide practical assistance under the ESCP Reg.? Which are the procedures to file a request for assistance under such authorities/institutions/offices? Please include any relevant information, including any relevant hyperlinks and/or references to the pertinent section of the e-Justice Portal, etc.

Representation by a lawyer is not necessary in proceedings under the ESCP. Courts should provide practical assistance in filling in the forms, however, not concerning the content of the application. A person may apply for legal aid (https://e-justice.europa.eu/42/EN/small_claims?LITHUANIA&member=1).

The practical assistance and information referred to in Article 11(1) of Regulation (EC) No 861/2007 shall be provided to the parties by entities providing primary State-guaranteed legal aid – municipal staff or university law clinics that have contracts for the provision of primary legal aid.

3. Legal aid. The ordinary provisions on legal aid apply in the Member States (EC PG 3.1). Which are the rules applicable to legal aid in your jurisdiction within the context of the ESCP and how could the parties make a request to receive it? Are there any particular steps or limitations that should be mentioned in particular regarding the ability to seek legal aid in your jurisdiction?

State-guaranteed legal aid is provided to persons who are citizens of the Republic of

Lithuania or the EU, or who legally reside in the Republic of Lithuania or in another EU Member State, if the person's (his/her family's) assets and annual income do not exceed the levels of assets and income established by the Government of the Republic of Lithuania.

The Legal Aid Service, however, may refuse satisfying an application for legal aid, if:

- the claims are manifestly unfounded;
- representation in the case has no reasonable prospects of success;
- the application concerns a claim arising directly out of the trade or self-employed professional activities;
- it is possible to obtain required legal services without resorting to State-guaranteed legal aid;
- legal aid has been requested with respect to the violation of the rights other than one's own, except in the cases of representation under the law;
- the claim for which secondary legal aid is sought has been transferred for the purpose of receiving State-guaranteed legal aid;
- there is abuse of State-guaranteed legal aid, one's substantive or procedural rights;
- it is disagreed to pay a fixed proportion of the costs of secondary legal aid;
- after a substantive examination of the claim, the service finds that the potential costs of secondary legal aid would exceed the amount of pecuniary claims (pecuniary interests);
- secondary legal aid has been provided in another case, however, all or part of the costs of the secondary legal aid have not been paid until the time limit set;
- the service establishes that the person concerned is capable of exercising or defending his/her rights or protecting his/her interests without the assistance of a lawyer;
- the documents required for secondary legal aid have not been submitted within the time limit set by the service;
- the dispute in respect of which secondary legal aid is sought has been settled by conciliation in accordance with the procedure laid down in this Law and the parties have concluded a settlement agreement, however, the parties have not agreed to submit it to the court for approval.

Secondary legal aid is also granted without taking into account a person's (family's) assets and income in the following cases:

- victims in proceedings for compensation of damage incurred through criminal offences, including the cases when the issue of compensation for damage is heard as part of a criminal case;
- persons receiving a social allowance under the Republic of Lithuania Law on Cash Social Assistance for Poor Residents;
- persons maintained in stationary care institutions;
- persons recognised as incapable for work or severely disabled or of pensionable age with the established level of high special needs, also guardians/caretakers of these persons when State-guaranteed legal aid is required to represent and defend the rights and interests of the person under guardianship/caretaking;
- persons who have presented proof that they may dispose freely only of part of their assets and income due to objective reasons and this part does not exceed the levels of assets and income set by the Government of the Republic of Lithuania entitling to legal aid;
- debtors in enforcement proceedings, when a recovery is levied against the last housing where they reside;

- minor children, when the issue of their eviction is being considered, parents or other legal representatives;
- minor children, when they independently apply to a court for the defence of their rights or interests protected under law in the cases specified by laws, with the exception of those minors who are married or declared by the court as fully capable (emancipated);
- other persons in the cases provided for in international treaties of the Republic of Lithuania.

More detailed information is available at <https://vgtpt.lrv.lt/lt/asmenims-norintiems-gauti-valstybes-garantuojama-teisine-pagalba/kam-teikiama-valstybes-garantuojama-teisine-pagalba>.

4. Competent court or tribunal. National rules of the Member State seised determine the local court having competence (EC PG 3.2.2.). For the purposes of the ESCP, a court or tribunal should include at least one person qualified to serve as a judge under the law of the Member State of the court where the claim is proceeding (See Recital (27) ESCP Reg.) (EC PG 5.6.2.). What are the national “courts”, within the meaning of the Regulation, competent for the ESCP (excluding enforcement)? 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 without competence (e.g., automatic transfer of cases)?

Cases under the ESCP are heard in district courts. The specific district court is determined according to national rules. 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 to the ESCP 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 claim 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.

5. Description of the claim. The factual basis of the claim to be given in box 8 of the Claim Form needs to be supported by as much written material as is necessary to enable the court which receives the claim to determine the value of the claim, the basis of the claim and the evidence which supports the claim. If this is not done, there is a risk that the court may reject the claim as unfounded or, at the very least, require further information from the claimant which will cost time and delay the procedure (EC PG 3.3.1.1.).

For a claim to be admissible, the basis and subject-matter of the claim shall be stated. The rules set out in the CCP of the Republic of Lithuania on the mandatory elements of a claim do not apply to the claim under the ESCP, because the forms of the ESCP Regulation apply – the relevant form shall be completed.

6. Interest. Although the claim is assessed without taking interest claimed into account, the interest figure or rate still has to be stated, as does the basis on which interest has accrued or is accruing to the principal claim (EC PG 3.3.2.). 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. Please take into account the answer given in EOP Practice Guide III.A.1.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.

7. The cost of lodging a claim. In accordance with Art. 15a ESCP Reg., court fees need to be proportionate and not be higher than those charged for comparable national procedures. Distance means of payment should be available by way of either (a) bank transfer; (b) credit or debit card payment; or (c) direct payment from the claimant's bank account (EC PG 3.4.). Are there any applicable court fees related to the ESCP in your jurisdiction? If so, how should such payments be settled? Please include specific references and links to the relevant sections of the e-Justice portal and/or national websites dealing with these issues.

A claim under the ESCP, like any other claim, shall be subject to the stamp duty defined in 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. Other stamp duty amounts of pecuniary claims are not relevant, as they apply where the amount claimed exceeds EUR 30,000, which is above the claim amount limit set in the ESCP.

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 is payable.

Sending the claim to the court. The form should be lodged by post or by any other means of communication, such as fax or e-mail, acceptable to the Member State in which the procedure is commenced (EC PG 3.1 and EC PG 3.6). Because the ESCP is intended to be essentially a written procedure, it is necessary to send with the Claim Form all necessary supporting material in the shape of documentary evidence (EC PG 3.5.). Even if a court could accept the Claim in electronic form it may not be possible to send the supporting material electronically and so it would make sense to send the Claim Form with the documentary material by some other means acceptable to the court (EC PG 3.6). What are the means of communications accepted by national law regarding the initial claim (please include references to the information published on the e-Justice Portal and/or national websites, if relevant)?

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? 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.)? Are there any particular rules to be followed concerning the filing of the supporting materials?

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).

8. Language. Under Art. 6(1) ESCP Reg., the Claim Form must be submitted in a language of the court or tribunal, and this also applies to the description of the supporting documents in Part 8.2 of the Claim Form (EC PG 3.7). Does national law accept applications filed in languages other than its official language?

No, documents shall be submitted in the official language – Lithuanian. Documents in languages other than Lithuanian shall be translated and certified by a translator. If documents or annexes are submitted in the language other than Lithuanian, the court usually sets a time limit for remedying the deficiencies, i.e. for submitting properly translated documents.

9. Court settlements. In accordance with Art. 12(3) ESCP Reg. the court is placed under a duty to seek a settlement between the parties (EC PG 3.8.). This duty is, however, not confined to the oral hearing but extends throughout the proceedings on claims and counterclaims (*ibid.*). Are there any relevant rules or practices in your jurisdiction concerning the court's duty to seek a settlement between the parties in the course of the ESCP?

The court encourages the parties to reconcile: this offer to reconcile or to try mediation is made by the court orally at an oral hearing or in writing when sending judicial procedural documents. Mediation is not mandatory in proceedings under the ESCP.

IV. Procedure after the Court receives the claim

When LT is the Member State of origin

1. Claim falling outside of the scope of the ESCP Reg. If the court concludes that the claim is outside the scope of the Regulation, say if it deals with subject matter which cannot be the basis of a claim under the ESCP or if the value of the claim is above the financial limit of the ESCP, under Art. 4(3) ESCP Reg. it must notify the claimant of this. The claimant can then decide to withdraw the claim or, if she or he does not do so, the court is required to proceed with it under an appropriate national procedure (EC PG 4.1.2.). Which are the relevant rules or practices in your jurisdiction concerning the initial evaluation of the claim and the information of the claimant where a claim falls outside the scope of the ESCP (e.g., which is the competent authority/desk to perform the initial examination of the claim, which is the form of such determination, how is the determination communicated to the claimant)? Which are the relevant rules or practices concerning the withdrawal of the claim by the claimant? Which is the “appropriate national procedure” that can be followed in case a claim falls outside the scope of the ESCP? Are there any particular steps or conditions to be mentioned in this regard (e.g. rules on transfer)?

The admissibility of a claim is assessed by the court (the particular judge assigned to the case) after it has been submitted. The court passes a resolution or ruling concerning the admissibility of the claim or concerning the deficiencies identified, and the time limit and manner of their elimination. The court informs the claimant by a notification to be sent through the electronic judicial system or by post.

The claimant has the right to withdraw the claim before the court has sent its copy to the defendant. Thereafter, the claim may be withdrawn only with the defendant's consent and not later than before a judgment of the first instance court is rendered. The withdrawal of a claim shall be formalised by the court by a ruling whereby its leaves the claim unconsidered. If an application for withdrawal of a claim is received before the acceptance of the claim, the court rules that the claim has not been received and returns it to the person who has submitted it.

2. Request to the claimant to complete or rectify the claim form. Unless the court takes the view from the outset that the claim is unfounded or completely inadmissible, in which case it can dismiss the claim, the court can request the claimant to complete or rectify the Claim Form or to supply supplementary information or documents (EC PG 4.1.1.). Such a request is to be made using Form B prescribed by the Regulation (EC PG 4.1.3.). In the form, the court sets out the time by which the claimant must provide the information requested or return the rectified form. Art. 14(2) ESCP Reg. provides that this time limit may be extended by the court in exceptional circumstances (EC PG 4.1.3.). Which are the relevant rules or practices in your jurisdiction concerning the request to the claimant to complete or rectify the form (e.g., competent authority, procedure, means of communications)? Which are the relevant rules or practices in your jurisdiction concerning the time limits by which the claimant must provide the information requested? Are there any examples of “exceptional circumstances” that may be relevant to the court’s decision regarding an extension of the time limit?

Even if the court finds any deficiencies, the date of submission of the claim shall be deemed to be the date of submission of the original claim, irrespective of the date on which the court accepts the claim. If the court finds any deficiencies, it shall also set a time limit for remedying the deficiencies. Such time limit is set by the court itself and the person may request its extension by stating the important circumstances justifying such request. If a person misses a procedural time limit for the submission of documents, the court may reinstate the time limits for the submission of documents. Such circumstances may include, for example, the person's illness, objective inability, etc.

3. Dismissal of the initial claim. Where the claim appears to be clearly unfounded or the application inadmissible or where the claimant fails to complete or rectify the claim form within the time specified, the application shall be dismissed. The court or tribunal shall inform the claimant of such dismissal and whether an appeal is available against such dismissal (Art. 4(5) ESCP Reg.). *The effect of dismissal on [the ground that the claimant did not provide the information requested or return the rectified form in due time, or the fact that the form is still filled in incorrectly or in the wrong language] is not to decide the substance of the claim which could be re-made as a European small claim or under the appropriate national procedure (EC PG 4.1.3.).* Are there any additional requirements or conditions to be taken into account when assessing the admissibility of the claim in your jurisdiction (e.g. obligation to attempt an amicable settlement of the claim as a condition of admissibility)? Is an appeal available against the dismissal (if yes, please indicate the relevant rules and procedures that should apply)?

In deciding on the admissibility of a claim, the court assesses only the formal requirements and does not assess the content of the claim. Such requirements include, *inter alia*, the language of procedural documents, the mandatory elements of the content, etc. The court does not normally refuse to accept a claim on the grounds that it is manifestly unfounded – the content of the claim is assessed only during the case hearing on the merits. If the court refuses to accept a claim, a separate appeal may be submitted in the same way as concerning the ruling that prevents further proceedings. A separate appeal shall be lodged through the court that has rendered the judgment under the appeal within 7 days as of the date of service of the ruling dismissing the claim. The general rules of procedural documents (including the language and manner of submission) shall apply to the separate appeal. If the court refuses to accept a claim, it shall be considered that the claim has not been submitted and the person may apply to the court with a similar claim once again.

4. Communication of the claim to the defendant. *The court sends to the defendant a copy of the Claim Form and the supporting documents along with Answer Form C of which the court has to complete the first part (EC PG 4.2.1.). According to Art. 13(1) ESCP Reg., the court has to send Form C with the copy of the Claim Form and supporting documents in one of the following ways: (a) by postal service, or (b) by electronic means (EC PG 4.2.3.)²*

² Please note that the Service Regulation applies to cross-border notifications.

(provided that the requirements set out in Art. 13(1) ESCP Reg. are fulfilled). Which are the relevant rules and practices concerning the communication of the claim to the defendant in your jurisdiction? Are there any specific steps or conditions to be mentioned in particular?

The court shall serve documents by post or through the court 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. Electronic communications. In accordance with Art. 13(2) ESCP Reg., other written communications between the court and the parties or other persons involved in the proceedings shall be carried out by electronic means attested by an acknowledgment of receipt, where such means are technically available and admissible in the Member State where the procedure is conducted, provided that the party or person has accepted in advance such means of communication or is, in accordance with the procedural rules of the Member State in which that party or person is domiciled or habitually resident, under a legal obligation to accept such means of communication (EC PG 4.2.3.2.). If service by post or electronically, within the meaning of Art. 13(1) ESCP Reg., is not possible, Art. 13(4) prescribes the rules of Art. 13 or 14 EOP Reg (EC PG 4.2.3.3.). Are there any electronic means available in your jurisdiction concerning the communications covered by Art. 13(2) ESCP Reg.? Please briefly describe how these means meet the requirements of the ESCP Reg. Which are the relevant rules and practices in your jurisdiction governing communications under the ESCP Reg. in cases where electronic means are not available? Is communication by post generalised or are there any instances where the default rules of service shall apply?

Procedural documents shall be sent by post or via the e-system of courts. 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). If a person does not have access to the electronic system of courts and is not obliged to receive documents through the system, the court shall send the documents by post. When service is effected on a person abroad, the service shall be carried out either through the e-service system or in accordance with the provisions of the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters.

6. Defendant's response. The defendant shall submit his response within 30 days of service of the claim form and answer form, by filling in Part II of standard answer Form C, accompanied, where appropriate, by any relevant supporting documents, and returning it to the court or tribunal, or in any other appropriate way not using the answer form (Art. 5(3) ESCP Reg.). How is the response submitted to the court? Are there any other relevant rules

or practices in your jurisdiction concerning the defendant's response (with reference, in particular, to "any other appropriate way")? Are there any steps or conditions to be mentioned in particular (e.g., language requirements, rules applicable to the production of supporting documents, etc.)?

The same rules as those applicable to the service of a claim shall apply.

7. Counterclaim. If the defendant states a counterclaim then, as provided by Art. 5(7) ESCP Reg., all the provisions of the Regulation, specifically Art. 4, and 5(3) to 5(5) as well as Art. 2, will apply to the counterclaim as to the principal claim (EC PG 4.5.). Are there any rules in LT that may have an impact on counterclaims raised within the context of an ESCP?

The same rules as those applicable to the service of a claim shall apply. A counterclaim shall be submitted before moving to the case hearing on the merits. The court may refuse to accept a counterclaim lodged at a later stage if it decides that it is likely to delay the proceedings.

8. Enforcement of court settlements. Article 12(3) provides that the court or tribunal shall make efforts to reach a settlement between the parties in the course of the proceedings. In accordance with Article 23a ESCP Regulation a settlement that is either approved by or concluded before a court or tribunal in the course of the ESCP and that is enforceable in the Member State where the procedure was conducted shall be recognised and enforced in other Member States on the same basis as a judgment in the ESCP. Are there specific rules to be mentioned concerning the conclusion or the enforcement of court settlements in your jurisdiction?

The parties who have concluded a settlement agreement in the proceedings may submit it to the court for approval. In such a case, the court shall assess whether the settlement agreement has been made by a free will of the parties and whether it does not contain any unlawful and/or unenforceable provisions, and shall decide on the issue of its approval by a court ruling. The settlement agreement approved by a court ruling shall have the force of a judgment and shall be an enforceable instrument. Enforcement orders on the basis of the settlement agreements approved by the court shall be issued by court rulings after verification to what extent the settlement agreement has not been performed.

V. Establishing the facts

When LT is the Member State of origin

1. Evidence. Art. 9 ESCP Reg. provides that the court is to specify the means of taking evidence, that it shall use the simplest and least burdensome method of taking evidence, and will hear oral evidence and evidence from expert witnesses only if it is necessary to do so in order to be able to give a judgment (EC PG 5.1.2.). Expert evidence or oral testimony may

only be taken if it is not possible to give the judgment on the basis of other evidence, in accordance with Article 9(4) (EC PG 5.4.). Which are the means of taking of evidence in [LT applicable in the context of the ESCP?

A claim may be based on written evidence, including expert or specialist reports, electronic documents (e-mails, e-correspondence, SMS messages), audio/video recordings, and witness statements. The burden of proof lies with the claimant, each side shall prove its own allegations, and the particular side shall decide on the evidence to support its position. Evidence may be requested by a court ruling from the other party or from a third party, if the court so decides. Evidence may be secured by a court ruling, and such ruling may be forwarded to a judicial officer for enforcement.

2. Additional information. Art. 7(1)(a) ESCP Reg. also enables the court to request further details concerning the claim once a response has been received regarding the claim or counterclaim after service. The court sets a time limit within which the information has to be provided and, as provided by Art. 14(2) ESCP Reg., that time limit can also be extended in exceptional circumstances. Under Art. 7(3) ESCP Reg., as read with Art. 14(1), the court has to inform the party to whom the request is made about what the consequences will be if the time limit is not complied with (EC PG 5.2.)³. Which are the consequences of not complying with the time limit for further details concerning the claim (Art. 7(1)(a)) under national law in LT?

The court may apply the presumption of *contra spoliatorem* or impose a procedural penalty if there are grounds for doing so. A judicial officer may be contacted to enforce a court ruling to secure evidence.

3. Hearing. It is for the court to decide whether to have a hearing to determine the facts. This follows the principle set out in Article 5(1) that the ESCP shall be a written procedure (EC PG 5.3.1.). If the court refuses a request for an oral hearing, it must give its reasons in writing (EC PG 5.3.2.). Which are the rules or the practices regarding the scheduling, organisation, and conduct of hearings in LT within the context of the rules applicable to the ESCP?

The court hearing the case shall be entitled to decide on its own in what form and procedure to hear the case, if the amount of a dispute does not exceed EUR 2000 (Article 441 of the CCP of Lithuania). Such cases shall be heard under the oral procedure, if this is requested by at least one party. Otherwise, cases shall be heard under the normal oral procedure.

A hearing at first instance court shall be held under the oral procedure in the alternative or

³ On time limits, cf also Art. 14(2) ESCP Reg., which provides that certain time limits can be extended but only in exceptional circumstances and that also applies to the 30-day periods set out in Art. 7 ESCP Reg (EC PG 5.7.; see also 6.2.).

with the physical presence of the parties, or remotely via the ZOOM platform, or in a hybrid format with some parties present in person and others remotely. The court has the discretion to decide how to organise oral hearings.

4. Use of ICT technologies in hearing and taking of evidence. As the actual use depends on the technology available in the court seised, the use of ICT during the procedure is not compulsory (EC PG 5.5). Are the ICT technologies implemented for hearings and for the taking of evidence in LT within the context of the rules applicable to the ESCP ?

Yes, at the discretion of the judge hearing the case, remote hearings can be held via the ZOOM platform, or in hybrid hearings where some of the participants are present in person and others via ZOOM. Documents may be submitted to courts via the electronic system of courts. Courts mainly communicate with the parties to the proceedings through the electronic judicial system.

5. Conduct of the procedure and information of the parties. The court has generally to manage the procedure in accordance with the principles of adversarial process and the right to a fair trial of the case (EC PG 5.6.1.). The duty of the court to control and determine the procedure in the ESCP is reinforced by Art. 12(2) ESCP Reg. whereby the court also has the duty to support the parties as regards procedural matters by informing them about procedural questions, and it follows from Recital (9) that the court in so doing must be even-handed as between the parties in order to ensure the fairness of the procedure. The duty to inform the parties about procedural questions can be carried out in various ways depending on national procedures (EC PG 5.6.2.). Please mention any rules that the creditor or the debtor may avail themselves for the safeguard of their right to be heard, according to the principles of the adversarial process

The court normally allows both parties to state their position: if one party submits new evidence, the court may, at its discretion or at the request of the other party, allow the other party to state its position on the admissibility and content of such new evidence. After a judgment in default, a person may, within the time limit, request a review of such judgment within 20 days (without stating reasons of his/her absence in the proceedings).

VI. The judgment

1. Default judgment. If the defendant does not answer the claim within the period of 30 days from service of the Claim Form and the Answer Form, Form C, the court shall issue the judgment (EC PG 6.1.1.). Where the default concerns a counterclaim, it is to be presumed that the claimant will wish to pursue the principal claim (see EC PG 6.1.2.). Which are the rules on default judgments in LT that may have an impact within the context of the ESCP?

If a party fails to submit procedural documents in time, a judgment in default may be given. Review of a judgment in default shall be requested within 20 days, without stating the reasons of absence in the proceedings.

2. Form and language of the judgment. It is implicit from the fact that the judgment in a European Small Claim has to be served on the parties that it should be in written form. Otherwise there is no particular form and content of the judgment specified in the Regulation and, following Art. 19 ESCP Reg., these will therefore be determined by the law of the Member State in which the court hearing the claim is situated (EC PG 6.3.1.). The Regulation does not specify that the judgment should be written in a language other than the language of the court which issues it given that the judgment is to be served on the parties, however, it will be necessary for the appropriate language version to be available for service in order to meet the terms of the relevant EU law on the subject (EC PG 6.3.2.). Which are the relevant rules or practices regarding the form and content and the language of the judgment in your jurisdiction?

A judgment shall be written in the official language on behalf of the Republic of Lithuania.

3. Service of the judgment. Once the judgment has been issued, Art. 7(2) ESCP Reg. provides that it must be served on the parties using one of the methods of service specified in the Regulation (EC PG 6.3.3.). Which are the relevant rules or practices concerning the service of the judgment in your jurisdiction (e.g., competent authority, procedure, requirements regarding copies of the judgment)? Please take into account the requirements of the Service Regulation in case of cross-border service.

Procedural documents, including a judgment, shall be sent by post or via the e-system of courts. 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). If a person (other than the person indicated above) does not have access to the electronic system of courts and is not obliged to receive documents through the system, the court shall send the documents by post. When service is effected on a person abroad, the service shall be carried out either through the e-service system or in accordance with the provisions of the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters.

4. Costs. The judgment will contain an order for payment of costs (EC PG 6.4.). Art. 16 ESCP Reg. provides that costs should not be awarded if they are unnecessarily incurred or are disproportionate to the claim (*ibid.*). Subject to that principle, the rule to be applied following Art. 16 of the Regulation is that the unsuccessful party should be ordered in the judgment to meet the costs of the proceedings and these are to be determined under the relevant national law (*ibid.*). Which are the relevant rules and practices in your jurisdiction

concerning the calculation of costs? Are there any particular steps or conditions regarding the award of costs (e.g., timing and procedure applicable to a claim for costs)? Which are the relevant rules or practices concerning the allocation of costs in your jurisdiction in cases where neither party is entirely successful?

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.

VII. Review and appeal

1. Review under the ESCP. Art. 18 ESCP Reg. sets out the minimum standards for review of the judgment. [The defendant who did not enter an appearance shall be entitled to apply for a review of the judgment – using the available procedure under national law \(EC PG 7.1.1.\).](#) Which is the competent authority to handle the review under Art. 19 ESCP Reg.? Which are the rules and procedures applicable to such review? Are there any steps or conditions to be mentioned in particular? (If relevant, please include references to the relevant section of the e-Justice Portal or national website).

A judgment given under the European small claims procedure shall be reviewed by the court that made the judgment in the cases referred to in Article 18(1) of Regulation (EC) No 861/2007.

Upon receipt of an application to review a judgment, the court shall forward copies of the application and its annexes to the claimant and inform that the latter shall provide a written answer within fourteen days as of the day of sending of the application.

The court shall deal with the application to review the judgment 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 18(3) of Regulation (EC) No. 861/2007.

Where an appeal and an application to review a judgment is submitted in one and the same European small claim proceedings, a decision on the appeal shall be taken first.

2. Appeal. Under Art. 17 ESCP Reg., the question of whether or not an appeal against the judgment is available in the Member State where the judgment is issued is a matter regulated under the national law of the Member States (EC PG 7.2.). The information on whether an appeal is available and if so which court is competent is available on the e-

Justice Portal (*ibid.*). The question of whether legal representation remains optional at the appeal stage is not explicitly settled by the ESCP Reg. However, the provisions of Art. 16 ESCP Reg. on costs also apply to appeals of an ESCP judgment (see EC PG 7.3.). Is an appeal against an ESCP judgment available in your jurisdiction? If so, which is the competent authority to handle it? Which are the rules and procedures applicable to the appeal? Are there any steps or conditions to be mentioned in particular? Which are the relevant rules regarding legal representation? (If relevant, please include references to the relevant section of the e-Justice Portal or national website).

Judgments rendered under the European small claims procedure may be subject to appeal under the appeal procedure to an appeal instance court – regional courts according to the territorial rules in this case. An appeal shall be submitted within 30 days after the day of rendering of the judgment under appeal.

VIII. Recognition and enforcement

1. Request and issuance of the certificate of enforceability. Art. 20(2) ESCP Reg. provides that at the request of one of the parties, the court or tribunal shall issue a judgment certificate using the standard Form D (Annex IV) at no extra cost (EC PG 8.1.1). This certificate has to be issued by the court which gave the judgment under the ESCP at the request of one of the parties. Such a request can be made at the outset of the procedure, for which there is space provided in paragraph 9 of the Claim Form, Form A and, although this is not specified expressly in the Regulation, at any stage after the judgment has been issued (EC PG 8.3.1.). Which is the national authority competent to issue the certificate of enforceability? What are the rules governing the application for such certificate and the procedure applicable to its issuance? Are there any procedural steps or conditions to be mentioned in particular (e.g., is the procedure adversarial? Are there any applicable court fees or other taxes? If so, how should the applicant settle such payments)

A judgment given under the European small claims procedure and certified by a standard Form D, as set out in Annex IV of Regulation (EC) No 861/2007, shall be considered to be an enforceable instrument. In national civil proceedings, an enforcement order is issued at the request of the party to the proceedings by the first instance court that heard the case. The issuance of an enforcement order is free of charge.

2. Language. Upon request, the court or tribunal shall provide that party with the certificate in any other official language of the institutions of the Union by making use of the multilingual dynamic standard form available on the European e-Justice Portal. The court is not obliged to provide a translation and/or transliteration of the text entered in the free-text fields of that certificate (EC PG 8.1.1). Do the parties nevertheless have the possibility to ask the court of origin for a translated copy of the content of the certificate under national law? If the answer is yes, which is the competent authority/desk and how could the parties do so?

Court judgments shall be issued in the official language. In oral proceedings, a person may request the assistance of an interpreter into a language he/she understands (not necessarily his/her mother tongue); the interpreter's services shall be organised by the

court and such service shall be free of charge. Court documents may be translated for a party to the proceedings if the party is not represented by a representative who understands the official language. A final judgment may be translated into a language the person understands (not necessarily his/her mother tongue).

3. Enforcement procedure. By virtue of Art. 21 ESCP Reg., the procedure for enforcement is governed by the law of the Member State of enforcement, subject to the provisions of the Regulation on enforcement (EC PG 8.1.2).

a. Required documents: the person seeking enforcement shall provide an authentic copy of the judgment, and the judgment certificate (EC PG 8.2.). In order to secure execution of the judgment, it is necessary to instruct the authorities or agencies in the Member State of enforcement which are competent to take measures of execution (EC PG 8.5.2., see *Addendum*). Which kinds of copy satisfy the conditions necessary to establish the authenticity of a judgment? Which is the competent authority/desk to deliver it? How can the parties obtain such a copy (are there any procedural steps or conditions to be mentioned in particular)? Are there any applicable fees or other taxes and how should the applicant settle such payments? Please take into account the answer given in the BI bis Practice Guide on this point.

b. Translations: Member States have to provide information as to which languages other than the official language(s) are acceptable (Art. 21a(1) ESCP Reg.). The translation of the information on the substance of a judgment in the certificate of Art. 20(2) ESCP Reg. shall be done by a qualified translator (Art. 21a(2)). Information on which languages are accepted for the purpose of the enforcement is available on the European e-Justice Portal(*ibid.*). Which are the accepted languages where LT is the State of enforcement (please include references to the specific section of the e-Justice Portal or national websites, where relevant)? If LT⁽⁴⁾, who are the persons qualified to do translations of a judgment? Which are the costs that the creditor sustains for such translation? Please take into account the answer given in the BI bis Practice Guide on this point.

Both documents and copies certified by handwritten signature of the court and electronic documents signed by an electronic secure signature shall be deemed enforceable and duly authenticated. Such a document shall be normally issued by the first instance court that rendered the judgment. There shall be no charge for the issuance of such a copy. The court shall issue judgments in the official language. Translations shall be carried out at the initiative and expense of the person requesting them. The court may translate the final judgment at its own expense if the person does not understand the language. Translations shall be made and certified by a qualified translator.

⁴ 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.

4. Procedure to challenge enforcement. The Regulation does not provide a procedure for an application to the court to challenge the enforcement of the judgment on the grounds of irreconcilability, and this is a matter to be regulated under the procedural law of the Member State concerned. Similarly it is normally also possible for the court in that Member State under the national law to refuse or stop enforcement if and to the extent that the sums awarded in the ESCP judgment have been paid or the judgment has otherwise been satisfied (EC PG 8.4.2.). Which is the court competent to receive the application for refusal of enforcement? Which is the applicable procedure? Are there any procedural steps or conditions to be mentioned in particular (e.g., legal representation, other substantive objections other than the one regarding the satisfaction of the claim)? Are there any applicable court fees or other taxes and how should the applicant settle such payments? To the extent relevant, please take into account the answer given in the BI bis Practice Guide and the Addendum on this point.

The applications referred to in Article 22(1) of Regulation (EC) No 861/2007 on refusal to enforce the judgments given under the European small claims procedure shall be heard by the Court of Appeal of Lithuania. An application to allow enforcement of a court judgment of the Member State of the European Union shall be submitted to the Court of Appeal of the Republic of Lithuania. Such application 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. The application 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, 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 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 it 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 of authorisation to enforce a court judgment of a Member State of the European Union by rendering a ruling under the written procedure. This ruling shall specify the procedure for its revision and becoming enforceable, while the ruling which allows enforcement of a judgment shall also have an indication that

enforcement of the judgment of a Member State of the European Union has been allowed without verification whether there are any grounds specified in the regulations of the European Union to refuse to recognise the judgment of the Member State of the European Union. This ruling shall become enforceable after expiration of the time period stated in the regulations of the European Union to appeal against the court ruling allowing enforcement of the court ruling of the Member State of the European Union.

The Court of Appeal of Lithuania shall issue an enforcement instrument only after the ruling becomes enforceable and only with respect to the applicant and the person with respect of whom enforcement of the judgment is sought. An application to review a ruling on the authorisation to enforce a judgment of a Member State of the European Union 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 which hears the application to review the ruling on authorisation to enforce a court judgment of the Member State of the European Union. After examining the application to review the ruling on authorisation to allow enforcement of the court judgment of the Member State of the European Union and deciding to revoke the ruling, the court may not refer the matter for re-hearing under the procedure set out in paragraph 5 of this Article. After examining the application to review the ruling on authorisation to enforce a court judgment of the Member State of the European Union, the court shall render a ruling in all cases. 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 under the rules of proceedings at the court of cassation.

5. Stay or limitation of enforcement. [These matters are regulated by Art. 23 ESCP Reg. \(see EC PG 8.4.3.\)](#). Which is the court competent to receive the application to stay or limit the enforcement of the claim? Which is the applicable procedure? Are there any procedural steps or conditions to be mentioned in particular (e.g., legal representation)? Are there any applicable court fees or other taxes and how should the applicant settle such payments? To the extent relevant, please take into account the answer given in the BI bis Practice Guide and the Addendum on this point.

The applications referred to in Article 23 of Regulation (EC) No 861/2007 to stay or limit the enforcement of judgments given under the European small claims procedure shall be heard by the district court of the place of enforcement.