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# European enforcement order

Lithuania



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## FINDING COMPETENT COURTS/AUTHORITIES

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### 1. Procedures for rectification and withdrawal (Art. 10(2))

Pursuant to Article 30 of Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims (hereinafter “the Regulation”), the Ministry of Justice of the Republic of Lithuania hereby submits information relating to the redress procedures, language and authorities referred to in Article 30. At the same time, we are supplying the text of the relevant Law of the Republic of Lithuania implementing Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims (Official Gazette No 58 of 7 May 2005) (hereinafter “the Law”) and the Code of Civil Procedure of the Republic of Lithuania (Official Gazette No 36-1340 of 6 April 2002; Official Gazette No 42 of 24 April 2002) (hereinafter “the Code”).

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

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 A European Enforcement Order certificate issued concerning an authentic instrument may be withdrawn by the district court at the place of business of the notary who made the enforcement record of the authentic instrument.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

Article 5 of the Law reads as follows:

“Article 5. Rectification or withdrawal of a European Enforcement Order certificate.

1. Where, due to a spelling or other mistake, the European Enforcement Order certificate differs from the court judgment or authentic instrument, the provisions of Article 648(6) of the Code of Civil Procedure of the Republic of Lithuania shall apply *mutatis mutandis* for the purposes of rectifying the European Enforcement Order certificate.

2. The court which issued the European Enforcement Order certificate shall, by means of a court order, withdraw or refrain from withdrawing the European Enforcement Order certificate in the circumstances referred to in

Article 10(1)(b) of the Regulation.

3. Applications lodged by the parties in the matters referred to in this Article shall be free from stamp duty.

4. The provisions of this Article shall also apply where the district court at the place of business of the notary who made the enforcement record is asked to rectify or withdraw a European Enforcement Order certificate issued in accordance with the procedure set out in Article 4(2) of this Law.”

Article 648(6) of the Code reads as follows:

“Where a spelling or other mistake is made when issuing an enforcement document, the institution having issued it shall correct the document at the request of the interested party.”

## 2. Procedures for review (Art.19 (1))

We are supplying the text of the relevant Law of the Republic of Lithuania implementing Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims (Official Gazette No 58 of 7 May 2005) (hereinafter “the Law”) and the Code of Civil Procedure of the Republic of Lithuania (Official Gazette No 36-1340 of 6 April 2002; Official Gazette No 42 of 24 April 2002) (hereinafter “the Code”).

A default court judgment based on the reasoned application of a party absent from the hearing and lodged within 20 days of the date on which default judgment was handed down may be reviewed (this 20-day time limit may, pursuant to Article 78 of the Code, be extended for persons who have failed to meet it for reasons which the court acknowledges to be compelling). After receiving the application, the court sends it, together with copies of its annexes, to the parties and third persons and informs them that the parties and third persons are entitled to submit written observations within fourteen days. The court examines the application by written procedure within fourteen days of the deadline for submitting observations. If, after examining the application, the court observes that the party was absent from the hearing for compelling reasons about which he/she was unable to inform the court on time and the application refers to evidence which might affect the legitimacy and validity of the default judgment in question, the court withdraws the default judgment and reviews the case.

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

Article 287 of the Code:

“1. A party not present at a court session shall be entitled to lodge an application for the review of a default judgment to the court having handed down the default judgment within 20 days of the date on which the judgment was handed down.

2. Such an application shall indicate:

1) the designation of the court which handed down the default judgment;

2) the designation of the applicant;

3) the circumstances resulting in the applicant's absence from the court session and failure to inform the court of the compelling nature of the reasons for such absence by the date of the session, including any evidence of those circumstances;

4) circumstances which may affect the legality and validity of the judgment and any evidence of those circumstances;

5) details of what the applicant is requesting;

6) a list of the supporting documents annexed to the application;

7) the applicant's signature and the date on which the application was drawn up.

3. As many copies of the application and annexes shall be supplied to the court as there are parties and third persons.

4. Errors in the application shall be eliminated in accordance with the procedure for removing errors from claims.

5. Where appeals and applications for the review of a default judgment are lodged in the same case, applications for the review of a default judgment and any court orders handed down with regard to those judgments shall be examined first."

Article 430(5) of the Code:

"Where objections are lodged after the twenty-day time limit has elapsed or where they do not meet the requirements of paragraph 1 of this Article, the court shall refuse to accept them. A separate appeal may be lodged against a court order by which a court refuses to accept objections. Where the defendant fails to meet the time limit for compelling reasons, the court may, on request, extend the time limit."

Article 439(2) of the Code:

Objections by debtors in respect of the claim of a creditor shall be lodged in writing within 20 days of the date on which the notification of the court order is served on the debtor. Objections shall meet the general requirements for the content and form of procedural documents, with the exception of the requirement to indicate the grounds. Where, for compelling reasons, the debtor lodges an objection after the time limit referred to in this paragraph has expired, the court may, at the debtor's request, extend the time limit for lodging objections. A separate appeal may be lodged against an order by which such a request on the part of a debtor is rejected.

Article 78(1) of the Code:

"Persons who have failed to meet a time limit laid down by law or imposed by a court for reasons which the court deems compelling may be granted an extension of the said time limit."

### 3. Accepted languages (Article 20(2)(c))

In accordance with Article 2(4) of the Law<sup>[1]</sup>, the language to be used for the purposes of Article 20(2)(c) of the Regulation is Lithuanian.

Article 2(4) of the Law<sup>[1]</sup>:

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

### 4. Authorities designated for the purpose of certifying authentic instruments (Art. 25)

In accordance with Article 4(2) of the Law<sup>[1]</sup>, the authorities referred to in Article 25 of the Regulation, i.e. authorities designated to issue a European Enforcement Order concerning an authentic document, are notaries.

Article 4(2) of the Law<sup>[1]</sup>:

"At the creditor's request, a European Enforcement Order concerning an authentic document as referred to in paragraph 1 of this Article shall be issued by the notary who drafted the authentic instrument. The notary shall issue the European Enforcement Order not later than 5 days after the day on which the request for the issue of a European Enforcement Order was received."

[1] European Enforcement Order for uncontested claims (Official Gazette No 58 of 7 May 2005)

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