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CHILD ABDUCTION / PROTECTION OF CHILDREN

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QUESTIONNAIRE SUR LE FONCTIONNEMENT PRATIQUE DE LA *CONVENTION DE LA HAYE DU 25 OCTOBRE 1980 SUR LES ASPECTS CIVILS DE L'ENLÈVEMENT INTERNATIONAL D'ENFANTS* ET DE LA *CONVENTION DE LA HAYE DU 19 OCTOBRE 1996 CONCERNANT LA COMPÉTENCE, LA LOI APPLICABLE, LA RECONNAISSANCE, L'EXÉCUTION ET LA COOPÉRATION EN MATIÈRE DE RESPONSABILITÉ PARENTALE ET DE MESURES DE PROTECTION DES ENFANTS*

établi par le Bureau Permanent

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QUESTIONNAIRE CONCERNING THE PRACTICAL OPERATION OF THE *HAGUE CONVENTION OF 25 OCTOBER 1980 ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION* AND THE *HAGUE CONVENTION OF 19 OCTOBER 1996 ON JURISDICTION, APPLICABLE LAW, RECOGNITION, ENFORCEMENT AND CO-OPERATION IN RESPECT OF PARENTAL RESPONSIBILITY AND MEASURES FOR THE PROTECTION OF CHILDREN*

drawn up by the Permanent Bureau

Document préliminaire No 1 de novembre 2010 à l'intention de la Commission spéciale de juin 2011 sur le fonctionnement pratique de la Convention Enlèvement d'enfants de 1980 et de la Convention Protection des enfants de 1996

Preliminary Document No 1 of November 2010 for the attention of the Special Commission of June 2011 on the practical operation of the 1980 Hague Child Abduction Convention and the 1996 Hague Child Protection Convention

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QUESTIONNAIRE SUR LE FONCTIONNEMENT PRATIQUE DE LA *CONVENTION DE LA HAYE DU 25 OCTOBRE 1980 SUR LES ASPECTS CIVILS DE L'ENLÈVEMENT INTERNATIONAL D'ENFANTS* ET DE LA *CONVENTION DE LA HAYE DU 19 OCTOBRE 1996 CONCERNANT LA COMPÉTENCE, LA LOI APPLICABLE, LA RECONNAISSANCE, L'EXÉCUTION ET LA COOPÉRATION EN MATIÈRE DE RESPONSABILITÉ PARENTALE ET DE MESURES DE PROTECTION DES ENFANTS*

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drawn up by the Permanent Bureau

INTRODUCTION TO THE QUESTIONNAIRE

Objectives of the Questionnaire

This Questionnaire is addressed in the first place to States Parties to the 1980 and / or 1996 Convention(s).[1] It has the following broad objectives:

a. To seek information from States Parties as to any significant developments in law or in practice in their State regarding the practical operation[2] of the 1980 and / or 1996 Convention(s);
b. To identify any current difficulties experienced by States Parties regarding the practical operation of the 1980 and / or 1996 Convention(s);
c. To obtain the views and comments of States Parties on the services and supports provided by the Permanent Bureau of the Hague Conference on Private International Law regarding the 1980 and / or 1996 Convention(s);
d. To obtain feedback on the use made of the Guide to Good Practice under the 1980 Convention and the impact of previous Special Commission recommendations;
e. To obtain views and comments on related projects of the Hague Conference on Private International Law in the fields of international child abduction and international child protection; and
f. To obtain views and comments on the priorities for the upcoming Special Commission meeting.

The Questionnaire will facilitate an efficient exchange of information on these matters between States Parties, as well as other invitees, prior to the Special Commission meeting.

Scope of the Questionnaire

This Questionnaire is intended to deal with only those topics not covered by the Country Profile for the 1980 Convention (currently in development and to be circulated for completion by States Parties in April 2011). The new Country Profile will provide States Parties with the opportunity to submit, in a user-friendly tick-box format, the basic information concerning the practical operation of the 1980 Convention in their State. States Parties should therefore be aware that, for the purposes of the Special Commission meeting, their answers to this Questionnaire will be read alongside their completed Country Profile.

States Parties should also be aware that this *general* Questionnaire will be followed, in due course, by a questionnaire dealing specifically with the issue of a protocol to the 1980 Convention. This Questionnaire is not therefore intended to deal directly with any questions surrounding the issue of a protocol to the 1980 Convention.

Whilst this Questionnaire is primarily addressed to States Parties to the 1980 and / or 1996 Convention(s), we would welcome from all other invitees to the Special Commission (*i.e.*, States which are not yet Party to either Convention, as well as certain intergovernmental organisations and international non-governmental organisations) any comments in respect of any items in the Questionnaire which are considered relevant.

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[1] References in this document to the "1980 Convention" and the "1996 Convention" are to the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* and the *Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children* respectively.

[2] As stated in Info. Doc. 1, where reference is made to the "practical operation" of the 1980 or 1996 Convention in documentation for this Sixth Meeting of the Special Commission, this is intended to refer to the *implementation and* operation of the relevant Convention.

We intend, except where expressly asked not to do so, to place all replies to the Questionnaire on the Hague Conference website (< www.hcch.net >). Please therefore clearly identify any responses which you do not want to be placed on the website.

We would request that replies be sent to the Permanent Bureau, if possible by e-mail, to secretariat@hcch.net no later than **18 February 2011**.

Any queries concerning this Questionnaire should be addressed to William Duncan, Deputy Secretary General (wd@hcch.nl) and / or Hannah Baker, Legal Officer (hb@hcch.nl).

QUESTIONNAIRE CONCERNING THE PRACTICAL OPERATION OF THE 1980 AND 1996 CONVENTIONS

Wherever your replies to this Questionnaire make reference to domestic legislation, rules, guidance or case law relating to the practical operation of the 1980 and / or the 1996 Convention(s), ***please provide a copy of the referenced documentation*** *in (a) the original language and, (b) wherever possible, accompanied by a translation into English and / or French.*

Name of State or territorial unit:[3]

For follow-up purposes
Name of contact person: Simona Bronušienė
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PART I: RECENT DEVELOPMENTS[4]

1. Recent developments in your State

1.1 Since the 2006 Special Commission, have there been any significant developments in your State regarding the legislation or procedural rules applicable in cases of:
a. International child abduction; and
b. International child protection?
Where possible, please state the reason for the development in the legislation / rules.

The following legal acts, falling into the area of legislation and procedural rules in international child abduction and protection have been adopted or amended since 2006:

Article 11 of the Republic of Lithuania Law on the Implementation of European Union and International Legal Acts Regulating Civil Process (adopted 13 November 2008, No. X-1809) establishes that a Central Authority under the Hague Convention on the Civil Aspects of International Child Abduction (hereinafter – the 1980 Convention) is the Ministry of Social Security and Labour of the Republic of Lithuania. Lithuanian version of the Law may be accessed at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_e?p_id=331603&p_query=&p_tr2=.

Under the Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 (hereinafter - Bussels II bis regulation) two central authorities of the 1980 Convention are appointed: the Ministry of Justice is responsible for the courts' cooperation and the Ministry of Social Security and Labour is responsible for all the other functions.

By the order of the Minister of the Social Security and Labour of 29 December 2008 No. A1-425 the functions of Central Authority under the 1980 Convention (except for co-operation of the courts) are delegated to the State Child Rights Protection and Adoption

[3] The term "State" in this Questionnaire includes a territorial unit, where relevant.
[4] This Part of the Questionnaire is intended to deal primarily with the developments in law and practice relating to international child abduction and international child protection which have occurred in your State since the Fifth Meeting of the Special Commission to review the operation of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* and the practical implementation of the *Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children* (30 October – 9 November 2006) (hereinafter "the 2006 Special Commission"). However, if there are important matters which you consider should be raised from *prior to* the 2006 Special Commission, please provide such information here.

Service.

Republic of Lithuania Law on Conciliatory Mediation in Civil Disputes (adopted 15 July 2008, No. X-1702) provides an opportunity to use conciliatory mediation in judicial and non-judicial civil disputes. English version of the Law may be accessed at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=330591.

Resolution of the Government of the Republic of Lithuania on the Procedure of Child's Temporary Departure to a Foreign Country (adopted 25 April 2007, No. 414), sets the requirements for child's temporary departure.

1.2 Please provide a brief summary of any significant decisions concerning the interpretation and application of the 1980 and / or 1996 Convention(s) given since the 2006 Special Commission by the relevant authorities[5] in your State.

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1.3 Please provide a brief summary of any other significant developments in your State since the 2006 Special Commission relating to international child abduction and / or international child protection.

The abovementioned Government Resolution on the Procedure of Child's Temporary Departure to a Foreign Country no longer requires the consent of a parent, when a child temporarily leaves to a foreign country with another parent.

Thus from 2007 there is a growing number of cases regarding the return of wrongfully removed children. The principle difficulty is in defining 'temporary departure', because in parents' opinion, leaving for 1-2 years to a foreign country falls into the definition of a temporary departure. Another difficulty is in establishing custody rights in cases of such departure, because even when the child's habitual place of residence is declared with one of the parents, under the Article 3.156 of the Civil Code of the Republic of Lithuania, both parents have equal rights towards their child. This is irrespectful of whether the child is born to married or unmarried, divorced, separated parents or when the marriage is judicially annulled, except the cases, when parental authority is restricted.

2. Issues of compliance

2.1 Are there any States Parties to the 1980 and / or 1996 Convention(s) with whom you are having particular difficulties in achieving successful co-operation? Please specify the difficulties you have encountered and, in particular, whether the problems appear to be systemic.

No.

2.2 Are you aware of situations / circumstances in which there has been avoidance / evasion of either Convention?

No.

[5] The term "relevant authorities" is used in this Questionnaire to refer to the judicial or administrative authorities with decision-making responsibility under the 1980 and 1996 Conventions. Whilst in the majority of States Parties such "authorities" will be courts (*i.e.*, judicial), in some States Parties administrative authorities remain responsible for decision-making in Convention cases.

PART II: THE PRACTICAL OPERATION OF THE 1980 CONVENTION

3. The role and functions of Central Authorities designated under the 1980 Convention[6]

In general

3.1 Have any difficulties arisen in practice in achieving effective communication or co-operation with other Central Authorities? If so, please specify.

The Lithuanian Central Authority sometimes encounters difficulties in securing a voluntary return of the child or bringing about amicable resolution of the issues (Article 7 of the 1980 Convention), because Central Authorities of the requested States normally do not engage in such practice. The application, concerning the return of the child, is usually submitted to the court (e. g. United Kingdom) or the Central Authority attempts to reject the request to voluntarily return the child / amicably solve issues due to certain causes, for example, when a parent denies that the child's habitual residence was in the Republic of Lithuania.

The Lithuanian Central Authority has also encountered difficulties in exchanging (receiving) information on the social background of the child (Article 7 of the 1980 Convention). This is especially acute in cases, when the left-behind parent does not exactly know where the child is, who is taking care of the child and what is the overall situation of the child. The Central Authorities of the requested States do not normally provide such information.

3.2 Have any of the duties of Central Authorities, as set out in Article 7 of the 1980 Convention, raised any particular problems in practice either in your State, or in States Parties with whom you have co-operated?

The Lithuanian Central Authority quite often encounters difficulties in discovering the whereabouts of a wrongfully removed or retained child. This is partly because under the laws of the Republic of Lithuania there is no criminal offence, when a child moves with the parent who has custody rights, therefore the police does not commence a formal investigation. However Central Authorities of other countries are very helpful in discovering the whereabouts of the child, when suspected that he / she is located in their country.

Lithuanian Central Authority is not competent to initiate judicial proceedings concerning the return of the child. Thus it is difficult to obtain a court decision to return the child in the shortest possible period, as the person requesting the return has to apply to the court personally. Lithuania has made a reservation pursuant to the Article 42 of the 1980 Convention, therefore under Article 26 Paragraph 3 is not bound to assume any costs or expenses of the proceedings or those arising from the participation of a legal counsel or advisors, except insofar as these costs may be covered by the system of legal aid and advice. As a result the applicant usually has to file an application to obtain legal aid.

Also see the answer to the question 3.1, provided above.

3.3 Has your Central Authority encountered any difficulties with the interpretation and / or application of any of the 1980 Convention provisions? If so, please specify.

The 1980 Convention does not provide the main elements of the definition of permanent

[6] See also question 6 below on "Ensuring the safe return of children" which involves the role and functions of Central Authorities.

habitual residence, therefore the content of the child's return applications and their recognition may differ significantly throughout the States, parties to the 1980 Convention.

Legal aid and representation

3.4 Do the measures your Central Authority takes to provide or facilitate the provision of legal aid, legal advice and representation in return proceedings under the 1980 Convention (Art. 7(2) *g)*) result in delays in proceedings either in your own State, or, where cases originate in your State, in any of the requested States you have dealt with? If so, please specify.

In the Republic of Lithuania the Ministry of Justice is responsible for organizing the provision of legal aid, thus in cases where legal aid is required, Central Authority facilitates the contact with the Ministry of Justice.

The provision of State-guaranteed legal aid is governed by the Republic of Lithuania Law on State-Guaranteed Legal Aid (adopted 28 March 2000, No. VIII-1591). Section Six of the Law regulates peculiarities of the State-guaranteed legal aid in cross-border disputes. Under the Article 2 Paragraph 9 of the Law, a cross-border dispute is a dispute in which the applicant, at the moment of submitting an application for the provision of State-guaranteed legal aid, is domiciled or habitually resident in a Member State of the European Union other than the one in which the court is sitting or where enforcement (of a court decision) is sought. The Member State of the European Union in which the applicant is domiciled shall be determined according to Article 59 of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

Persons, eligible for State-guaranteed legal aid, are defined in the Article 11 of the Law. Article 26 of the Law establishes eligibility for State-guaranteed legal aid in cross-border disputes. It provides that, where the property and income of the natural persons lawfully residing in other Member States of the European Union exceed the property and income levels set by the Government of the Republic of Lithuania for the provision of State-guaranteed legal aid under this Law, but they indicate it is impossible for them to bear the costs of the proceedings, the service must establish whether an applicant is able to bear the costs of the proceedings by taking account of the subsistence costs of his domicile or the place where he is habitually resident in another Member State of the European Union and shall have the right to take a decision on the provision of secondary legal aid. An applicant shall have the right to submit an application for legal aid either to the competent authority of the Member State of the European Union in which the applicant is domiciled or habitually resident or directly to the Ministry of Justice of the Republic of Lithuania, where the court is to sit in the Republic of Lithuania or where the decision is to be enforced in the Republic of Lithuania. Upon the receipt of an application for legal aid from the competent authority of another Member State of the European Union, the Ministry of Justice of the Republic of Lithuania must, within 30 days of the receipt of the application and all the necessary documents, examine it and take a decision on the transmission of the application to the appropriate executive institution of a municipality or to the service. The Ministry of Justice of the Republic of Lithuania shall have the right to refuse to transmit the application where not all the documents referred to in this Law have been submitted. Upon taking the decision to refuse to transmit the application, the Ministry of Justice of the Republic of Lithuania shall immediately notify the applicant thereof (Article 28). English version of the Law may be accessed at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=350869.

It should also be noted that the Ministry of Justice has prepared an amendment to the abovementioned Law, which is currently submitted to the Parliament of the Republic of Lithuania. The amendment provides that in cases of child abduction or wrongful retention, persons shall be eligible to secondary legal aid regardless of the property and income levels established by the Government of the Republic of Lithuania. This amendment should eliminate any delays when receiving State-guaranteed legal aid.

3.5 Are you aware of any other difficulties in your State, or, where cases originate in your State, in any of the requested States you have dealt with, regarding the obtaining of legal aid, advice and / or representation for either left-behind parents or taking parents?[7]

No.

[7] See paras 1.1.4 to 1.1.6 of the "Conclusions and Recommendations of the Fifth Meeting of the Special Commission to review the operation of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* and the practical implementation of the *Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children* (30 October – 9 November 2006) (hereinafter referred to as the "Conclusions and Recommendations of the 2006 Special Commission") (available on the Hague Conference website at < www.hcch.net > under "Child Abduction Section" then "Special Commission meetings"):

"1.1.4 The importance for the applicant of having effective access to legal aid and representation in the requested country is emphasised. Effective access implies:

a) the availability of appropriate advice and information which takes account of the special difficulties arising from unfamiliarity with language or legal systems;

b) the provision of appropriate assistance in instituting proceedings;

c) that lack of adequate means should not be a barrier to receiving appropriate legal representation.

1.1.5 The Central Authority should, in accordance with Article 7[(2)] *g)*, do everything possible to assist the applicant to obtain legal aid or representation.

1.1.6 The Special Commission recognises that the impossibility of, or delays in, obtaining legal aid both at first instance and at appeal, and / or in finding an experienced lawyer for the parties, can have adverse effects on the interests of the child as well as on the interests of the parties. In particular the important role of the Central Authority in helping an applicant to obtain legal aid quickly or to find an experienced legal representative is recognised."

Locating the child

3.6 Has your Central Authority encountered any difficulties with locating children in cases involving the 1980 Convention, either as a requesting or requested State? If so, please specify the difficulties encountered and what steps were taken to overcome these difficulties.

As mentioned in the answer to the question 1.3, Government Resolution on the Procedure of Child's Temporary Departure to a Foreign Country no longer requires the consent of a parent, when a child temporarily leaves to a foreign country with another parent.

Therefore from 2007 there is a growing number of cases regarding the return of wrongfully removed children. Since, under the laws of the Republic of Lithuania, moving with a parent, who has custody rights is not a criminal offence, a formal investigation is not commenced. The Lithuanian Central Authority encounters difficulties in locating children, because in certain cases it is difficult even to determine the requested State. Yet, as mentioned above, Central Authorities in other countries, are very helpful in discovering the whereabouts of the child within their country.

The Lithuanian Central Authority has taken a decision to apply to the Police Department Under the Ministry of the Interior of the Republic of Lithuania, in order to consider the necessity of amendments to the current regulation, so that a formal investigation could be commenced in the cases when a child is wrongfully removed by one of his/her parents.

3.7 Where a left-behind parent and / or a requesting Central Authority have no information or evidence regarding a child's current whereabouts, will your Central Authority still assist in determining whether the child is, or is not, in your State?

When a left-behind parent assumes that the child might be within the territory of Lithuania, Central Authority assits in locating the child.

3.8 In your State do any particular challenges arise in terms of locating children as a result of *regional* agreements or arrangements which reduce or eliminate border controls between States? If so, please specify the difficulties encountered and any steps your State has taken to overcome these difficulties. Are there any *regional* agreements or arrangements in place to assist with locating children because of the reduced / eliminated border controls?

Please see the answer to the question 3.6, provided above.

3.9 Where a child is not located in your State, what information and / or feedback is provided to the requesting Central Authority and / or the left-behind parent as to the steps that have been taken to try to locate the child and the results of those enquiries?

The Lithuanian Central Authority always informs Central Authorities of the requesting States of all the procedures commenced and measures taken to determine the possible whereabouts of the child.

3.10 Has your Central Authority worked with any external agencies to discover the whereabouts of a child wrongfully removed to or retained within your State (*e.g.*, the police, Interpol, private location services)? Have you encountered any particular difficulties in working with these external agencies? Is there any good or bad practice you wish to share on this matter?

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Information exchange, training and networking of Central Authorities

3.11 Has your Central Authority shared its expertise with another Central Authority or benefited from another Central Authority sharing its expertise with your Central Authority, in accordance with the Guide to Good Practice – Part I on Central Authority Practice?[8]

No.

3.12 Has your Central Authority organised or participated in any other networking initiatives between Central Authorities such as regional meetings via conference call, as proposed in Recommendations Nos 1.1.9 and 1.1.10[9] of the 2006 Special Commission?

The Lithuanian Central Authority has not participated in any networking initiatives as proposed in the abovementioned Recommendations, however the Lithuanian Central Authority participates in the work group drawn up under the Article 11 of the Brussels II bis Regulation.

3.13 Would your Central Authority find it useful to have an opportunity to exchange information and network with other Central Authorities on a more regular basis than at Special Commission meetings?

Yes, the Lithuanian Central Authority would find it very useful, as it may help to clear up certain day-to-day issues the Central Authority encounters.

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[8] Available on the Hague Conference website at < www.hcch.net > under "Child Abduction Section" then "Guides to Good Practice". See, in particular, Chapter 6.5 on twinning arrangements.

[9] See the *Conclusions and Recommendations of the 2006 Special Commission* (*op. cit.* note 7):
"1.1.9 The Special Commission recognises the advantages and benefits to the operation of the Convention from information exchange, training and networking among Central Authorities. To this end, it encourages Contracting States to ensure that adequate levels of financial, human and material resources are, and continue to be, provided to Central Authorities.
1.1.10 The Special Commission supports efforts directed at improving networking among Central Authorities. The value of conference calls to hold regional meetings of Central Authorities is recognised."

Statistics[10]

3.14 If your Central Authority does not submit statistics through the web-based INCASTAT database, please explain why.

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Views on possible recommendations

3.15 What recommendations would you wish to see made in respect of the role and particular functions that Central Authorities might, or do, carry out?

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4. Court proceedings

4.1 If your State has not limited the number of judicial or administrative authorities who can hear return applications under the 1980 Convention (*i.e.*, it has not "concentrated jurisdiction"), are such arrangements being contemplated?[11] If the answer is no, please explain the reasons.

In the Republic of Lithuania, Vilnius District Court has jurisdiction over the child abduction cases, it also hears claims concerning return applications under the 1980 Convention (Article 28 of the Code of Civil Procedure, Article 7 Paragraph 2 of Law on the Implementation of European Union and International Legal Acts Regulating Civil Process).

4.2 Are any procedural rules in place in your State in relation to return proceedings brought under the 1980 Convention? If so, do you consider that the procedural rules which are applied allow the relevant authorities to reach a decision within six weeks? To what extent do you consider that delays in return proceedings under the 1980 Convention are linked to a lack of appropriate procedures?

Cases, concerning the return of a child under the 1980 Convention, are heard according to the procedure set out in the Section XXXIX of the Code of Civil Procedure, as far as the Brussels II bis Regulation does not provide otherwise (Article 7 Paragraph 1 of Law on the Implementation of European Union and International Legal Acts Regulating Civil Process). Section XXXIX of the Code of Civil Procedure provides a simplified hearing procedure for certain civil cases, which avails a more expeditious court decision. The court is required to be active and may collect evidence on its own initiative (Article 582 Paragraph 3 of the Code of Civil Procedure).

Article 7 Paragraph 5 of the Law on the Implementation of European Union and International Legal Acts Regulating Civil Process provides that return applications must be heard in conformity with the terms set in the Article 11 of the Brussels II bis Regulation. Article 7 Paragraph 6 of the abovementioned Law also determines that decisions of Vilnius District Court, concerning the return of the child, may be appealed to the Appelate Court of Lithuania, but the appeal to the cassation is not permitted.

Lithuanian Central Authority has encountered cases, when hearing in another State, party

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[10] See paras 1.1.16 to 1.1.21 of the Conclusions and Recommendations of the 2006 Special Commission (*op. cit.* note 7).

[11] See, for example, the "Conclusions and Recommendations of the Fourth Meeting of the Special Commission to review the operation of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* (22–28 March 2001)" (available on the Hague Conference website at < www.hcch.net > under "Child Abduction Section" then "Special Commission meetings") at para. 3.1:

"The Special Commission calls upon Contracting States to bear in mind the considerable advantages to be gained by a concentration of jurisdiction to deal with Hague Convention cases within a limited number of courts."

to the 1980 Convention, takes much longer than 6 weeks, yet it is difficult to single out particular reasons.

5. Domestic violence allegations and Article 13(1) *b)* of the 1980 Convention[12]

5.1 Is the issue of domestic violence or abuse often raised as an exception to return in child abduction cases in your State? What is the general approach of the relevant authorities to such cases?

There were only 3 incoming applications regarding the return of child in the Republic of Lithuania and issues of domestic violence or abuse were not raised in those cases.

In general, when the issue of domestic violence or abuse is raised in cases concerning children rights', it is usually the question of psychological abuse, which is very difficult to prove.

5.2 In particular:

a. What is the standard of proof applied when a taking parent relies on Article 13(1) *b)*?

The Code of Civil Procedure does not set any particular rules on the burden of proof in child abduction cases. Under Articles 12 and 178 of the Code every party to a case, has to prove the circumstances it alleges, except the circumstances the Code deems not necessary to prove. Yet, as mentioned above, the panel has to be active and may collect evidence on its own initiative (Code of Civil Procedure Article 582 Paragraph 3).

It should be noted that in 2 out of 3 cases, where one of the parents relied on the Article 13.1 (b) of the 1980 Convention, the court refused to return the child. The main reasons behind the decisions were that the left-behind parent is not able to take proper care of the child, he / she does not have strong relations with the child, before the abduction the left-behind parent has neglected the child and, since the taking parent was not able to return together with the child, the return of the child may have resulted in physical or psychogical harm.

b. Bearing in mind the obligation in the 1980 Convention to act expeditiously in proceedings for the return of children,[13] how far do the relevant authorities in your State investigate the merits of a claim that domestic violence or abuse has occurred? How are resulting evidentiary issues dealt with (*e.g.*, obtaining police or medical records)? How is it ensured that no undue delay results from any such investigations?

As mentioned above, Lithuania so far does not have practice in child return cases, where domestic violence or abuse is alleged. Should such a case arise, Lithuanian Central Authority would collect information from the local child services. The local child services normally have information on whether the family was previously known to social workers as a family falling into the group of social risk families, whether there have been any other incidents, did the taking and the left-behind parent take good care of the child, ect. This information is usually provided within one week. Further on, the court would investigate the furnished evidence.

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[12] See the Conclusions and Recommendations of the 2006 Special Commission (*op. cit.* note 7) at paras 1.1.12, 1.4.2 and 1.8.1 to 1.8.5. Please also refer to question 6 of this Questionnaire regarding the safe return of children.

[13] Art. 11 of the 1980 Convention: "The judicial or administrative authorities of Contracting States shall act expeditiously in proceedings for the return of children."

c. Is expert evidence permitted in such cases and, if so, regarding which issues? How is it ensured that no undue delay results from the obtaining of such evidence?

Should such a case arise, psychological expertise of the child would be sought. The psychologist would be asked to determine the current state of the child, how does the child feel about abduction, have there possibly been any domestic violence or abuse issues, his / hers relations with the taking and the left-behind parent, ect.

5.3 Where allegations of domestic violence / abuse are made by the taking parent, how will the relevant authority deal with any reports from children as to the existence of such domestic violence / abuse?

As mentioned in the answer to the question 5.2 (b), should such case arise, Lithuanian Central Authority would collect the information concerning the family, which would be furnished to the court for further investigation.

5.4 Where allegations of domestic violence / abuse are made by the taking parent, what tools are used by judges (or decision-makers) in your State to ascertain the degree of protection which can be secured for the child (and, where appropriate, the accompanying parent) in the requesting State upon return (*e.g.*, information is sought from the requesting Central Authority, direct judicial communications are used, expert evidence on foreign law and practice is obtained, direct notice can be taken of foreign law, etc.)?

As mentioned above, Lithuania does not have practice in such cases, however, should such a case arise, Lithuanian Central Authority and the court would normally seek information from the requesting State as well as expert evidence on the foreign law and court practice, to ensure that the child will be protected and appropriate measures will be taken to avoid possible abuse.

5.5 Do any regional agreements affect the operation of Article 13(1) *b)* in your State (*e.g.*, for European Union Member States excluding Denmark, Art. 11(4) of the Brussels II a Regulation[14])? If so, please comment upon how the relevant regional provision(s) have operated in practice.

Article 11(4) of the Brussels II a Regulation is applied in Lithuania, however in some cases it is difficult to ensure that the measures taken after the return of the child would really help to avoid physical or psychological harm.

5.6 From your practical experience, what do you see as the main (a) similarities, and (b) inconsistencies between States Parties regarding the application and interpretation of Article 13(1) *b)* in cases of alleged domestic violence? Can you suggest any good practice which should be promoted on this issue?

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5.7 Do you have any other comments relating to domestic violence or abuse in the context of either the 1980 or the 1996 Convention?

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[14] Full title: Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000.

6. Ensuring the safe return of children[15]

The implementation of previous Special Commission recommendations[16]

6.1 What measures has your Central Authority taken to ensure that the recommendations of the 2001 and 2006 Special Commission meetings[17] regarding the safe return of children are implemented?

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[15] See Art. 7(2) *h)* of the 1980 Convention and the Conclusions and Recommendations of the 2006 Special Commission (*op. cit.* note 7) at paras 1.1.12 and 1.8.1 to 1.8.5. Please also refer to the "Domestic violence allegations and Article 13(1) *b)* of the 1980 Convention" section of this Questionnaire (question 5).
[16] See the Conclusions and Recommendations of the Special Commission of 2006 (*op. cit.* note 7) at paras 1.1.12 and 1.8.1 to 1.8.5 and the Appendix to the Conclusions and Recommendations.
[17] *Id.*

6.2 In particular, in a case where the safety of a child is in issue and where a return order has been made in your State, how does your Central Authority ensure that the appropriate child protection bodies in the *requesting* State are alerted so that they may act to protect the welfare of a child upon return (until the appropriate court in the requesting State has been effectively seised)?

In cases when a safety of a child is an issue and where a return order was issued in Lithuania, Lithuanian Central Authority informs the Central Authority of a requesting State about this issue, provides information about the family and furnishes proposals on the measures that may be taken to ensure the best interests of the child.

Methods for ensuring the safe return of children[18]

6.3 Where there are concerns in the requested State regarding possible risks for a child following a return, what conditions or requirements can the relevant authority in your State put in place to minimise or eliminate those concerns? How does the relevant authority in your State ensure that the conditions or requirements put in place are implemented and adhered to?

The conditions and requirements that can be put in place following the return of a child when there are security concerns, depend on the specific case. For example, if there is a risk that a child may lack proper care, the left-behind parent has to furnish information on the place where the child will reside after the return, the living environment, who will take care of the child when the parent will be at work, ect. The supervision of child's welfare and monitoring of the means implementation is then continued by the local social services. Another important aspect is the ensurance that the parent, to whom the child will return, would provide a possibility for another parent to communicate with the child.

Direct judicial communications

6.4 Please comment upon any cases (whether your State was the requesting or requested State), in which the judge (or decision-maker) has, before determining an application for return, communicated with a judge or other authority in the requesting State regarding the issue of the child's safe return. What was the specific purpose of the communication? What was the outcome? What procedural safeguards surround such communications in your State?[19]

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Use of the 1996 Convention to ensure a safe return

6.5 If your State is <u>not</u> Party to the 1996 Convention, is consideration being given to the possible advantages of the 1996 Convention in providing a jurisdictional basis for urgent protective measures associated with return orders (Arts 7 and 11), in providing for their recognition by operation of law (Art. 23), and in communicating information relevant to the protection of the child (Art. 34)?

Lithuania is a Party to the 1996 Convention.

Other important matters

6.6 Are you aware of cases in your State where a primary carer taking parent has

[18] Where relevant, please make reference to the use of undertakings, mirror orders and safe harbour orders and other such measures in your State.
[19] See the draft General Principles on Judicial Communications which will be circulated prior to the 2011 Special Commission meeting.

refused or has not been in a position to return with the child to the requesting State? How are such cases dealt with in your State? Please provide case examples where possible.

In a case, where Italy was a requesting State and Lithuania was a requested State under the 1980 Convention, mother took the child to Lithuania and the left-behind father applied for the return of the child. However, the father did not initiate the return procedure in court (did not transmit the application to the court), which is a competent authority to decide these cases. In the meantime, mother applied to the competent Lithuanian court to establish child's habitual residence with her and received a favorable decision. The father applied to the Italian to court, which deemed the child's habitual residence with the father. The mother refused to take child back to Italy. After 2 years of mediation, the child now resides partially in Italy and partially in Lithuania, however it is unclear, how the agreement will work, when the child will reach school-age.

6.7 What steps has your State taken to ensure that all obstacles to participation by parents in custody proceedings after a child's return have been removed (in accordance with Recommendation No 1.8.5 of the 2006 Special Commission)? In particular, where a custody order has been granted in the jurisdiction of, and in favour of, the left-behind parent, is the order subject to review if the child is returned, upon application of the taking parent?

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6.8 In cases where measures are put in place in your State to ensure the safety of a child upon return, does your State (through the Central Authority, or otherwise) attempt to monitor the effectiveness of those measures upon the child's return? Would you support a recommendation that States Parties should co-operate to provide each other with follow-up information on such matters, insofar as is possible?

The Lithuanian Central Authority is the coordinating institution of the local child protection services. If certain measures would be taken to ensure safety of the child upon return, local child protection services would monitor the implementation of those measures and, when necessary, transmit the information to the Central Authority.

7. The interpretation and application of the exceptions to return

In general

7.1 Where the taking parent raises any exceptions under Article 13 or Article 20 of the 1980 Convention, what are the procedural consequences? What burden and standard of proof rest on the taking parent in respect of such exceptions?[20]

Please see the answer to the question 5.2 (a), provided above.

7.2 Does the raising of exceptions under Article 13 or Article 20 in practice cause a delay to return proceedings? What measures, if any, exist to keep such delay to a minimum?

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Article 13(2) and hearing the child

7.3 In relation to Article 13(2) of the 1980 Convention:

a. By whom, and how, will any enquiry be made as to whether a child objects to a return?

The opinion of the child is firstly sought by the local child protection services and later on by the court.

When a decision is being made on any issue regarding a child, a child, capable of providing his / hers opinion (views), has to be interviewed directly, or when it is not possible - through a representative. When making a decision, the child's opinion has to be taken into account, as far as it does not contravene with the best interests of the child (Code of Civil Procedure Article 380 Paragraph 1). When the court decides to interview the child, a psychologist is frequently invited to do that.

b. Who will assess the child's maturity for the purposes of Article 13(2)?

The court normally decides on the maturity of the child, however, as provided in the answer to the question 7.3 (a) above, a child, capable of providing his / hers opinion has to be listened to and the opinion of the child has to be taken into account, as far as it does not contravene with the interests of the child.

c. In what circumstances, in practice, might the relevant authority in your State refuse to return a child based on his or her objections? Please provide case examples where possible.

[20] In relation to Art. 13(1) *b)*, see also question 5.2 above.

As mentioned above, the court makes the decision in child abduction cases. Under the Article 185 of the Code of Civil Procedure, the court assesses all the evidence of the case according to its conviction, based on an overall and objective examination of the circumstances, presented during the process, and the laws. The views and objections of the child are considered together with all the evidence.

7.4 How, if at all, have other international and / or regional instruments affected the manner in which the child's voice is heard in return proceedings in your State?[21]

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7.5 How does your State ensure that hearing a child does not result in any undue delay to the return proceedings?

Please see the answer to the question 4, provided above. It should also be noted, that in instances, when a psychological expertise is required, there may be some delays.

[21] For EU Member States, excluding Denmark, reference should be made to Art. 11(2) of the Brussels II a Regulation:
"When applying Articles 12 and 13 of the 1980 Hague Convention, it shall be ensured that the child is given the opportunity to be heard during the proceedings unless this appears inappropriate having regard to his or her age or degree of maturity."

Article 20

7.6 How has Article 20 of the 1980 Convention been applied in your State? Are you aware of an increase in the use of this Article (please note that Art. 20 was not relied upon at all according to the 1999 Statistical Survey, nor was it a sole reason for refusal in 2003[22])?

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Any other comments

7.7 Do you have any other comment(s) you would like to make regarding any of the exceptions to return within the 1980 Convention?

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8. Article 15 of the 1980 Convention

8.1 Have you encountered any difficulties with the use of Article 15? If so, please specify the difficulties encountered and what steps, if any, have been taken to overcome such difficulties.

No.

8.2 Has the use of Article 15 caused undue delay in return proceedings in your State? Are there particular States Parties with whom you have had difficulties in this regard? Please provide case examples where possible.

No.

8.3 Are you aware of any cases in your State where direct judicial communications have been used in relation to Article 15? If so, please provide details of how, if at all, direct judicial communications assisted in the particular case.[23]

No.

9. Immigration, asylum and refugee matters under the 1980 Convention

9.1 Have you any experience of cases in which immigration / visa questions have arisen as to the right of the child and / or the taking parent to re-enter the State from which the child was wrongfully removed or retained? If so, how have such issues been resolved?

No.

9.2 Have you any experience of cases involving links between asylum or refugee applications and the 1980 Convention? In particular, please comment on any cases in which the respondent in proceedings for the return of a child has applied for asylum or refugee status (including for the child) in the State in which the application for return is to be considered. How have such cases been resolved?

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[22] It was, however, partially relied upon in eight cases (9%), all of which were in Chile. See N. Lowe, "A Statistical Analysis of Applications made in 2003 under the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*, Part I – Overall Report", Prel. Doc. No 3, Part I, of October 2006 for the attention of the Fifth Meeting of the Special Commission to review the operation of the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction of October – November 2006 (2007 update, published in September 2008). Available on the Hague Conference website at < www.hcch.net > under "Child Abduction Section" then "Special Commission meetings" and "Preliminary Documents".

[23] See *supra*, note 19.

No.

9.3 Have you any experience of cases in which immigration / visa questions have affected a finding of habitual residence in the State from which the child was removed or retained?

No.

9.4 Have you any experience of cases in which immigration / visa questions have inhibited the exercise of rights of access?

No.

10. Newly acceding States to the 1980 Convention

10.1 If your State has recently *acceded* to the 1980 Convention, what steps have been taken to inform other States Parties of the measures taken to implement the Convention in your State?[24] Did you find the Standard Questionnaire for newly acceding States[25] useful for this purpose?

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10.2 How regularly does your State consider declaring its acceptance of the accessions of new States Parties to the 1980 Convention (Art. 38)?

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10.3 What measures, if any, do your authorities take to satisfy themselves that a newly acceding State is in a position to comply with 1980 Convention obligations, such that a declaration of acceptance of the accession can be made (Art. 38)? How does your State ensure that this process does not result in undue delay?

-

11. The Guide to Good Practice under the 1980 Convention

11.1 In what ways have you used the Guide to Good Practice – Part I on Central Authority Practice, Part II on Implementing Measures, Part III on Preventive Measures and Part IV on Enforcement[26] – to assist in implementing for the first time, or improving the practical operation of, the 1980 Convention in your State?

The Guide to Good Practice is used as a source of information to improve practical operation of the Convention.

11.2 How have you ensured that the relevant authorities in your State have been made aware of, and have had access to, the Guide to Good Practice?

In 2003 Part I of the Guide to Good Practice was translated into Lithuanian

11.3 Do you have any comments regarding how best to publicise the recently published Guide to Good Practice – Part IV on Enforcement (published October 2010)?

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[24] See Art. 38 of the 1980 Convention.
[25] The Standard Questionnaire for newly acceding States is available on the Hague Conference website at < www.hcch.net > under "Child Abduction Section" then "Questionnaires and responses".
[26] All Parts of the Guide to Good Practice under the 1980 Convention are available on the Hague Conference website at < www.hcch.net > under "Child Abduction Section" then "Guides to Good Practice".

The Central Authorities have received a website link to Part IV of the Guide to Good Practice, however, a possibility to obtain a printed copy during the conference would be useful.

11.4 Are there any other topics that you would like to see form the basis of future parts of the Guide to Good Practice in addition to those which are already published or are under consideration (these are: Part I on Central Authority Practice; Part II on Implementing Measures; Part III on Preventive Measures; Part IV on Enforcement; and the draft of Part V on Mediation)?

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11.5 Do you have any other comments about any Part of the Guide to Good Practice?

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12. Relationship with other instruments

12.1 Do you have any comments or observations on the impact of international instruments on the operation of the 1980 Convention, in particular, the *1989 United Nations Convention on the Rights of the Child*?

The United Nations Convention on the Rights of the Child is an instrument guaranteeing the rights of children on an international level. However, in cases of child abduction it is more of a supplementary instrument in connection with the 1980 Convention. Yet, United Nations Convention is important in instances, when a child is taken to a country, which is not a party to the 1980 Convention, then it is one of the most important instruments, allowing to facilitate the return of the wrongfully removed child.

12.2 Do you have any comments or observations on the impact of regional instruments on the operation of the 1980 Convention, for example, the Brussels II a Regulation[27] and the *1989 Inter-American Convention on the International Return of Children*?

In child abduction cases involving countries of the European Union, Brussels II a Regulation is applied together with the 1980 Convention. It may be noted that Brussels II a Regulation is more precise on certain points.

13. Publicity and debate concerning the 1980 Convention

13.1 Has the 1980 Convention given rise to (a) any publicity (positive or negative) in your State, or (b) any debate or discussion in your national Parliament or its equivalent? What was the outcome of this debate or discussion, if any?

A lot of publicity and debate in the Parliament was raised by the taking mother (Lithuanian), who refused to return the child to the father. After this incident, there was a lot of publicity regarding the mediation process and the documents that have to be obtained under the 1980 Convention before leaving the country.

From time to time Lithuanian Central Authority initiates positive publicity on the 1980 Convention, its purpose, aims and impact, as it becomes more and more important for Lithuania. In certain instances, media, together with the taking parents, provide negative publicity on the 1980 Convention. This is especially acute in the instances, when a small child has to be returned to the requesting State and the taking mother does not wish to go back together.

13.2 By what methods does your State disseminate information to the public about the 1980 Convention?

On of the most successful methods to disseminate information to the public is publishing articles in the newspapers and other periodicals. Normally, they are later posted on various websites (including the websites for emigrants, Lithuanians' residing abroad, ect.), thus are accessible to a large volume of people. TV shows, where left-behind or taking parents, psychologists, social workers and lawyers participate are also very popular at the moment, however it is difficult to find parents, willing to share a positive experience. Brochures with the most important information on the 1980 Convention are published and delivered to the local child protection services, as they have a closer contact with the parents.

Seminars for leaving parents is a new initiative. This project was implemented in Vilnius municipality in 2010. It offered dance therapy for children, whose parents have left the

[27] *Op. cit.* note 14.

country, and seminars for parents who are thinking of leaving.

Lithuanian Central Authority has also prepared and disseminated an information sheet on the 1996 Convention.

PART III: THE PRACTICAL OPERATION OF THE 1996 CONVENTION[28]

14. Implementation of the 1996 Convention

14.1 If your State is Party to the 1996 Convention, do you have any comments regarding:

a. How it has been implemented?

The 1996 Convention is applied more seldom than the other Hague Conventions (1980, 1993). In cases involving European Union countries, regional documents (such as Brussels II a Regulation and bilateral agreements) are primarily used. The main issue with the 1996 Convention is a small number of States, parties to the Convention.

b. How it is operating?

Please see the answer to the question 14.1 (a), provided above.

c. Further, when implementing the 1996 Convention, did your State use the implementation checklist drawn up by the Permanent Bureau in consultation with States Parties?[29] If so, do you have any comments regarding the implementation checklist and how it might be improved in future?

The implementation checklist was not used.

14.2 If your State is not Party to the 1996 Convention, is your State considering implementing the 1996 Convention? What are viewed as the main difficulties, if any, in implementing this Convention?

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[28] This part of the Questionnaire is directed both to States Parties and non-States Parties to the 1996 Convention save where indicated otherwise, and should be completed by all States insofar as is appropriate.
[29] Available on the Hague Conference website at < www.hcch.net > under "Conventions" then "Convention No 34" and "Practical operation documents".

15. The role and functions of Central Authorities designated under the 1996 Convention

15.1 If your State is Party to the 1996 Convention:

a. Did you encounter any difficulties designating a Central Authority?

No.

b. Have any difficulties arisen in practice in achieving effective communication or co-operation with other Central Authorities? If so, please specify.

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c. Have any of the duties of Central Authorities within the 1996 Convention raised any particular problems in practice either in your State, or in States Parties with whom you have co-operated?

No.

d. Has your Central Authority encountered any particular difficulties with the interpretation or application of the 1996 Convention provisions? If so, please specify.

No.

e. Would you consider the development of any model forms under the 1996 Convention useful (*e.g.*, in relation to the provisions regarding transfer of jurisdiction (Arts 8 and 9), or in relation to the certificate which may be given by the relevant authorities under Art. 40)?

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16. Publicity concerning the 1996 Convention

16.1 If your State is Party to the 1996 Convention, by what methods does your State disseminate information to the public about the 1996 Convention?

Information about the 1996 Convention is available on the website of Lithuanian Central Authority. Lithuanian Central Authority has also prepared an information sheet on the 1996 Convention.

16.2 Could you provide a list (including contact details and website addresses) of non-governmental organisations in your State which are involved in matters covered by the 1996 Convention?

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17. Relationship with other instruments

17.1 Do you have any comments or observations on the impact of regional[30] or international instruments on the operation of the 1996 Convention, in particular, the *1989 United Nations Convention on the Rights of the Child*?

Please see the answer to the question 14.1 (a), provided above.

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[30] *E.g.*, the Brussels II a Regulation (*op. cit.* note 14).

PART IV: TRANSFRONTIER ACCESS / CONTACT AND INTERNATIONAL FAMILY RELOCATION

18. Transfrontier access / contact[31]

18.1 Since the 2006 Special Commission, have there been any significant developments in your State regarding Central Authority practices, legislation, procedural rules or case law applicable in cases of transfrontier contact / access.

No.

[31] See the Conclusions and Recommendations of the 2006 Special Commission (*op. cit.* note 7) at paras 1.7.1 to 1.7.3.

18.2 Please indicate any important developments in your State, since the 2006 Special Commission, in the interpretation of Article 21 of the 1980 Convention.

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18.3 What problems have you experienced, if any, as regards co-operation with other States in respect of:
a. the granting or maintaining of access rights;

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b. the effective exercise of rights of access; and

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c. the restriction or termination of access rights.

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Please provide case examples where possible.

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18.4 In what ways have you used the "General Principles and Guide to Good Practice on Transfrontier Contact Concerning Children"[32] to assist in transfrontier contact / access cases in your State? Can you suggest any further principles of good practice?

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19. International family relocation[33]

19.1 When does a parent require the permission of (a) the other parent, and (b) the relevant State authorities, to relocate internationally with a child (*i.e.*, to move with a child from your State to another State, on a long-term basis)?

The permission of a State authority to internationally relocate the child is not required. Under the Article 3.169 of the Civil Code, when the mother and the father of the child reside separately, habitual residence of the child is agreed upon by the parents. If parents can not amicably agree on the habitual residence of the child, habitual residence of the child is determined by the court with one of the parents (Article 3.169 Paragraph 2 of the Civil Code). Therefore the permission of another parent to relocate the child is required in instances when one of the parents is moving with a child to another state on a long-term basis. This permission may be voluntary or habitual residence of the child may be determined by the court.

It should also be noted, that despite the relocation of the child, under the Article 3.156 of the Civil Code, both parents still have equal rights and duties towards their child. This is

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[32] Available on the Hague Conference website at < www.hcch.net > under "Child Abduction Section" then "Guides to Good Practice".

[33] See the Conclusions and Recommendations of the 2006 Special Commission meeting at paras 1.7.4 to 1.7.5: "1.7.4 The Special Commission concludes that parents, before they move with their children from one country to another, should be encouraged not to take unilateral action by unlawfully removing a child but to make appropriate arrangements for access and contact preferably by agreement, particularly where one parent intends to remain behind after the move.
1.7.5 The Special Commission encourages all attempts to seek to resolve differences among the legal systems so as to arrive as far as possible at a common approach and common standards as regards relocation."

irrespective of whether the child is born to married or unmarried, divorced, separated parents or when the marriage is judicially annulled. Except the cases, when parental authority is temporary or without limitations restricted, or when a child is separated from the parents due to the best interests of the child.

19.2 Do you have a specific procedure in your State which applies when a parent wishes to seek the relevant authority's permission to relocate internationally? When permission of the relevant authority is required to relocate internationally, what criteria are applied to determine whether such permission should be granted, or not?

The permission of a State authority to relocate is not required, however, if a parent refuses to voluntarily agree with the leaving parent, the latter is encouraged to apply to the local court to determine the habitual residence of the child. Regular court proceedings are held in these instances, where both parents should normally participate and provide their arguments and evidence.

19.3 Are you aware of any recent decisions in your State concerning international family relocation which may be of interest to the Special Commission meeting? In particular, are you aware of any cases where the international relocation of a child was permitted by the relevant authorities in your State following the return of the child to your State under 1980 Convention procedures?

After the return of the child under the 1980 Convention, parents are encouraged to amicably agree on the habitual residence of the child and access rights. If amicable agreement is not possible, parents apply to the court to determine habitual residence of the child and authorization of contact. Since the court proceedings may endure, some of the taking parents ask the court to apply interim measures allowing the taking parent to leave the country together with the child for designated periods of time.

19.4 Do you have any comment on the Washington Declaration on International Family Relocation[34] reached at the conclusion of the International Judicial Conference on Cross-Border Family Relocation[35] in March 2010? In particular, do you have any comment on paragraph 13 of the Washington Declaration, which states:

> "The Hague Conference on Private International Law, in co-operation with the International Centre for Missing and Exploited Children, is encouraged to pursue the further development of the principles set out in this Declaration and to consider the feasibility of embodying all or some of these principles in an international instrument. To this end, they are encouraged to promote international awareness of these principles, for example through judicial training and other capacity building programmes."

No.

PART V: NON-CONVENTION CASES AND NON-CONVENTION STATES

20. Non-Convention cases and non-Convention States

20.1 Are you aware of any troubling cases of international child abduction which fall outside the scope of the 1980 Convention? Are you aware of any troubling cases of

[34] Available in full on the Hague Conference website at < www.hcch.net > under "News & Events" then "2010".
[35] The International Judicial Conference on Cross-Border Family Relocation was held in Washington, D.C., United States of America, from 23 to 25 March 2010 and was co-organised by the Hague Conference on Private International Law and the International Centre for Missing and Exploited Children (< www.icmec.org >), with the support of the United States Department of State.

international child protection which fall outside the scope of the 1996 Convention?

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20.2 Has your State had a significant number of cases of international child abduction or protection with any particular non-Contracting States?

In Lithuanian there normally are several international child abduction cases per year, where States, not parties to the 1980 Convention, are involved (e. g. Russia, Moldova). In these instances, the only available instruments are United Nations Convention on the Rights of the Child and bilateral agreements, however, they are not very helpful in ensuring relevant child protection measures and safe return of the child.
The situation with States, not parties to the 1996 Convention, is analogous. In some cases, when a State is not party to the abovementioned convention and there are no bilateral agreements in force (e. g. Norway), cooperation in child abduction cases may be difficult.

20.3 Are there any States that you would particularly like to see become a State Party to (a) the 1980 Convention and / or (b) the 1996 Convention? If so, what steps would you suggest could be taken to promote the Convention(s) and encourage ratification of, or accession to, the relevant Convention(s) in those States?

Due to recent practise of Lithuania, it would be to the utmost interest that Russia would became a party to both of the Conventions. It would also be useful, if Norway became a party to the 1996 Hague Convention.

20.4 Since the 2006 Special Commission, has your State concluded:

a. Any bilateral, or other, agreements on international child abduction with States not Party to the 1980 Convention?

No.

b. Any bilateral, or other, agreements on international child protection with States not Party to the 1996 Convention?

No.

Please provide brief details of any such agreements, including which non-Contracting States are party to the agreement(s).

-

20.5 Are there any States which are not Parties to the 1980 or 1996 Conventions or not Members of the Hague Conference that you would like to see invited to the Special Commission meeting in 2011 and 2012?[36]

Russia.

[36] See the "Request for funding" made in Info. Doc. No 1 (circulated at the same time as this Prel. Doc. No 1).

The "Malta Process"[37]

20.6 In relation to the "Malta Process":

a. Do you have any comment to make on the "Principles for the Establishment of Mediation Structures in the context of the Malta Process" and the accompanying Explanatory Memorandum?[38] Have any steps been taken towards implementation of the Principles in your State?

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b. Do you have any comment to make on the "Malta Process" generally?

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c. What is your view as to the future of the "Malta Process"?

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PART VI: TRAINING AND EDUCATION AND THE TOOLS, SERVICES AND SUPPORTS PROVIDED BY THE PERMANENT BUREAU[39]

21. Training and education

21.1 Do you have any comments regarding how judicial (or other) seminars or conferences at the national, regional and international levels have supported the effective functioning of the 1980 and 1996 Convention(s)? In particular, how have the conclusions and recommendations of these seminars or conferences (some of which are available on the Hague Conference website at < www.hcch.net > under "Child Abduction Section"), had an impact on the functioning of the 1980 and 1996 Convention(s)?

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21.2 Can you give details of any training sessions / conferences organised in your State, and the influence that such sessions have had?

In 2008 Lithuanian Central Authority organized an international conference on child abduction issues. Representatives from the Permanent Bureau, Central Authority of the United Kingdom, where numerous children from Lithuania are abducted to, and representatives from Latvia, which has similar experience as Lithuania, were invited. Mediators from the United Kingdom and Germany were invited to share their experience, presentations were made by professors of law and psychology.

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[37] The "Malta Process" is a dialogue between certain States Parties to the 1980 and 1996 Conventions and certain States which are not Parties to either Convention, with a view to securing better protection for cross-border rights of contact of parents and their children and the problems posed by international abduction between the States concerned. For further information see the Hague Conference website at < www.hcch.net > under "Child Abduction Section" then "Judicial Seminars on the International Protection of Children".

[38] The Principles and Explanatory Memorandum were circulated to all Hague Conference Member States and all States participating in the Malta Process in November 2010. They are available on the Hague Conference website at < www.hcch.net > under "Child Abduction Section" then "Judicial Seminars on the International Protection of Children".

[39] Further information regarding the tools, services and supports provided by the Permanent Bureau will be set out in the report to the 2011 Special Commission meeting on this subject (see the "Documentation" section of Info. Doc. No 1).

22. The tools, services and supports provided by the Permanent Bureau (including through the International Centre for Judicial Studies and Technical Assistance)

In general

22.1 Please comment or state your reflections on the specific tools, services and supports provided by the Permanent Bureau to assist with the practical operation of the 1980 and 1996 Conventions, including:

a. INCADAT (the international child abduction database, available at < www.incadat.com >). INCADAT underwent a complete revision and an improved, re-designed version was launched on 30 April 2010;[40]

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b. *The Judges' Newsletter* on International Child Protection - the bi-annual publication of the Hague Conference on Private International Law which is available in hard copy and online for free;[41]

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c. The specialised "Child Abduction Section" of the Hague Conference website (< www.hcch.net >);

Lithuanian Central Authority finds this section very useful.

d. INCASTAT (the database for the electronic collection and analysis of statistics on the 1980 Convention);[42]

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e. iChild (the electronic case management system designed by the Canadian software company WorldReach);[43]

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f. Providing technical assistance and training to States Parties regarding the practical operation of the 1980 and 1996 Conventions.[44] Such technical assistance and training may involve persons visiting the Permanent Bureau or, alternatively, may involve the Permanent Bureau (often through the International Centre for Judicial Studies and Technical Assistance) organising, or providing assistance with organising, national and international judicial and other seminars and conferences concerning the Convention(s) and participating in such conferences;

As mentioned in the answer to the question 21.2, Lithuanian Central Authority has

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[40] Further information regarding the INCADAT re-launch can be found on the Hague Conference website at < www.hcch.net > under "News & Events" then "30 April 2010". Further information regarding the improvements to INCADAT and the continuing work being undertaken will be provided in the report to the 2011 Special Commission meeting on the services provided by the Permanent Bureau (see Info. Doc. No 1).

[41] Available on the Hague Conference website at < www.hcch.net > under "Child Abduction Section" and "Judges' Newsletter on International Child Protection". For some volumes of *The Judges' Newsletter*, it is now possible to download individual articles as required. Further, an index of relevant topics is being created to enable more user-friendly searches of the publication. The publication is also in the process of being re-designed. Further information regarding this publication will be provided in the report to the 2011 Special Commission meeting (see Info. Doc. No 1).

[42] Further information is available via the Hague Conference website at < www.hcch.net > under "Child Abduction Section" then "INCASTAT".

[43] Further information is available via the Hague Conference website at < www.hcch.net > under "Child Abduction Section" then "iChild".

[44] Such technical assistance may be provided to judges, Central Authority personnel and / or other professionals involved with the practical operation of the Convention(s).

involved the Permanent Bureau in organizing an international child abduction conference.

g. Where individuals contact the Permanent Bureau seeking help in cases involving international child protection issues (which occurs on an almost daily basis), providing referrals (primarily to Central Authorities) and offering advice of a general nature on the operation of the Convention(s);

-

h. Encouraging wider ratification of, or accession to, the Convention(s), including educating those unfamiliar with the Convention(s);[45]

-

i. Supporting communications between Central Authorities, including maintaining an online database of updated contact details.

-

Other

22.2 What other measures or mechanisms would you recommend:
a. To improve the monitoring of the operation of the Conventions;

-

b. To assist States in meeting their Convention obligations; and

-

c. To evaluate whether serious violations of Convention obligations have occurred?

-

PART VII: PRIORITIES AND RECOMMENDATIONS FOR THE SPECIAL COMMISSION AND ANY OTHER MATTERS

23. Views on priorities and recommendations for the Special Commission

23.1 Which matters does your State think ought to be accorded particular priority on the agenda for the Special Commission? Please provide a brief explanation supporting your response.

-

23.2 States are invited to make proposals concerning any particular recommendations they think ought to be made by the Special Commission.

-

[45] Which again may involve State delegates and others visiting the Permanent Bureau or, alternatively, may involve the Permanent Bureau organising, or providing assistance with organising, national and international judicial and other seminars and conferences concerning the Convention(s) and participating in such conferences.

24. Any other matters

24.1 States are invited to comment on any other matters which they may wish to raise concerning the practical operation of the 1980 and / or the 1996 Convention(s).

-

LIETUVOS RESPUBLIKOS CIVILINĮ PROCESĄ REGLAMENTUOJANČIŲ EUROPOS SĄJUNGOS IR TARPTAUTINĖS TEISĖS AKTŲ ĮGYVENDINIMO ĮSTATYMAS

2008 m. lapkričio 13 d. Nr. X-1809
Vilnius

PIRMASIS SKIRSNIS
BENDROSIOS NUOSTATOS

1 straipsnis. Įstatymo paskirtis

Šis įstatymas skirtas užtikrinti tinkamą civilinį procesą reglamentuojančių Europos Sąjungos teisės aktų, nurodytų šio įstatymo priede, ir tarptautines teisės aktų įgyvendinimą.

ANTRASIS SKIRSNIS
EUROPOS BENDRIJOS STEIGIMO SUTARTIES 244 IR 256 STRAIPSNIŲ ĮGYVENDINIMAS

2 straipsnis. Vykdomųjų raštų išdavimas

Vykdomuosius raštus dėl Europos Sąjungos Tarybos ar Europos Bendrijų Komisijos sprendimų, kuriais asmenims, išskyrus valstybes, skiriama piniginė prievolė, taip pat dėl Europos Bendrijų Teisingumo Teismo sprendimų suinteresuotos šalies prašymu nedelsdamas, bet ne vėliau kaip per penkias darbo dienas išduoda Lietuvos apeliacinis teismas.

TREČIASIS SKIRSNIS
2007 M. LAPKRIČIO 13 D. EUROPOS PARLAMENTO IR TARYBOS REGLAMENTO (EB) NR. 1393/2007 DĖL TEISMINIŲ IR NETEISMINIŲ DOKUMENTŲ CIVILINĖSE ARBA KOMERCINĖSE BYLOSE ĮTEIKIMO VALSTYBĖSE NARĖSE („DOKUMENTŲ ĮTEIKIMAS“) IR PANAIKINANČIO TARYBOS REGLAMENTĄ (EB) NR. 1348/2000 IR 1965 M. LAPKRIČIO 15 D. HAGOS KONVENCIJOS DĖL TEISMINIŲ IR NETEISMINIŲ DOKUMENTŲ CIVILINĖSE ARBA KOMERCINĖSE BYLOSE ĮTEIKIMO UŽSIENYJE ĮGYVENDINIMAS

3 straipsnis. Praleisto apeliacinio skundo padavimo termino atnaujinimas

2007 m. lapkričio 13 d. Europos Parlamento ir Tarybos reglamento (EB) Nr. 1393/2007 dėl teisminių ir neteisminių dokumentų civilinėse arba komercinėse bylose įteikimo valstybėse narėse („dokumentų įteikimas“) ir panaikinančio Tarybos reglamentą (EB) Nr. 1348/2000 19 straipsnio 4 dalyje ir 1965 m. lapkričio 15 d. Hagos konvencijos dėl teisminių ir neteisminių dokumentų civilinėse arba komercinėse bylose įteikimo užsienyje 16 straipsnio 1 dalyje nustatytais atvejais atsakovas turi teisę paduoti prašymą atnaujinti praleistą apeliacinio skundo padavimo terminą. Prašymas atnaujinti praleistą apeliacinio skundo padavimo terminą negali būti paduotas, jeigu praėjo daugiau kaip vieni metai nuo teismo sprendimo priėmimo dienos.

KETVIRTASIS SKIRSNIS
2000 M. GRUODŽIO 22 D. TARYBOS REGLAMENTO (EB) Nr. 44/2001 DĖL JURISDIKCIJOS IR TEISMO SPRENDIMŲ CIVILINĖSE IR KOMERCINĖSE BYLOSE PRIPAŽINIMO IR VYKDYMO ĮGYVENDINIMAS

4 straipsnis. Europos Sąjungos valstybių narių teismų sprendimų pripažinimo ir vykdymo tvarka

1. Europos Sąjungos valstybių narių teismų sprendimai ir kiti pagal Europos Sąjungos reglamentus vykdytini dokumentai Lietuvos Respublikoje pripažįstami ir leidžiama juos vykdyti pagal Europos Sąjungos reglamentų, šio įstatymo ir Lietuvos Respublikos civilinio proceso kodekso nustatytą tvarką. Jeigu Europos Sąjungos reglamentai nenustato Europos Sąjungos valstybių narių teismų sprendimų pripažinimo ir leidimo juos vykdyti tvarkos, šie sprendimai pripažįstami ir leidžiama juos vykdyti pagal Lietuvos Respublikos civilinio proceso kodekso LX skyriaus ketvirtąjį, penktąjį ir šeštąjį skirsnius.

2. Šio straipsnio nuostatos *mutatis mutandis* taikomos ir tuo atveju, kai užsienio valstybių teismų sprendimai yra pripažįstami ir leidžiama juos vykdyti pagal tarptautines sutartis, jeigu jose nustatyta galimybė du kartus patikrinti teismo sprendimo dėl užsienio valstybės teismo sprendimo pripažinimo teisėtumą ir pagrįstumą.

3. Jeigu Europos Sąjungos reglamentai nustato šalių teisę kreiptis į teismą dėl Europos Sąjungos valstybių narių teismų sprendimų pripažinimo, prašymas dėl Europos Sąjungos valstybės narės teismo sprendimo pripažinimo nagrinėjamas šio straipsnio 4, 5 ir 6 dalyse nustatyta tvarka.

4. Prašymas dėl leidimo vykdyti Europos Sąjungos valstybės narės teismo sprendimą pateikiamas Lietuvos apeliaciniam teismui. Šis prašymas turi atitikti bendruosius procesiniams dokumentams keliamus reikalavimus, įskaitant reikalavimą prašymą ir jo priedus pateikti valstybine kalba arba pridėti šių dokumentų vertimą į lietuvių kalbą. Jeigu pareiškėjas gyvena ne Lietuvos Respublikoje ir nepaskyrė atstovo byloje arba įgalioto asmens procesiniams dokumentams gauti, gyvenančio (turinčio profesinės veiklos buveinę) Lietuvos Respublikoje (Lietuvos Respublikos civilinio proceso kodekso 805 straipsnis), prašyme dėl leidimo vykdyti Europos Sąjungos valstybės narės teismo sprendimą turi būti nurodytas adresas Lietuvos Respublikoje arba telekomunikacijų galinio įrenginio adresas, kuriuo pareiškėjui būtų įteikiami procesiniai dokumentai. Prašymas dėl leidimo vykdyti Europos Sąjungos valstybės narės teismo sprendimą žyminiu mokesčiu neapmokestinamas.

5. Šio straipsnio 4 dalyje nurodytą prašymą nagrinėja vienas Lietuvos apeliacinio teismo teisėjas. Teismas, nustatęs, kad prašymas paduotas nesilaikant Europos Sąjungos reglamentuose, šiame įstatyme ar Lietuvos Respublikos civilinio proceso kodekse nustatytos tvarkos, laiko jį nepaduotu ir nutartimi grąžina pareiškėjui, o prašymas, kuris jau buvo priimtas teismo žinion, paliekamas nenagrinėtas. Teismas nustato terminą prašymo formos arba turinio trūkumams pašalinti (Lietuvos Respublikos civilinio proceso kodekso 115 straipsnis), jeigu pareiškėjas gyvena Lietuvos Respublikoje, nurodė adresą Lietuvos Respublikoje arba telekomunikacijų galinio įrenginio adresą, kuriuo pareiškėjui būtų įteikiami procesiniai dokumentai, arba paskyrė atstovą byloje ar įgaliotą asmenį procesiniams dokumentams gauti, gyvenantį (turintį profesinės veiklos buveinę) Lietuvos Respublikoje (Lietuvos Respublikos civilinio proceso kodekso 805 straipsnis). Jeigu per teismo nustatytą terminą trūkumai nepašalinami, prašymas laikomas nepaduotu ir grąžinamas pareiškėjui, o prašymas, kuris jau buvo priimtas teismo žinion, paliekamas nenagrinėtas. Teismas leidimo vykdyti Europos Sąjungos valstybės narės teismo sprendimą klausimą išsprendžia priimdamas nutartį rašytinio proceso tvarka. Šioje nutartyje turi būti nurodyta jos peržiūrėjimo ir įsiteisėjimo tvarka, o nutartyje, kuria

sprendimą leista vykdyti, taip pat pažymėta, kad Europos Sąjungos valstybės narės teismo sprendimą leista vykdyti netikrinant, ar egzistuoja Europos Sąjungos reglamentuose nurodyti pagrindai atsisakyti pripažinti Europos Sąjungos valstybės narės teismo sprendimą. Ši nutartis įsiteisėja pasibaigus Europos Sąjungos reglamentuose nustatytam teismo nutarties dėl leidimo vykdyti Europos Sąjungos valstybės narės teismo sprendimą apskundimo terminui. Vykdomąjį raštą Lietuvos apeliacinis teismas išduoda tik po nutarties įsiteisėjimo ir pareiškėjo, ir asmens, kurio atžvilgiu siekiama sprendimą įvykdyti, atžvilgiu.

6. Prašymą peržiūrėti nutartį dėl leidimo vykdyti Europos Sąjungos valstybės narės teismo sprendimą nagrinėja Lietuvos apeliacinio teismo trijų teisėjų kolegija. Šiems prašymams nagrinėti *mutatis mutandis* taikomos atskirųjų skundų nagrinėjimo taisyklės. Į Lietuvos apeliacinio teismo teisėjų kolegiją, nagrinėjančią prašymą peržiūrėti nutartį dėl leidimo vykdyti Europos Sąjungos valstybės narės teismo sprendimą, negali būti skiriamas teisėjas, priėmęs šią nutartį. Išnagrinėjęs prašymą peržiūrėti nutartį dėl leidimo vykdyti Europos Sąjungos valstybės narės teismo sprendimą ir nutaręs nutartį panaikinti, teismas negali perduoti klausimo nagrinėti iš naujo šio straipsnio 5 dalyje nustatyta tvarka. Visais atvejais teismas, išnagrinėjęs prašymą peržiūrėti nutartį dėl leidimo vykdyti Europos Sąjungos valstybės narės teismo sprendimą, priima nutartį. Ši teismo nutartis įsiteisėja nuo jos priėmimo dienos. Teismo nutartis gali būti skundžiama kasaciniu skundu pagal bylų proceso kasaciniame teisme taisykles.

PENKTASIS SKIRSNIS
2001 M. GEGUŽĖS 28 D. TARYBOS REGLAMENTO (EB) NR. 1206/2001 DĖL VALSTYBIŲ NARIŲ TEISMŲ TARPUSAVIO BENDRADARBIAVIMO RENKANT ĮRODYMUS CIVILINĖSE AR KOMERCINĖSE BYLOSE ĮGYVENDINIMAS

5 straipsnis. Įrodymų rinkimas Europos Sąjungos valstybėje narėje

1. Europos Sąjungos teisės aktų nustatyta tvarka rinkti įrodymus Europos Sąjungos valstybėje narėje turi teisę visi Lietuvos Respublikos teismai (teisėjai).

2. Šalys ir jų atstovai, jeigu tokie yra, turi teisę dalyvauti Europos Sąjungos valstybės narės teismui renkant įrodymus Europos Sąjungos teisės aktų nustatyta tvarka.

6 straipsnis. Centrinė įstaiga

Centrinė įstaiga 2001 m. gegužės 28 d. Tarybos reglamento (EB) Nr. 1206/2001 dėl valstybių narių teismų tarpusavio bendradarbiavimo renkant įrodymus civilinėse ar komercinėse bylose 3 straipsnyje nustatytoms funkcijoms atlikti yra Lietuvos Respublikos teisingumo ministerija.

ŠEŠTASIS SKIRSNIS
2003 M. LAPKRIČIO 27 D. TARYBOS REGLAMENTO (EB) NR. 2201/2003 DĖL JURISDIKCIJOS IR TEISMO SPRENDIMŲ, SUSIJUSIŲ SU SANTUOKA IR TĖVŲ PAREIGOMIS, PRIPAŽINIMO BEI VYKDYMO, PANAIKINANČIO REGLAMENTĄ (EB) NR. 1347/2000, IR 1980 M. SPALIO 25 D. HAGOS KONVENCIJOS DĖL TARPTAUTINIO VAIKŲ GROBIMO CIVILINIŲ ASPEKTŲ ĮGYVENDINIMAS

7 straipsnis. Vaiko grąžinimas

1. Bylos dėl neteisėtai išvežto ar kitoje, negu jis nuolat gyveno, Europos Sąjungos valstybėje narėje arba susitariančiojoje valstybėje pagal 1980 m. spalio 25 d. Hagos konvenciją dėl tarptautinio vaikų grobimo civilinių aspektų (toliau – Hagos konvencija) laikomo vaiko grąžinimo (toliau – bylos dėl vaiko grąžinimo) nagrinėjamos Lietuvos Respublikos civilinio proceso kodekso XXXIX skyriuje nustatyta tvarka tiek, kiek 2003 m. lapkričio 27 d. Tarybos reglamentas (EB) Nr. 2201/2003 dėl jurisdikcijos ir teismo sprendimų, susijusių su santuoka ir tėvų pareigomis, pripažinimo bei vykdymo, panaikinantis Reglamentą (EB) Nr. 1347/2000 (toliau šiame skirsnyje – Reglamentas (EB) Nr. 2201/2003), Hagos konvencija ir šis įstatymas nenustato kitaip.

2. Bylos dėl vaiko grąžinimo, kai vaikas neteisėtai atvežtas ar neteisėtai laikomas Lietuvos Respublikoje, teismingos Vilniaus apygardos teismui.

3. Apie bylos dėl vaiko grąžinimo nagrinėjimą pranešama suinteresuotiems asmenims. Teismas, rengdamasis nagrinėti bylą dėl vaiko grąžinimo, paveda šio įstatymo 11 straipsnio 2 dalies 2 punkte nurodytai centrinei institucijai pateikti Reglamento (EB) Nr. 2201/2003 55 straipsnio a punkte nurodytą informaciją.

4. Jeigu pareiškėjas gyvena ne Lietuvos Respublikoje ir nepaskyrė atstovo byloje arba įgalioto asmens procesiniams dokumentams gauti, gyvenančio Lietuvos Respublikoje (Lietuvos Respublikos civilinio proceso kodekso 805 straipsnis), prašyme dėl vaiko grąžinimo turi būti nurodytas adresas Lietuvos Respublikoje arba telekomunikacijų galinio įrenginio adresas, kuriuo pareiškėjui būtų galima įteikti procesinius dokumentus.

5. Prašymas dėl vaiko grąžinimo turi būti išnagrinėtas laikantis Reglamento (EB) Nr. 2201/2003 11 straipsnyje nustatytų terminų. Nagrinėjant bylą žodinio proceso tvarka, turi būti rašomas teismo posėdžio protokolas.

6. Teismo nutartis grąžinti vaiką ar atsisakyti grąžinti vaiką gali būti skundžiama atskiruoju skundu Lietuvos apeliaciniam teismui. Bylose dėl vaiko grąžinimo kasacija negalima.

7. Reglamento (EB) Nr. 2201/2003 11 straipsnio 6 dalyje nurodytų dokumentų perdavimo funkciją Lietuvos Respublikoje atlieka šio įstatymo 11 straipsnio 2 dalies 1 punkte nurodyta centrinė institucija.

8 straipsnis. Bylų, kai sutuoktiniai yra Lietuvos Respublikos piliečiai, neturintys gyvenamosios vietos ir turto Lietuvos Respublikoje, teismingumas

Pareiškimas dėl santuokos nutraukimo, gyvenimo skyrium (separacijos), santuokos pripažinimo negaliojančia, kai sutuoktiniai yra Lietuvos Respublikos piliečiai, neturintys Lietuvos Respublikoje gyvenamosios vietos ir turto, paduodamas bet kuriam apylinkės teismui ieškovo pasirinkimu.

9 straipsnis. Europos Sąjungos valstybių narių teismų sprendimų vykdymas

1. Europos Sąjungos valstybių narių teismų sprendimai dėl bendravimo teisių ir dėl vaiko grąžinimo yra vykdytini dokumentai, vykdomi pagal Lietuvos Respublikos civilinio proceso kodekso VI dalyje išdėstytas taisykles tiek, kiek šis įstatymas nenustato kitaip.

2. Europos Sąjungos valstybėse narėse išduoti pažymėjimai, nurodyti Reglamento (EB) Nr. 2201/2003 41 ir 42 straipsniuose, yra vykdomieji dokumentai.

10 straipsnis. Europos Sąjungos valstybių narių teismų sprendimų vykdymo praktiniai nurodymai

1. Jeigu Europos Sąjungos valstybės narės teismo sprendime dėl bendravimo teisių nėra reikalingų nurodymų arba jų nepakanka, vykdymo veiksmus atliekantis antstolis

kreipiasi su pareiškimu į vykdymo vietos apylinkės teismą dėl praktinių nurodymų dėl naudojimosi bendravimo teisėmis.

2. Šio straipsnio 1 dalyje nurodyti pareiškimai nagrinėjami Lietuvos Respublikos civilinio proceso kodekso 593 straipsnyje nustatyta tvarka tiek, kiek šis įstatymas nenustato kitaip.

3. Vaikas, kuris sugeba išreikšti savo nuomonę ir suformuluoti savo pažiūras, dėl naudojimosi bendravimo teisėmis turi būti išklausytas teismo posėdyje *mutatis mutandis* taikant Lietuvos Respublikos civilinio proceso kodekso 380 straipsnyje nustatytą tvarką.

4. Teismas, rengdamasis nagrinėti šio straipsnio 1 dalyje nurodytą pareiškimą, paveda vaiko gyvenamosios vietos valstybinei vaiko teisių apsaugos institucijai pateikti išvadą.

5. Dėl teismo nutarties, kurioje išdėstyti praktiniai nurodymai dėl naudojimosi bendravimo teisėmis, gali būti duodamas atskirasis skundas. Apeliacinės instancijos teismo nutartis, priimta išnagrinėjus atskirąjį skundą, kasacine tvarka neskundžiama.

11 straipsnis. Centrinės institucijos

1. Centrinė institucija Hagos konvencijoje nustatytoms funkcijoms atlikti yra Lietuvos Respublikos socialinės apsaugos ir darbo ministerija.

2. Centrinės institucijos Reglamente (EB) Nr. 2201/2003 nustatytoms funkcijoms atlikti yra:

1) Lietuvos Respublikos teisingumo ministerija – atsakinga už teismų susižinojimo funkcijų atlikimą ir informacijos apie Lietuvos Respublikos teisės nustatytas procedūrines taisykles, susijusias su Reglamento (EB) Nr. 2201/2003 įgyvendinimu, perdavimą;

2) Lietuvos Respublikos socialinės apsaugos ir darbo ministerija – atsakinga už kitų, negu nurodyta šios dalies 1 punkte, Reglamente (EB) Nr. 2201/2003 nustatytų funkcijų įgyvendinimą.

12 straipsnis. Laikinųjų apsaugos priemonių taikymas

1. Priėmęs prašymą dėl vaiko grąžinimo, teismas ieškovo (išieškotojo) ar antstolio prašymu arba savo iniciatyva gali taikyti, o priėmęs sprendimą dėl vaiko grąžinimo, – savo iniciatyva privalo taikyti laikinąsias apsaugos priemones – draudimą atsakovui (skolininkui) išvykti iš Lietuvos Respublikos ir (arba) draudimą išvežti vaiką iš Lietuvos Respublikos be teismo leidimo.

2. Nutartis dėl šio straipsnio 1 dalyje nurodytų laikinųjų apsaugos priemonių taikymo vykdo antstolis.

SEPTINTASIS SKIRSNIS
2004 M. BALANDŽIO 21 D. EUROPOS PARLAMENTO IR TARYBOS REGLAMENTO (EB) NR. 805/2004, SUKURIANČIO NEGINČYTINŲ REIKALAVIMŲ EUROPOS VYKDOMĄJĮ RAŠTĄ, ĮGYVENDINIMAS

13 straipsnis. Europos vykdomasis raštas

1. Europos vykdomasis raštas yra vykdomasis dokumentas.

2. Europos vykdomojo rašto turiniui netaikomi Lietuvos Respublikos civilinio proceso kodekso 648 straipsnyje nustatyti reikalavimai.

3. Teismo sprendimai, teismo patvirtintos taikos sutartys, autentiški dokumentai, dėl kurių išduotas Europos vykdomasis raštas, yra vykdytini dokumentai. Jie vykdomi pagal Lietuvos Respublikos civilinio proceso kodekso VI dalyje išdėstytas taisykles tiek, kiek 2004 m. balandžio 21 d. Europos Parlamento ir Tarybos reglamentas (EB) Nr. 805/2004, sukuriantis neginčytinų reikalavimų Europos vykdomąjį raštą (toliau šiame skirsnyje – Reglamentas (EB) Nr. 805/2004), ir šis įstatymas nenustato kitaip.

4. Europos vykdomasis raštas ar jo kopija vykdyti Lietuvos Respublikoje pateikiami išversti į lietuvių kalbą ir vykdomi netaikant šio įstatymo 4 straipsnio nuostatų.

14 straipsnis. Procesinių dokumentų įteikimas

1. Jeigu ieškinyje (pareiškime dėl teismo įsakymo išdavimo) ieškovas (kreditorius) yra papildomai nurodęs, kad bus siekiama Europos vykdomojo rašto išdavimo, teismas, nagrinėdamas bylą, procesinius dokumentus įteikia Lietuvos Respublikos civilinio proceso kodekse nustatytais ir Reglamento (EB) Nr. 805/2004 13, 14, 15 straipsnių reikalavimus atitinkančiais procesinių dokumentų įteikimo būdais.

2. Tais atvejais, kai šio straipsnio 1 dalyje nurodyta informacija teismui nebuvo pateikta, Europos vykdomasis raštas gali būti išduodamas Reglamento (EB) Nr. 805/2004 3 straipsnio 1 dalies a punkte nurodytose bylose, taip pat kitose bylose, jeigu jose procesiniai dokumentai buvo įteikti Reglamento (EB) Nr. 805/2004 13, 14, 15 straipsnių reikalavimus atitinkančiais procesinių dokumentų įteikimo būdais.

15 straipsnis. Autentiški dokumentai

1. Autentiški dokumentai yra notaro užprotestuoti ar neprotestuotini vekseliai, čekiai, kuriuose padaryti notaro vykdomieji įrašai.

2. Kreditoriaus prašymu Europos vykdomąjį raštą dėl šio straipsnio 1 dalyje nurodytų autentiškų dokumentų išduoda vykdomąjį įrašą padaręs notaras. Europos vykdomąjį raštą notaras išduoda ne vėliau kaip per penkias darbo dienas nuo prašymo dėl Europos vykdomojo rašto išdavimo gavimo dienos.

16 straipsnis. Europos vykdomojo rašto taisymas arba panaikinimas

1. Kai dėl rašybos ar kitokios klaidos Europos vykdomasis raštas neatitinka teismo sprendimo ar autentiško dokumento, taisant Europos vykdomąjį raštą *mutatis mutandis* taikomos Lietuvos Respublikos civilinio proceso kodekso 648 straipsnio 6 dalies nuostatos.

2. Teismas, išdavęs Europos vykdomąjį raštą, Reglamento (EB) Nr. 805/2004 10 straipsnio 1 dalies b punkte nurodytu atveju nutartimi panaikina arba atsisako panaikinti Europos vykdomąjį raštą.

3. Šiame straipsnyje nurodytais klausimais pateikti bylos šalių prašymai žyminiu mokesčiu neapmokestinami.

4. Šio straipsnio nuostatos taikomos ir tais atvejais, kai į vykdomąjį įrašą padariusio notaro buveinės apylinkės teismą kreipiamasi dėl Europos vykdomojo rašto, išduoto šio įstatymo 15 straipsnio 2 dalyje nustatyta tvarka, ištaisymo ar panaikinimo.

17 straipsnis. Atsisakymas vykdyti teismo sprendimą

1. Lietuvos apeliacinis teismas Reglamento (EB) Nr. 805/2004 21 straipsnyje nurodytą skolininko prašymą išsprendžia priimdamas nutartį rašytinio proceso tvarka.

2. Šio straipsnio 1 dalyje nurodytas prašymas žyminiu mokesčiu neapmokestinamas.

18 straipsnis. Teismų sprendimų vykdymo atidėjimas arba apribojimas

1. Reglamento (EB) Nr. 805/2004 23 straipsnio 1 dalies a punkte nurodytus sprendimus pagal kompetenciją priima teismo sprendimo, patvirtintos taikos sutarties ar autentiško dokumento vykdymo vietos apylinkės teismas arba antstolis.

2. Reglamento (EB) Nr. 805/2004 23 straipsnio 1 dalies b punkte nurodytus sprendimus priima teismo sprendimo, patvirtintos taikos sutarties ar autentiško dokumento vykdymo vietos apylinkės teismas.

3. Reglamento (EB) Nr. 805/2004 23 straipsnio 1 dalies c punkte nurodytus sprendimus pagal kompetenciją priima teismo sprendimo ar autentiško dokumento vykdymo vietos antstolis.

4. Teismas šio straipsnio 1 ir 2 dalyse nurodytais klausimais pateiktus bylos šalių prašymus nagrinėja *mutatis mutandis* taikydamas Lietuvos Respublikos civilinio proceso kodekso 593 straipsnio nuostatas.

AŠTUNTASIS SKIRSNIS
2006 M. GRUODŽIO 12 D. EUROPOS PARLAMENTO IR TARYBOS REGLAMENTO (EB) NR. 1896/2006, NUSTATANČIO EUROPOS MOKĖJIMO ĮSAKYMO PROCEDŪRĄ, ĮGYVENDINIMAS

19 straipsnis. Proceso ypatumai

Tiek, kiek nustato 2006 m. gruodžio 12 d. Europos Parlamento ir Tarybos reglamentas (EB) Nr. 1896/2006, nustatantis Europos mokėjimo įsakymo procedūrą (toliau šiame skirsnyje – Reglamentas (EB) Nr. 1896/2006), prašymai dėl Europos mokėjimo įsakymo išdavimo nagrinėjami pagal Lietuvos Respublikos civilinio proceso kodekso XXIII skyriuje nustatytas taisykles, išskyrus šiame įstatyme nurodytas išimtis.

20 straipsnis. Bylų teismingumas

Prašymai dėl Europos mokėjimo įsakymo išdavimo paduodami pagal Lietuvos Respublikos civilinio proceso kodekse nustatytas teismingumo taisykles.

21 straipsnis. Žyminis mokestis

Bylose dėl Europos mokėjimo įsakymo išdavimo taikomos Lietuvos Respublikos civilinio proceso kodekso 434 straipsnio 1–3 dalyse nustatytos žyminio mokesčio apskaičiavimo ir mokėjimo taisyklės.

22 straipsnis. Bylų nagrinėjimas pagal nacionalinę proceso teisę

1. Reglamento (EB) Nr. 1896/2006 10 straipsnio 2 dalyje nurodytu atveju dėl likusios reikalavimo dalies ieškovas gali pareikšti ieškinį teisme pagal ginčo teisenos taisykles arba pateikti naują prašymą išduoti Europos mokėjimo įsakymą, jeigu pašalinamos kliūtys, dėl kurių teismas atsisakė išduoti Europos mokėjimo įsakymą visam reikalavimui.

2. Reglamento (EB) Nr. 1896/2006 17 straipsnio 1 dalyje nurodytu atveju teismo procesas tęsiamas Lietuvos Respublikos civilinio proceso kodekso 439 straipsnio 3, 5 ir 6 dalyse nustatyta tvarka.

23 straipsnis. Europos mokėjimo įsakymo peržiūra

1. Europos mokėjimo įsakymą Reglamento (EB) Nr. 1896/2006 20 straipsnio 1 ir 2 dalyse nurodytais pagrindais peržiūri Europos mokėjimo įsakymą priėmęs teismas.

2. Priėmęs prašymą dėl Europos mokėjimo įsakymo peržiūrėjimo, teismas persiunčia prašymo ir jo priedų kopijas ieškovui ir informuoja, kad šis per keturiolika dienų nuo prašymo išsiuntimo privalo raštu pateikti atsiliepimą į prašymą.

3. Paduotą prašymą dėl Europos mokėjimo įsakymo peržiūrėjimo teismas rašytinio proceso tvarka išnagrinėja ne vėliau kaip per keturiolika dienų nuo termino atsiliepimui į

prašymą pateikti pabaigos dienos ir priima nutartį dėl vieno iš Reglamento (EB) Nr. 1896/2006 20 straipsnio 3 dalyje nurodytų sprendimų.

24 straipsnis. Europos mokėjimo įsakymo vykdymas

1. Europos mokėjimo įsakymas, patvirtintas Reglamento (EB) Nr. 1896/2006 VII priede pateikta standartine G forma, laikomas vykdomuoju dokumentu.

2. Reglamento (EB) Nr. 1896/2006 22 straipsnio 1 dalyje nurodytus prašymus dėl atsisakymo vykdyti Europos mokėjimo įsakymą nagrinėja Lietuvos apeliacinis teismas. Šie prašymai nagrinėjami *mutatis mutandis* taikant šio įstatymo 4 straipsnio 4, 5 ir 6 dalių nuostatas.

3. Reglamento (EB) Nr. 1896/2006 23 straipsnyje nurodytus prašymus dėl Europos mokėjimo įsakymo vykdymo sustabdymo ar apribojimo nagrinėja vykdymo vietos apylinkės teismas.

DEVINTASIS SKIRSNIS
2007 M. LIEPOS 11 D. EUROPOS PARLAMENTO IR TARYBOS REGLAMENTO (EB) NR. 861/2007, NUSTATANČIO EUROPOS IEŠKINIŲ DĖL NEDIDELIŲ SUMŲ NAGRINĖJIMO PROCEDŪRĄ, ĮGYVENDINIMAS

25 straipsnis. Proceso ypatumai

Tiek, kiek nustato 2007 m. liepos 11 d. Europos Parlamento ir Tarybos reglamentas (EB) Nr. 861/2007, nustatantis Europos ieškinių dėl nedidelių sumų nagrinėjimo procedūrą (toliau šiame skirsnyje – Reglamentas (EB) Nr. 861/2007), bylos dėl Europos ieškinių dėl nedidelių sumų nagrinėjamos pagal bendrąsias ginčo teisenos taisykles, išskyrus šiame įstatyme nurodytas išimtis.

26 straipsnis. Bylų teisingumas

Bylas dėl Europos ieškinių dėl nedidelių sumų nagrinėja apylinkės teismai pagal Lietuvos Respublikos civilinio proceso kodekse nustatytas teritorinio teisingumo taisykles.

27 straipsnis. Žyminio mokesčio dydis

Europos ieškiniai dėl nedidelių sumų apmokami Lietuvos Respublikos civilinio proceso kodekso 80 straipsnio 1 dalies 1 punkte nustatyto dydžio žyminiu mokesčiu.

28 straipsnis. Bylų nagrinėjimas pagal nacionalinę proceso teisę

1. Reglamento (EB) Nr. 861/2007 4 straipsnio 3 dalyje ir 5 straipsnio 7 dalyje nurodytais atvejais teismas privalo pranešti ieškovui (atsakovui), kad šis ne vėliau kaip per keturiolika dienų nuo teismo pranešimo įteikimo dienos turi teisę pareikšti ieškinį (priešieškinį), atitinkantį Lietuvos Respublikos civilinio proceso kodekso nustatytus reikalavimus.

2. Jeigu ieškovas (atsakovas) per šio straipsnio 1 dalyje nustatytą terminą tinkamai įforminto ieškinio (priešieškinio) teismui nepareiškia, pareiškimas laikomas nepaduotu ir teismo nutartimi grąžinamas ieškovui (atsakovui). Ši nutartis gali būti skundžiama atskiruoju skundu.

29 straipsnis. Sprendimų apskundimas

Teismų sprendimai, priimti pagal Europos ieškinių dėl nedidelių sumų nagrinėjimo procedūrą, gali būti skundžiami apeliacine tvarka.

30 straipsnis. Sprendimų peržiūra

1. Teismo sprendimą, priimtą pagal Europos ieškinių dėl nedidelių sumų nagrinėjimo procedūrą, Reglamento (EB) Nr. 861/2007 18 straipsnio 1 dalyje nurodytais atvejais peržiūri sprendimą priėmęs teismas.

2. Priėmęs prašymą dėl sprendimo peržiūrėjimo, teismas persiunčia prašymo ir jo priedų kopijas ieškovui ir informuoja, kad šis per keturiolika dienų nuo prašymo išsiuntimo privalo raštu pateikti atsiliepimą į prašymą.

3. Paduotą prašymą dėl sprendimo peržiūrėjimo teismas rašytinio proceso tvarka išnagrinėja ne vėliau kaip per keturiolika dienų nuo termino atsiliepimui į prašymą pateikti pabaigos dienos ir priima nutartį dėl vieno iš Reglamento (EB) Nr. 861/2007 18 straipsnio 2 dalyje nurodytų sprendimų.

4. Jeigu toje pačioje byloje dėl Europos ieškinių dėl nedidelių sumų paduodamas apeliacinis skundas ir prašymas dėl sprendimo peržiūrėjimo, pirmiausia turi būti išnagrinėtas apeliacinis skundas.

31 straipsnis. Sprendimų vykdymas

1. Teismo sprendimas, priimtas pagal Europos ieškinių dėl nedidelių sumų nagrinėjimo procedūrą ir patvirtintas Reglamento (EB) Nr. 861/2007 IV priede išdėstyta standartine D forma, laikomas vykdomuoju dokumentu.

2. Reglamento (EB) Nr. 861/2007 22 straipsnio 1 dalyje nurodytus prašymus dėl atsisakymo vykdyti sprendimus, priimtus pagal Europos ieškinių dėl nedidelių sumų nagrinėjimo procedūrą, nagrinėja Lietuvos apeliacinis teismas. Šie prašymai nagrinėjami *mutatis mutandis* taikant šio įstatymo 4 straipsnio 4, 5 ir 6 dalių nuostatas.

3. Reglamento (EB) Nr. 861/2007 23 straipsnyje nurodytus prašymus dėl sprendimų, priimtų pagal Europos ieškinių dėl nedidelių sumų nagrinėjimo procedūrą, vykdymo sustabdymo ar apribojimo nagrinėja vykdymo vietos apylinkės teismas.

DEŠIMTASIS SKIRSNIS
BAIGIAMOSIOS NUOSTATOS

32 straipsnis. Įstatymo taikymas

1. Šis įstatymas yra taikomas ieškiniams (prašymams, pareiškimams), kurie pareikšti po šio įstatymo įsigaliojimo.

2. Ieškiniai (prašymai, pareiškimai), pareikšti iki šio įstatymo įsigaliojimo, nagrinėjami pagal iki šio įstatymo įsigaliojimo galiojusias nuostatas.

33 straipsnis. Teisės aktų pripažinimas netekusiais galios

Įsigaliojus šiam įstatymui, netenka galios:

1) Lietuvos Respublikos įstatymo „Dėl Konvencijos dėl tarptautinio vaikų grobimo civilinių aspektų ratifikavimo“ (Žin., 2002, Nr. 51-1928) 3 straipsnis;

2) Lietuvos Respublikos įstatymas „Dėl 2003 m. lapkričio 27 d. Tarybos reglamento (EB) Nr. 2201/2003 dėl jurisdikcijos ir teismo sprendimų, susijusių su santuoka ir tėvų pareigomis, pripažinimo bei vykdymo, panaikinančio Reglamentą (EB) Nr. 1347/ 2000, įgyvendinimo“ (Žin., 2005, Nr. 58-2004);

3) Lietuvos Respublikos įstatymas „Dėl 2004 m. balandžio 21 d. Europos Parlamento ir Tarybos reglamento (EB) Nr. 805/2004, sukuriančio neginčytinų reikalavimų Europos vykdomąjį raštą, įgyvendinimo“ (Žin., 2005, Nr. 58-2005).

Skelbiu šį Lietuvos Respublikos Seimo priimtą įstatymą.

RESPUBLIKOS PREZIDENTAS VALDAS ADAMKUS

Lietuvos Respublikos
civilinį procesą reglamentuojančių
Europos Sąjungos ir tarptautinės
teisės aktų įgyvendinimo įstatymo
priedas

ĮGYVENDINAMI EUROPOS SĄJUNGOS TEISĖS AKTAI

1. 2000 m. gruodžio 22 d. Tarybos reglamentas (EB) Nr. 44/2001 dėl jurisdikcijos ir teismo sprendimų civilinėse ir komercinėse bylose pripažinimo ir vykdymo (OL *2004 m. specialusis leidimas*, 19 skyrius, 4 tomas, p. 42) (su paskutiniais pakeitimais, padarytais 2002 m. rugpjūčio 21 d. Komisijos reglamentu (EB) Nr. 1496/2002, iš dalies keičiančiu Tarybos reglamento (EB) Nr. 44/2001 dėl jurisdikcijos ir teismo sprendimų civilinėse ir komercinėse bylose pripažinimo ir vykdymo I priedą (3 straipsnio 2 dalyje ir 4 straipsnio 2 dalyje nurodytos jurisdikcijos taisyklės) ir II priedą (kompetentingų teismų ir institucijų sąrašas) (OL *2004 m. specialusis leidimas*, 19 skyrius, 6 tomas, p. 60).

2. 2001 m. gegužės 28 d. Tarybos reglamentas (EB) Nr. 1206/2001 dėl valstybių narių teismų tarpusavio bendradarbiavimo renkant įrodymus civilinėse ar komercinėse bylose (OL *2004 m. specialusis leidimas*, 19 skyrius, 4 tomas, p. 121).

3. 2003 m. lapkričio 27 d. Tarybos reglamentas (EB) Nr. 2201/2003 dėl jurisdikcijos ir teismo sprendimų, susijusių su santuoka ir tėvų pareigomis, pripažinimo bei vykdymo, panaikinantis Reglamentą (EB) Nr. 1347/2000 (OL *2004 m. specialusis leidimas*, 19 skyrius, 6 tomas, p. 243).

4. 2004 m. balandžio 21 d. Europos Parlamento ir Tarybos reglamentas (EB) Nr. 805/2004, sukuriantis neginčytinų reikalavimų Europos vykdomąjį raštą (OL *2004 m. specialusis leidimas*, 19 skyrius, 7 tomas, p. 38).

5. 2006 m. gruodžio 12 d. Europos Parlamento ir Tarybos reglamentas (EB) Nr. 1896/2006, nustatantis Europos mokėjimo įsakymo procedūrą (OL 2006 L 399, p. 1).

6. 2007 m. liepos 11 d. Europos Parlamento ir Tarybos reglamentas (EB) Nr. 861/2007, nustatantis Europos ieškinių dėl nedidelių sumų nagrinėjimo procedūrą (OL 2007 L 199, p. 1).

7. 2007 m. lapkričio 13 d. Europos Parlamento ir Tarybos reglamentas (EB) Nr. 1393/2007 dėl teisminių ir neteisminių dokumentų civilinėse arba komercinėse bylose įteikimo valstybėse narėse („dokumentų įteikimas“) ir panaikinantis Tarybos reglamentą (EB) Nr. 1348/2000 (OL 2007 L 324, p. 79).

LIETUVOS RESPUBLIKOS SOCIALINĖS APSAUGOS IR DARBO MINISTRO

Į S A K Y M A S

DĖL ĮGALIOJIMŲ SUTEIKIMO VYKDYTI CENTRINĖMS INSTITUCIJOMS PRISKIRTAS FUNKCIJAS

2008 m. gruodžio 29 d. Nr. A1-425
Vilnius

Atsižvelgdamas į Valstybės vaiko teisių apsaugos ir įvaikinimo tarnybos prie Socialinės apsaugos ir darbo ministerijos nuostatus, patvirtintus Lietuvos Respublikos Vyriausybės 2005 m. spalio 20 d. nutarimu Nr. 1114 (Žin., 2005, Nr. 126-4501):

1. Į g a l i o j u Valstybės vaiko teisių apsaugos ir įvaikinimo tarnybą prie Socialinės apsaugos ir darbo ministerijos vykdyti Lietuvos Respublikos civilinį procesą reglamentuojančių Europos Sąjungos ir tarptautinės teisės aktų įgyvendinimo įstatymo (Žin., 2008, Nr. 137-5366) centrinei įstaigai nustatytas funkcijas.

2. P a v e d u šio įsakymo vykdymo kontrolę ministerijos sekretorei Violetai Murauskaitei.

SOCIALINĖS APSAUGOS IR DARBO MINISTRAS RIMANTAS JONAS DAGYS

OFFICIAL TRANSLATION

REPUBLIC OF LITHUANIA
LAW
ON CONCILIATORY MEDIATION IN CIVIL DISPUTES

15 July 2008 No X-1702
Vilnius

Article 1. Purpose of the Law

1. This Law shall set forth the principal conditions of conciliatory mediation in civil disputes as well as legal consequences of application thereof.

2. This Law shall apply to non-judicial and judicial conciliatory mediation in civil disputes, with the exception of the disputes that arose out of such civil rights and duties the conciliation agreement concluded whereon would be legally void. This Law shall not apply to judicial reconciliation (conciliation) conducted by the judge hearing the case.

3. Other legal acts may provide for peculiarities of conciliatory mediation in civil disputes of specific categories.

Article 2. Definitions

1. **Party to a civil dispute** (hereinafter referred to as a "**party to a dispute**") means a person involved in a dispute whose rights and duties are affected by the resolution of the dispute.

2. **Civil dispute** (hereinafter referred to as a "**dispute**") means a dispute that is or may be heard by way of civil procedure by a court of general jurisdiction.

3. **Conciliatory mediation in civil disputes** (hereinafter referred to as "**conciliatory mediation**") means a procedure of resolution of civil disputes in which one or several mediators in civil disputes assist parties to a civil dispute in reaching a conciliation agreement.

4. **Agency administering the provision of conciliatory mediation in civil disputes** (hereinafter referred to as an "**administrator of conciliatory mediation services**") means a public or private le gal entity which recommends or appoints mediators, proposes or defines rules for conciliatory mediation, administers the costs of conciliatory mediation, provides premises for the procedure to be performed in and/or provides other services related to conciliatory mediation.

5. **Mediator in civil disputes** (hereinafter referred to as a "**mediator**") means a third impartial natural person who assists in resolving a civil dispute between other persons with a view to reaching a conciliation agreement.

Article 3. Conciliatory Mediation Agreement

1. Conciliatory mediation shall apply on the basis of a written consent of parties to a dispute. The parties to the dispute may agree on conciliatory mediation either after the dispute arises or prior to it.

2. If parties to a dispute agree to resolve the dispute by way of conciliatory mediation, they shall attempt to resolve the dispute by this procedure before they refer to court or arbitration. If a conciliatory mediation agreement sets time limits for termination of conciliatory mediation, the party to the dispute shall refer to court or arbitration only after the time limits expire. If no time limit for termination of conciliatory mediation has been set in the conciliatory mediation agreement, the party to the dispute shall refer to court or arbitration one month after proposing to the other party to the dispute in writing to resolve the dispute by way of conciliatory mediation. The party to the dispute can refer to court disregarding the time limits set in this paragraph if conciliatory mediation terminates in accordance with Article 9 of this Law.

3. A court hearing a civil case may suggest to parties to a dispute that they attempt resolving the dispute by way of conciliatory mediation. If the parties to the dispute accept the court's suggestion, the court shall adjourn the case.

Article 4. Nomination of Mediators, Impartiality, Professional Conduct and Responsibility

1. A mediator shall be nominated by agreement between parties to a dispute and with consent of the mediator. The mediator's nomination and consent shall be executed in writing.

2. The number of mediators is set by agreement between parties to a dispute. Where there is no agreement between the parties to the dispute, one mediator shall be nominated.

3. Parties to a dispute can agree that a third party or an administrator of conciliatory mediation services shall select or recommend a mediator for them. Where this is established in a conciliatory mediation agreement or where there is no agreement between the parties to the dispute regarding the selection of a mediator, the mediator can be nominated by a district court in accordance with the summary procedure set forth in Chapter XXXIX of the Code of Civil Procedure of the Republic of Lithuania, following an application from both parties to the dispute. A person shall be appointed mediator only with his written consent.

4. A mediator shall remain impartial towards parties to a dispute. The mediator shall accept a proposal to conduct conciliatory mediation or continue conducting conciliatory mediation already in progress only when he informs the parties to the dispute of the circumstances known to him that could raise doubts regarding his impartiality and when the parties to the dispute give their consent for him to act as mediator.

5. A mediator shall provide parties to a dispute with information on his education and experience.

6. A mediator shall not act as an arbitrator or a judge in the dispute in respect whereof he conducted or is conducting conciliatory mediation, with the exception of the cases where parties to a dispute give their written consent to appoint the mediator as an arbitrator and he has no objections thereto. In addition, the mediator shall not act as a counsel or other representative to any party to the dispute in respect whereof he conducted or is conducting conciliatory mediation.

7. Conciliatory mediation shall be provided for remuneration or free of charge. Where conciliatory mediation is provided for remuneration, the procedure shall commence only after a mediator agrees in writing with both parties to a dispute regarding the amount of remuneration to be paid and method of payment.

Article 5. Conciliatory Mediation Procedure

1. Parties to a dispute shall agree on the nature and procedure of conciliatory mediation by indicating a preferred set of rules or establishing individual rules for conciliatory mediation subject to mutual agreement.

2. Where there is no agreement between parties to a dispute on the nature and procedure of conciliatory mediation or where an agreement between the parties to the dispute does not establish specific actions to be taken by a mediator, the mediator shall duly perform specific actions, taking into consideration the circumstances of the dispute, including a potential strength imbalance between the parties to the dispute, requests from the parties to the dispute and a need of speedy resolution of the dispute, and acting in compliance with legal acts.

3. A mediator may hold a consultation meeting with one party to a dispute without the other party to the dispute attending the meeting.

4. Only parties to a dispute, their representatives and a mediator may attend conciliatory mediation. On request or with consent of the parties to the dispute, other persons may also attend conciliatory mediation. Having established that there are more parties involved in the dispute, the

mediator shall propose to the parties participating in the dispute resolution procedure to agree with the other parties involved in the dispute to resolve the dispute by way of conciliatory mediation.

5. Any party to a dispute can withdraw from conciliatory mediation without indicating reasons for withdrawal. This shall not prevent the parties to the dispute from repeatedly agreeing to resolve the dispute by way of conciliatory mediation.

6. A mediator shall inform parties to a dispute and terminate conciliatory mediation if the conciliation agreement to be entered into by the parties to the dispute is, in the mediator's opinion, and taking into consideration the circumstances of the dispute and the competence of the mediator, unattainable or illegal or if the mediator acknowledges that the dispute is unlikely to be peacefully resolved despite continuing conciliatory mediation.

Article 6. Conciliation Agreement

1. A conciliation agreement entered into in the course of conciliatory mediation shall be subject to the requirements set forth in the Civil Code of the Republic of Lithuania and other legal acts.

2. A conciliation agreement entered into by parties to a dispute in the course of conciliatory mediation shall have a statutory effect on the parties to the dispute.

3. Where a dispute being resolved by way of conciliatory mediation is not simultaneously heard in court, a conciliation agreement may be submitted to court for endorsement in accordance with the summary procedure set forth in Chapter XXXIX of the Code of Civil Procedure of the Republic of Lithuania, following an application from both parties to the dispute. The application for endorsement of the conciliation agreement shall be submitted at the choice of the parties to the dispute to a district court at the place of residence or registered office of one of the parties to the dispute. An effective conciliation agreement endorsed by a court decision shall be treated as a final judgement (*res judicata*) by the parties to the dispute and its execution may be enforced.

Article 7. Confidentiality

1. Unless parties to a dispute agree otherwise, the parties to the dispute, mediators and administrators of conciliatory mediation services shall hold all information regarding conciliatory mediation and related issues in strict confidentiality, with the exception of the information required to endorse or impose a conciliation agreement concluded in the course of conciliatory mediation and the information a failure to disclose which would contravene the public interest (particularly where a child's interests need to be safeguarded or where risk of damage to the health or life of a natural person

needs to be prevented). The same provision shall apply to court, arbitration and other dispute resolution procedures, relevant or irrelevant to the dispute being resolved by way of conciliatory mediation.

2. A mediator shall not disclose any confidential information provided to him by one party to a dispute to the other party to the dispute without consent of the party that provided the information.

3. In the event of nonfeasance or misfeasance of the obligations set in paragraphs 1 and 2 of this Article, mediators and administrators of conciliatory mediation services shall be held liable under the law.

Article 8. Suspension of Reduced Periods of Limitation

1. Upon commencement of conciliatory mediation, reduced periods of limitation shall be suspended.

2. For the purpose of suspension of reduced periods of limitation, commencement of conciliatory mediation shall be considered the day when one party to a dispute directly or through another person (representative, mediator, administrator of conciliatory mediation services or any other authorised person) sends out a written proposal to the other party to the dispute to resolve the dispute by way of conciliatory mediation.

3. Where conciliatory mediation terminates without entering into a conciliation agreement, a reduced period of limitation shall continue. In this case, the remaining period of limitation shall be extended in accordance with paragraph 3 of Article 1.129 of the Civil Code of the Republic of Lithuania.

Article 9. Termination of Conciliatory Mediation

Termination of conciliatory mediation shall be considered:

1) the day when one party to a dispute sends out to the other party to the dispute a written statement objecting to the dispute being resolved by way of conciliatory mediation. Where the parties to the dispute have not concluded an agreement on conciliatory mediation and one party to the dispute presents a proposal specified in paragraph 2 of Article 8 of this Law to the other party to the dispute, it shall be considered that conciliatory mediation terminates at the earliest of the following: on the day the party to the dispute, upon receiving a proposal from the other party to the dispute, sends out a written statement objecting to the dispute being resolved by way of conciliatory mediation or one month after the day of sending out of the proposal if within that period of time the other party to the dispute has not given written consent to resolve the dispute by way of conciliatory mediation;

2) the day when a mediator presents to all parties to a dispute a written notification of termination of conciliatory mediation;

3) the day when a party to a dispute presents to a mediator and the other party to the dispute a written notification of withdrawal from conciliatory mediation;

4) the day when all parties to a dispute present to a mediator a written notification of termination of conciliatory mediation;

5) the day when parties to a dispute enter into a conciliation agreement.

Article 10. State Support for Development of Conciliatory Mediation

The State shall support development of conciliatory mediation in accordance with the procedure laid down by the Government.

Article 11. Final Provisions

1. Article 10 of this Law shall come into force on 1 January 2010.

2. This Law shall apply solely to the agreements on conciliatory mediation concluded and the conciliatory mediation procedures commenced following the entry into force of this Law.

3. The Government shall, by 1 June 2009, prepare and endorse a description of the procedure for providing the state support for conciliatory mediation as set forth in Article 10 of this Law.

I promulgate this Law passed by the Seimas of the Republic of Lithuania

PRESIDENT OF THE REPUBLIC VALDAS ADAMKUS

LIETUVOS RESPUBLIKOS VYRIAUSYBĖ

NUTARIMAS
DĖL LIETUVOS RESPUBLIKOS VYRIAUSYBĖS 2002 M. VASARIO 28 D. NUTARIMO NR. 302 „DĖL VAIKO LAIKINO IŠVYKIMO Į UŽSIENIO VALSTYBES TVARKOS PATVIRTINIMO“ PAKEITIMO

2007 m. balandžio 25 d. Nr. 414
Vilnius

Lietuvos Respublikos Vyriausybė n u t a r i a :

1. Pakeisti Lietuvos Respublikos Vyriausybės 2002 m. vasario 28 d. nutarimą Nr. 302 „Dėl Vaiko laikino išvykimo į užsienio valstybes tvarkos patvirtinimo“ (Žin., 2002, Nr. 23-858; 2002, Nr. 75-3233; 2003, Nr. 84-3842):

1.1. Įrašyti antraštėje po žodžio „tvarkos“ žodį „aprašo“.

1.2. Įrašyti 1 punkte vietoj žodžio „tvarką“ žodžius „tvarkos aprašą“.

1.3. Išdėstyti nurodytuoju nutarimu patvirtintą Vaiko laikino išvykimo į užsienio valstybes tvarkos aprašą nauja redakcija (pridedama).

2. Šis nutarimas įsigalioja nuo 2007 m. birželio 1 dienos.

Ministras Pirmininkas — Gediminas Kirkilas

Socialinės apsaugos ir darbo ministrė — Vilija Blinkevičiūtė

PATVIRTINTA
Lietuvos Respublikos Vyriausybės
2002 m. vasario 28 d. nutarimu Nr. 302
(Lietuvos Respublikos Vyriausybės
2007 m. balandžio 25 d. nutarimo Nr. 414
redakcija)

VAIKO LAIKINO IŠVYKIMO Į UŽSIENIO VALSTYBES TVARKOS APRAŠAS

I. BENDROSIOS NUOSTATOS

1. Vaiko laikino išvykimo į užsienio valstybes tvarkos aprašas (toliau vadinama – šis Aprašas) reglamentuoja Lietuvos Respublikoje gyvenančių vaikų laikiną išvykimą į užsienio valstybes (toliau vadinama – vaiko išvykimas), jeigu Lietuvos Respublikos įstatymuose, tarptautinėse sutartyse ar Europos Sąjungos teisės aktuose nenustatyta kitaip.

2. Vaikui, išvykstančiam su vienu iš tėvų, kito rašytinis sutikimas nebūtinas.

3. Šiame Apraše vartojamos sąvokos:

Vaikas – asmuo, neturintis 18 metų, išskyrus tuos atvejus, kai asmuo, iki sueinant 18 metų, yra sudaręs santuoką (įgijęs visišką civilinį veiksnumą) arba teismo tvarka pripažintas visiškai veiksniu (emancipuotas).

Kelionės organizatorius – juridinis asmuo, organizuojantis ekskursijas, turistines ar kitas keliones (su sporto, mokslo, meno ir kitais kolektyvais).

Vaiko laikinas išvykimas – Lietuvos Respublikoje gyvenančio vaiko išvykimas į užsienio valstybes, kai nedeklaruojama kita vaiko gyvenamoji vieta Lietuvos Respublikos gyvenamosios vietos deklaravimo įstatymo (Žin., 1998, Nr. 66-1910) nustatyta tvarka.

II. VAIKO IŠVYKIMO DOKUMENTAI

4. Vaikui, išvykstančiam į užsienio valstybę, būtinas vienas iš šių galiojančių dokumentų, kuris pareikalavus pateikiamas Lietuvos Respublikos pasienio kontrolės punkto pareigūnams:

4.1. Lietuvos Respublikos piliečio pasas, asmens tapatybės kortelė arba pasas;

4.2. Lietuvos Respublikos diplomatinis pasas;

4.3. vaiko kelionės dokumentas;

4.4. asmens be pilietybės kelionės dokumentas;

4.5. pabėgėlio kelionės dokumentas;

4.6. atitinkamas užsienio valstybės kelionės dokumentas;

4.7. užsieniečio pasas.

5. Kartu su šio Aprašo 4 punkte nurodytu dokumentu Lietuvos Respublikos pasienio kontrolės punkto pareigūnams turi būti pateikiamas bent vieno iš tėvų arba globėjo (rūpintojo) rašytinis sutikimas, kad vaikas išvyktų vienas ar su jį lydinčiu asmeniu, ir šio sutikimo kopija.

Sutikime parašo tikrumas turi būti paliudytas notaro arba Lietuvos Respublikos diplomatinės atstovybės ar konsulinės įstaigos pareigūno, arba seniūno.

6. Tuo atveju, kai vaiko pavardė nesutampa su vieno iš tėvų, su kuriuo jis išvyksta į užsienio valstybę, pavarde, Lietuvos Respublikos pasienio kontrolės punkto pareigūnams pareikalavus pateikiamas vaiko gimimo liudijimas.

III. VAIKŲ, KURIŲ NELYDI TĖVAI AR GLOBĖJAI (RŪPINTOJAI), IŠVYKIMAS

7. Jeigu vaiko tėvai ar turimas vienintelis iš tėvų arba globėjas (rūpintojas) neišvyksta kartu su vaiku, vaikas gali išvykti su jį lydinčiu asmeniu arba vienas. Lydintis asmuo vaiko kelionės metu atsako už vaiko priežiūrą.

8. Vaikui išvykstant į užsienio valstybę su jį lydinčiu asmeniu, bent vieno iš tėvų arba globėjo (rūpintojo) rašytiniame sutikime turi būti nurodyti vaiką lydinčio asmens ir vaiko duomenys: vardas, pavardė, gimimo data arba asmens kodas, Lietuvos Respublikos piliečio paso, asmens tapatybės kortelės, paso arba kito asmens tapatybę patvirtinančio dokumento duomenys (numeris, kas ir kada išdavė), galiojimo laikas.

9. Jeigu vaikas išvyksta į užsienio valstybę vienas, Lietuvos Respublikos pasienio kontrolės punkto pareigūnams pateikiami šio Aprašo 5 punkte nurodyti dokumentai.

10. Išvykstant vaikų grupėms į ekskursijas, turistines keliones ar kitas organizuotas keliones (su sporto, mokslo, meno ir kitais kolektyvais), be šio Aprašo 4 punkte nurodytų dokumentų, būtinas kelionės organizatoriaus parašu ir antspaudu patvirtintas raštas, kuriame turi būti nurodytas išvykstančių vaikų ir juos lydinčių asmenų vardinis sąrašas, bei šio rašto kopija, kurie pareikalavus pateikiami Lietuvos Respublikos pasienio kontrolės punkto pareigūnams. Už sąrašo sudarymą yra atsakingas kelionės organizatorius. Sąraše turi būti nurodyti išvykstančių vaikų ir juos lydinčių asmenų duomenys: vardas, pavardė, gimimo data arba asmens kodas, Lietuvos Respublikos piliečio paso, asmens tapatybės kortelės, paso arba kito asmens tapatybę patvirtinančio dokumento duomenys (numeris, kas ir kada išdavė), galiojimo laikas, taip pat kelionės organizatoriaus duomenys (pavadinimas, adresas, juridinio asmens kodas, telefonas, faksas, el. paštas). Vaiko duomenys į sąrašą gali būti įtraukiami tik gavus bent vieno iš vaiko tėvų arba globėjo (rūpintojo) rašytinį sutikimą, nurodytą šio Aprašo 5 punkte. Tėvų, globėjų (rūpintojų) sutikimus turi saugoti kelionės organizatorius.

IV. VAIKŲ, KURIEMS NUSTATYTA GLOBA (RŪPYBA), IŠVYKIMAS

11. Vaiko, kuriam yra nustatyta globa (rūpyba), globėjas (rūpintojas), vaikų globos (rūpybos) institucijos vadovas ar jo įgaliotas atstovas, likus ne mažiau kaip 3 dienoms iki numatomo vaiko laikino išvykimo į užsienio valstybę, privalo raštu informuoti savivaldybės vaiko teisių apsaugos tarnybą (skyrių) apie numatomą vaiko laikiną išvykimą į užsienio valstybę, nurodydamas kelionės tikslą, trukmę ir šalį, į kurią vaikas išvyksta.

V. BAIGIAMOSIOS NUOSTATOS

12. Ginčai, susiję su vaikų išvykimu, sprendžiami vadovaujantis Lietuvos Respublikos ir Europos Sąjungos teisės aktais bei tarptautinėmis konvencijomis.

REPUBLIC OF LITHUANIA

LAW ON STATE-GUARANTEED LEGAL AID

28 March 2000 No VIII-1591
(As last amended on 16 April 2009 – No XI-223)
Vilnius

SECTION ONE
GENERAL PROVISIONS

Article 1. Purpose of the Law

1. This Law shall establish the provision of State-guaranteed legal aid to persons to enable them to adequately assert their violated or disputed rights and the interests protected under law.

2. This Law shall also aim at ensuring the application of the EU legal acts specified in the Annex to this Law.

Version of paragraph 3 before 1 June 2009:

3. In the cases established by the Republic of Lithuania Law on the Legal Status of Aliens, the procedure for exercising the rights of asylum applicants and other aliens to State-guaranteed legal aid shall be laid down by the Republic of Lithuania Law on the Legal Status of Aliens.

Version of paragraph 3 after 1 June 2009:

3. This Law shall not apply to the aliens whose right to State-guaranteed legal aid is stipulated by the Republic of Lithuania Law on the Legal Status of Aliens. Provision of State-guaranteed legal aid in the cases specified by the Republic of Lithuania Law on the Legal Status of Aliens shall be organised by the Ministry of the Interior of the Republic of Lithuania or an institution authorised by it.

Article 2. Definitions

1. "**State-guaranteed legal aid**" shall mean the primary legal aid and secondary legal aid provided in accordance with the procedure laid down by this Law.

2. "**Primary legal aid**" shall mean the provision of legal information in accordance with the procedure laid down by this Law, legal advice and drafting of the documents to be submitted to state and municipal institutions, with the exception of procedural documents. This legal aid shall also cover advice on the out-of-court settlement of a dispute, actions for the amicable settlement of a dispute and drafting of a settlement agreement. Primary legal aid shall not cover completing of the returns submitted to a tax administrator.

3. "**Secondary legal aid**" shall mean drafting of documents, defence and representation in court, including the process of execution, representation in the event of preliminary extrajudicial consideration of a dispute, where such a procedure has been laid down by laws or by a court decision. This legal aid shall also cover the litigation costs incurred in civil proceedings, the costs incurred in administrative proceedings and the costs related to the hearing of a civil action brought in a criminal case.

4. "**Defence and representation in court**" shall mean the procedural actions regulated by laws in defending the rights and interests of a suspect, accused, convict or of a person represented in criminal, civil (with the exception of arbitration) and administrative matters as well as in international judicial institutions whose jurisdiction or competence to rule on violations of rights of the persons falling within jurisdiction of the Republic of Lithuania has been recognised by the Republic of Lithuania, unless legal aid is provided therein.

5. "**Legal information**" shall mean information about the legal system, laws and other legal acts and provision of legal aid.

6. "**Legal advice**" shall mean advice on legal issues.

7. "**Applicant**" shall mean a natural person who has submitted an application for the provision of State-guaranteed legal aid and/or who is a recipient of State-guaranteed legal aid.

8. "**Member State of the European Union**" shall mean any Member State of the European Union, with the exception of the Kingdom of Denmark.

9. "**Cross-border dispute**" shall mean a dispute in which the applicant, at the moment of submitting an application for the provision of State-guaranteed legal aid, is domiciled or habitually resident in a Member State of the European Union other than the one in which the court is sitting or where enforcement is sought. The Member State of the European Union in which the applicant is domiciled shall be determined according to Article 59 of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

10. **"Co-ordinator"** shall mean a lawyer assisting in the organisation of the provision of secondary legal aid in criminal matters under an agreement indicated in subparagraph 5 of paragraph 3 of Article 9 of this Law.

Article 3. Principles of State-Guaranteed Legal Aid

State-guaranteed legal aid shall be provided according to the following principles:

1) equality and protection of all persons' rights and interests protected under law;

2) quality, efficiency and economy of State-guaranteed legal aid;

3) priority of the amicable settlement of disputes;

4) prohibition of the abuse of State-guaranteed legal aid and of substantive as well as procedural rights.

Article 4. Duties of Applicants

An applicant must:

1) co-operate with the institutions which take decisions on the provision of State-guaranteed legal aid as well as with the persons providing State-guaranteed legal aid;

2) provide exhaustive and correct information required for receiving State-guaranteed legal aid;

3) report immediately to State-guaranteed legal aid services or to the court on changes in the circumstances which influence the eligibility of a person for State-guaranteed legal aid;

4) where secondary legal aid is provided for a time period exceeding one year, submit annually, starting from the day of taking of a decision on the provision of secondary legal aid, to State-guaranteed legal aid services a resident's (family's) annual return of assets with a stamp of the local tax administrator confirming the submission of the return. The declaration must be submitted not later than 5 days after the end of the year;

5) where the second level of a person's property and income is established, reimburse 50 per cent of the costs of secondary legal aid within the time limits and in accordance with the procedure laid down by this Law and other laws.

SECTION TWO
MANAGEMENT OF STATE-GUARANTEED LEGAL AID

Article 5. Institutions Managing State-Guaranteed Legal Aid

The institutions managing State-guaranteed legal aid shall be:

1) Government of the Republic of Lithuania (hereinafter referred to as "the Government");

2) Ministry of Justice of the Republic of Lithuania (hereinafter referred to as "the Ministry of Justice");

3) municipal institutions;

4) State-guaranteed legal aid services (hereinafter referred to as "the services");

5) Lithuanian Bar.

Article 6. Functions of the Government in the Field of State-Guaranteed Legal Aid

The Government shall:

1) define the policy of State-guaranteed legal aid;

2) perform other functions set out in this Law and other legal acts.

Article 7. Functions of the Ministry of Justice in the Field of State-Guaranteed Legal Aid

1. The Ministry of Justice shall:

1) implement the policy of State-guaranteed legal aid;

2) submit to the Government drafts of the legal acts related to State-guaranteed legal aid;

3) control the implementation of this Law and related legal acts;

4) organise the trainings related to the provision of State-guaranteed legal aid;

5) organise and carry out monitoring of the provision of State-guaranteed legal aid;

6) provide recommendations with a view to ensuring equal application of this Law;

7) inform residents about possibilities of receiving State-guaranteed legal aid and conditions of provision thereof;

8) perform other functions set out in this Law and other legal acts.

2. With a view to ensuring the implementation of the functions assigned to the Ministry of Justice in the field of State-guaranteed legal aid, the State-guaranteed Legal Aid Co-ordination Council (hereinafter referred to the Co-ordination Council) shall be formed. This Board shall be a collegiate advisory body acting on a voluntary basis.

3. The Co-ordination Council shall be made up of representatives of the Committee on Legal Affairs and the Committee on Human Rights of the Seimas of the Republic of Lithuania, the Ministry of Justice, the Ministry of Finance, the Association of Local Authorities in Lithuania, the Lithuanian Bar, the Lithuanian Lawyers' Society, the Judicial Council, other institutions and associations whose activities are related to the provision of State-guaranteed legal aid or to the protection of human rights. The regulations and composition of the Co-ordination Council shall be approved by the Minister of Justice.

4. The Co-ordination Council shall:

1) submit proposals on the implementation and improvement of the policy of State-guaranteed legal aid;

2) analyse reports on the activities of municipal institutions in organising and providing primary legal aid and submit proposals on the provision of primary legal aid;

3) analyse activities of the services and submit proposals on the activities of the services;

4) submit proposals on the need for state budget funds for the provision of State-guaranteed legal aid and on the efficient utilisation thereof;

5) submit proposals on the adoption and amendment of the legal acts implementing this Law;

6) submit proposals on fees for the lawyers providing secondary legal aid.

Article 8. Functions of Municipal Institutions in the Field of State-Guaranteed Legal Aid

1. A municipal institution shall:

1) organise and/or provide primary legal aid;

2) pay for the provision of primary legal aid, where primary legal aid is provided by lawyers (professional partnerships of lawyers) or public agencies on the basis of an agreement concluded with the municipality;

3) regularly inform local residents about possibilities of receiving State-guaranteed legal aid and about the conditions of provision thereof in municipalities' Internet websites, through the media and during meetings with the residents.

2. The provision of primary legal aid shall be a state (delegated to municipalities) function.

3. Municipal institutions must annually submit to the services reports on activities in organising and providing primary legal aid in accordance with the procedure laid down by the Minister of Justice.

Article 9. Services

1. The services shall be budgetary institutions, where the geographical areas in which they have jurisdiction correspond to the geographical areas of county courts. The Ministry of Justice shall be the founder and participant of the services. The services shall be state institutions.

2. The task of the services shall be to ensure the provision of secondary legal aid in compliance with this Law.

3. The services shall:

1) co-ordinate the provision of primary legal aid within the territory of a regional court (provide municipal institutions with methodical assistance in implementing the functions assigned to them in the field of primary legal aid, analyse the reports indicated in paragraph 3 of Article 8 of this Law, generalise them and present to the Ministry of Justice the information about the organisation of primary legal aid and its provision within the territory of activities of the services, submit proposals to municipal institutions regarding improvement of the organisation and provision of primary legal aid in ensuring the implementation of this Law);

2) organise the provision of secondary legal aid in the geographical area of a county court;

3) take decisions on the provision of secondary legal aid;

4) conclude agreements with the lawyers providing secondary legal aid. An agreement must establish the duty of the lawyers to provide secondary legal aid, the conditions of and procedure for fulfilling this duty, the right of the service to terminate the agreement in the event of nonfeasance or misfeasance of a lawyer with respect to the provision of secondary legal aid as well as other conditions. A sample agreement on the provision of secondary legal aid shall be approved by the Minister of Justice upon agreement with the Lithuanian Bar;

5) in accordance with the procedure laid down by the Minister of Justice, conclude agreements with lawyers on the co-ordination of secondary legal aid in criminal matters;

6) control the provision of secondary legal aid on the basis of the agreements referred to in subparagraph 4 of this paragraph;

7) pay the lawyers providing secondary legal aid or public establishments a fee for the primary legal aid provided, where, in the case provided for in paragraph 8 of Article 15 of this Law, the services organise the provision of primary legal aid, and for secondary legal aid and for co-ordination of secondary legal aid in criminal matters;

8) participate in verification of the quality of activities of the lawyers providing secondary legal aid according to the rules indicated in subparagraph 2 of Article 10 of this Law;

9) inform residents about possibilities of receiving State-guaranteed legal aid and conditions of provision thereof;

10) perform other functions set out in this Law and other legal acts.

4. The services must annually submit to the Ministry of Justice reports on their activities.

5. With a view to ensuring the implementation of the functions assigned to the services in the field of State-guaranteed legal aid and promotion of co-operation of the lawyers providing secondary legal aid and the services, the State-guaranteed Legal Aid Collegium (hereinafter referred to the "Collegium"), a collegial advisory body of the services, shall be formed. The Minister of Justice shall approve the regulations and composition of the Collegium.

6. The Collegium shall consist of directors of the services, the representatives of 5 lawyers providing secondary legal aid who have been appointed in accordance with the procedure laid down by the regulations indicated in paragraph 5 of this Law and a representative of the Ministry of Justice.

7. The Collegium shall:

1) consider the issues of ensuring the provision of secondary legal aid and formation of general practice in organising the provision of secondary legal aid as arising in activities of the services;

2) consider the issues relating to ensuring the proper implementation of secondary legal aid agreements;

3) submit proposals to the services in solving the issues indicated in subparagraphs 1 and 2 of this paragraph;

4) submit proposals to the Ministry of Justice regarding adoption of recommendations with a view to ensuring equal application of this Law;

5) submit proposals to the Ministry of Justice regarding improvement of the legal acts regulating the organisation of the provision of secondary legal aid and terms and conditions of sample agreements on the provision of secondary legal aid.

Article 10. Lithuanian Bar Association

With a view to assisting in ensuring the efficient provision of secondary legal aid, the Lithuanian Bar shall:

1) repealed on 1 January 2009.

2) organise the verification of the quality of activities of the lawyers providing secondary legal aid according to the rules for assessment of the quality of secondary legal aid approved by the Lithuanian Bar Association upon agreement with the Ministry of Justice;

3) repealed on 1 January 2009.

4) perform other functions defined by this Law, the Republic of Lithuania Law on the Bar and other legal acts.

SECTION THREE
CONDITIONS OF THE PROVISION OF STATE-GUARANTEED LEGAL AID

Article 11. Persons Eligible for State-guaranteed Legal Aid

1. All citizens of the Republic of Lithuania, citizens of other Member States of the European Union as well as other natural persons residing lawfully in the Republic of Lithuania and other Member States of the European Union and other persons specified in international treaties of the Republic of Lithuania shall be eligible for primary legal aid.

2. The following persons shall be eligible for secondary legal aid:

1) citizens of the Republic of Lithuania, citizens of other Member States of the European Union as well as other natural persons residing lawfully in the Republic of Lithuania and other Member States of the European Union whose property and annual income do not exceed the property and income levels established by the Government of the Republic of Lithuania for the provision of legal aid under this Law;

2) citizens of the Republic of Lithuania, citizens of other Member States of the European Union as well as other natural persons residing lawfully in the Republic of Lithuania and other Member States of the European Union as specified in Article 12 of this Law;

3) other persons specified in international treaties of the Republic of Lithuania.

3. Where State-guaranteed legal aid is requested for the settlement of cross-border disputes, only the natural persons indicated in paragraphs 1 and 2 of this Article who lawfully reside in another Member State of the European Union shall have the right to receive it under this Law.

4. When the natural persons legitimately residing in the Republic of Lithuania apply for State-guaranteed legal aid in another Member State of the European Union in order to solve cross-border disputes in the cases specified in paragraphs 1 and 2 of this Article, they shall be provided in the Republic of Lithuania with the State-guaranteed legal aid referred to in paragraph 2 of Article 31 and in Article 32 of this Law.

5. Primary legal aid shall not be provided where:

1) claims of the applicant are manifestly unfounded;

2) an applicant has already been provided primary legal aid on the same issue or it is obvious that he can obtain a lawyer's advice without resorting to the State-guaranteed legal aid established by this Law;

3) the applicant does not apply in relation to his own rights and legitimate interests, with the exception of the cases of representation under the law.

6. Secondary legal aid shall not be provided where:

1) claims of the applicant are manifestly unfounded;

2) representation in a matter has no reasonable prospects of success;

3) the applicant is claiming non-pecuniary damage related to the protection of his honour and dignity, but has suffered no property damage;

4) the application concerns a claim arising directly out of the applicant's trade or self-employed profession;

5) the applicant can receive required legal services without resorting to State-guaranteed legal aid;

6) the applicant applies with respect to the violation of the rights other than his own, with the exception of the cases of representation under the law;

7) the claim for which an application for secondary legal aid is filed has been passed to the applicant for the purpose of receiving State-guaranteed legal aid;

8) an applicant abuses State-guaranteed legal aid and his substantive or procedural rights;

9) an applicant to whose property and income the second level is established does not agree to pay 50 per cent of the costs of secondary legal aid.

7. A service shall have the right to refuse to provide secondary legal aid where:

1) upon examination of the merits of a request, it establishes that the possible costs of secondary legal aid would significantly exceed the amount of property claims (property interests) of the applicant;

2) upon examination of the merits of a request, it establishes that the non-pecuniary claim of the applicant lacks merit;

3) it establishes that the applicant is able to independently, without a lawyer's assistance exercise or defend his rights or interests protected under law;

4) the applicant is provided secondary legal aid in more than 3 matters.

8. Paragraphs 6 and 7 of this Article shall not apply in respect of the provision of secondary legal aid in criminal matters and the matters concerning administrative offences, with the exception of applications for the renewal of proceedings, appeals or statements in accordance with the procedure of private prosecution. Subparagraphs 1, 2, 3, and 4 of paragraph 6 and subparagraph 1 of paragraph 7 of this Article shall not apply to the provision of secondary legal aid at international judicial institutions. Where the persons referred to in subparagraphs 3 and 4 of Article 12 of this Law wish to receive only the State-guaranteed legal aid specified in Article 20 of this Law, paragraphs 6 and 7 of this Article shall not apply.

9. When taking a decision on the provision of secondary legal aid, a service shall have the right to request a lawyer's conclusion whether there are grounds for a refusal to provide secondary legal aid as specified in paragraphs 6 and 7 of this Article. In selecting the lawyer, the service shall take into consideration the circumstances indicated in paragraph 5 of Article 18 of this Law.

10. State-guaranteed legal aid shall not be provided to the persons eligible for a litigation costs (the costs of the proceedings) insurance benefit, where this benefit, according to the conditions of an insurance contract, is paid prior to the incurrence of litigation costs (the costs of the proceedings) and where the insurance benefit covers all the costs which would be covered by the State-guaranteed legal aid provided under this Law. The applicant must indicate whether he has concluded a litigation costs (the costs of the proceedings) insurance contract and, where such a contract has been concluded, specify the costs which would be covered by the insurance benefit.

Article 12. Persons Eligible for Secondary Legal Aid Regardless of the Property and Income

The following persons shall be eligible for secondary legal aid regardless of the property and income levels established by the Government of the Republic of Lithuania for the provision of legal aid under this Law:

1) the persons eligible for legal aid in criminal proceedings according to Article 51 of the Republic of Lithuania Code of Criminal Procedure and in other cases specified by laws when the physical presence of a defence lawyer is mandatory;

2) the aggrieved parties in the cases concerning compensation for the damage incurred through criminal actions, including the cases when the issue of compensation for damage is heard as part of a criminal case;

3) the persons receiving a social allowance under the Republic of Lithuania Law on Cash Social Assistance for Low-Income Families (Single Residents);

4) the persons maintained in stationary care institutions;

the persons who have been established a severe disability or for whom incapacity for work has been recognised or who have reached the pensionable age and for whom the level of considerable special needs has been established, also guardians (custodians) of these persons, where State-guaranteed legal aid is required for the representation and defence of rights and interests of a ward (foster-child);

6) the persons who have presented a proof that they cannot dispose of their property and funds for objective reasons and that for these reasons, their property and annual income which they can freely dispose of do not exceed the property and income levels established by the Government of the Republic of Lithuania for the provision of legal aid under this Law;

7) the persons suffering from serious mental disorders, when issues of their forced hospitalisation and treatment are being considered according to the Republic of Lithuania Law on Mental Health Care, and their guardians (custodians), where State-guaranteed legal aid is required for the representation of rights and interests of a foster-child (ward);

8) debtors in execution proceedings, when a recovery is levied against the last housing wherein they reside;

9) parents or other legal representatives of minor children, when the issue of their eviction is being considered;

10) 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 who have entered into a marriage in accordance with the procedure laid down by laws or have been recognised by the court as legal capable (emancipated);

11) the persons who it is requested to recognise as legally incapable in the matters concerning recognition of a natural person as legal incapable;

12) persons in the matters concerning registration of birth;

13) other persons in the cases provided for in international treaties of the Republic of Lithuania.

Article 13. Documents Attesting to a Person's Eligibility for Secondary Legal Aid

1. The eligibility for secondary legal aid of the persons referred to in subparagraph 1 of paragraph 2 of Article 11 of this Law shall be attested to by a resident's (family's) annual return of assets with a stamp of the local tax administrator confirming the submission of the return.

2. The eligibility for secondary legal aid of the persons referred to in subparagraph 1 of Article 12 of this Law shall be attested to by the decisions of a pre-trial investigation officer, prosecutor or the court.

3. The eligibility for secondary legal aid of the persons referred to in subparagraph 2 of Article 12 of this Law shall be attested to by a decision of a pre-trial investigation officer, prosecutor or by a court ruling whereby a person is recognised the aggrieved party and/or by a court judgement.

4. The eligibility for secondary legal aid of the persons referred to in subparagraph 3 of Article 12 of this Law shall be attested to by a certificate issued by the municipality of the place of residence as declared by a person or, where the person has no place of residence, by the municipality where the person is resident confirming that the person is the recipient of a social allowance.

5. The eligibility for secondary legal aid of the persons referred to in subparagraph 4 of Article 12 of this Law shall be attested to by a certificate issued by the head of a stationary care institution or by a person authorised by him and confirming that the person is maintained in the stationary care institution.

6. The eligibility for secondary legal aid of the persons referred to in subparagraph 5 of Article 12 of this Law shall be attested to by a certificate of a disabled person confirming the level of disability, level of capacity for work or level of special needs as established in respect of the person.

7. The eligibility for secondary legal aid of the persons referred to in subparagraph 6 of Article 12 of this Law shall be attested to by a property seizure act and/or other documents certifying the objective reasons for which a person cannot dispose of his property and funds as well as a copy of a resident's (family's) annual return of assets submitted to the local tax administrator.

8. The eligibility for secondary legal aid of the persons referred to in subparagraph 7 of Article 12 of this Law shall be attested to by a certificate issued by a health care institution and confirming that the person suffers from a serious mental disorder.

9. The eligibility for secondary legal aid of the persons referred to in subparagraph 8 of Article 12 of this Law shall be attested to by the documents confirming announcement of an auction at which the last housing of a debtor is to be sold.

10. The eligibility for secondary legal aid of the persons referred to in subparagraph 9 of Article 12 of this Law shall be attested to by the documents confirming initiation of proceedings regarding eviction of a family with minor children.

11. The eligibility for secondary legal aid of the persons referred to in subparagraph 10 of Article 12 of this Law shall be attested to by the documents confirming the age of these persons.

12. The eligibility for secondary legal aid of the persons referred to in subparagraph 11 of Article 12 of this Law shall be attested to by the documents confirming initiation of proceedings regarding recognition of a natural person as legally incapable.

13. The eligibility for secondary legal aid of the persons referred to in subparagraph 12 of Article 12 of this Law shall be attested to by a conclusion of a civil registration office regarding a refusal to register the birth or restore a birth record.

14. The eligibility for secondary legal aid of the persons referred to in subparagraph 13 of Article 12 of this Law shall be attested to by the documents specified in international treaties of the Republic of Lithuania.

15. A person wishing to receive secondary legal aid must furnish the documents referred to in paragraphs 1, 4 and 7 of this Article to a service only in the cases when the service is unable to obtain the information presented in this documents and attesting to the person's eligibility for secondary legal aid by means of using state registers and other state and municipal information systems.

Article 14. Costs of State-Guaranteed Legal Aid

1. The costs of primary legal aid shall comprise the costs related to legal information, legal advice and drafting of the documents to be submitted to state and municipal institutions, with the exception of procedural documents, as well as the costs related to advice on the out-of-court settlement of disputes and to actions for the amicable settlement of a dispute and drafting of a settlement agreement.

2. The costs of secondary legal aid shall comprise the costs from which the applicant shall be exempted, that is: the litigation costs incurred in civil proceedings, the costs incurred in administrative proceedings, the costs related to the hearing of a civil action brought in a criminal

matter as provided for in Article 20 of this Law, the costs related to defence and representation in court (including the appeal and cassation proceedings, irrespective of the initiator) as well as the costs of the execution process, the costs related to the drafting of procedural documents and collection of evidence, interpretation, representation in the event of preliminary extrajudicial consideration of a dispute, where such a procedure has been laid down by laws or by a court decision.

3. The State shall guarantee and cover 100 per cent of the costs of primary legal aid.

4. The costs of secondary legal aid provided to the persons specified in subparagraph 1 of paragraph 2 of Article 11 of this Law, by taking account of a person's property and income, shall be guaranteed and covered by the State as follows:

1) 100 per cent – where the first level is established to the person's property and income;

2) 50 per cent – where the second level is established to the person's property and income.

5. The State shall guarantee and cover 100 per cent of the costs of the secondary legal aid provided to the persons specified in Article 12 of this Law, regardless of a person's property and income, with the exception of the persons referred to in subparagraph 6 of Article 12 of this Law, where the property and income which they can freely dispose of are assigned to the second level of a person's property and income. The State shall guarantee and cover 50 per cent of the costs of the secondary legal aid provided to the persons referred to in subparagraph 6 of Article 12 of this Law, where the property and income which they can freely dispose of are assigned to the second level of a person's property and income.

6. The costs of State-guaranteed legal aid shall also cover the costs of interpretation of communication between the lawyer and the applicant where, in the cases provided for in international treaties of the Republic of Lithuania, it is impossible to ensure that a person providing State-guaranteed legal aid communicates with the applicant in the language which the latter understands.

7. The costs of State-guaranteed legal aid shall not cover the costs which the court awards to the party for which the decision has been rendered from the losing party as well as the costs incurred by the debtor in the execution process.

8. The lawyers providing secondary legal aid in administrative and civil matters must apply to a service for calculation of the amount of costs of secondary legal aid and furnish this calculation to a court in accordance with the procedure laid down by the legal acts regulating administrative and civil proceedings.-{}-

SECTION FOUR
PROVISION OF PRIMARY LEGAL AID

Article 15. Procedure for Providing Primary Legal Aid

1. The persons wishing to receive primary legal aid shall have the right to apply to the executive institution of a municipality according to the declared place of residence or, where a person has no place of residence, to the executive institution of a municipality where the person is resident. The persons who serve the imprisonment sentence or those placed in pre-trial detention shall have the right to apply to a municipality's executive institution according to the location of the imprisonment institution.

2. Primary legal aid must be provided immediately upon the application of a person to the executive institution of a municipality. Where immediate provision of primary legal aid is not possible, the applicant shall be notified of the time of an appointment, which must take place not later than 5 days from the day of application.

3. Primary legal aid shall be provided by civil servants of the municipality administration, where the job descriptions of their positions establish the functions of a legal nature, the employees working under the employment contracts which provide for the official functions of the legal nature and receiving remuneration for work from the municipal budget (hereinafter referred to as

"municipal servants") or lawyers (professional partnerships of lawyers) or the public agencies with which municipalities have concluded an agreement. Municipal institutions shall, by taking account of the quality, efficiency and economy of primary legal aid, select a specific way of the provision of primary legal aid.

4. The duration of primary legal aid shall not exceed one hour. The duration of primary legal aid may be extended by a decision of the executive institution of a municipality or a person authorised by it.

5. A person may apply for primary legal aid on the same issue only once.

6. The persons providing primary legal aid must look for possibilities and help the applicants to amicably settle disputes.

7. Where, in the course of the provision of primary legal aid, it transpires that the applicant will require secondary legal aid, the person providing primary legal aid shall help the applicant to draft or shall draft an application for the provision of secondary legal aid. The person providing primary legal aid shall take these actions only upon the fulfilment of a duty referred to in paragraph 6 of this Article.

8. Where an applicant applies with regards to action or omission by the agency of a municipality a servant of which provides primary legal aid, the municipal servant shall inform the applicant of a potential conflict of interests. The municipal servant shall provide primary legal aid subject to the consent of the applicant. Where the applicant disagrees to the provision of primary legal aid by the municipal servant, the latter shall suggest that he addresses a lawyer (professional partnership of lawyers) or a public agency with which the municipality has concluded an agreement or that he addresses the service. Where in this case the applicant addresses the service, the latter shall organise the provision of primary legal aid by concluding agreements with lawyers or with public agencies.

9. The entities providing primary legal aid shall keep records thereof by indicating the names, surnames, personal identification numbers, place of residents of applicants, the issue with regards to which primary legal aid has been provided and duration of the provision of primary legal aid. Where a person has addressed the executive institution of a municipality orally, he must sign in a primary legal aid record book.

Article 16. Legal Aid Provided by Public Establishments

1. Where, in the case provided for in paragraph 8 of Article 15 of this Law, the provision of primary legal aid is organised by the services, the public agencies which have concluded agreements with a municipality or the service shall have the right to provide primary legal aid under this Law.

2. The public agencies engaged in the provision of primary legal aid shall have the right to provide law students with a possibility of legal internship.

3. Under this Law, non-residential premises and other state and municipal property may be transferred to the public agencies providing primary legal aid for temporary use on the basis of loan for use contracts.

SECTION FIVE
PROVISION OF SECONDARY LEGAL AID

Article 17. Procedure for Selecting and the Fees of the Lawyers Providing Secondary Legal Aid

1. The services shall select lawyers for the provision of secondary legal aid on the basis of competition and conclude agreements with them. The competition regulations shall be approved by the Minister of Justice upon agreement with the Lithuanian Bar.

2. With a view to ensuring the continuity of the provision of secondary legal aid, separate agreements shall be concluded:

1) with the lawyers who continuously provide secondary legal aid only to the persons eligible for it;

2) with the lawyers who provide secondary legal aid in case of necessity.

3. The services shall, according to paragraph 2 of this Article, draw up two separate lists of the lawyers providing secondary legal aid. The lists must specify in which areas of law lawyers provide secondary legal aid. The lists shall be submitted to the Lithuanian Bar.

4. Unless an agreement on the provision of secondary legal aid provides otherwise, the services shall ensure that the lawyers referred to in subparagraph 1 of paragraph 2 of this Article are provided with a workplace in the premises which must be located in or as closely as possible to registered offices of the services and shall provide conditions for the use of other property necessary for the provision of secondary legal aid.

5. Lawyers shall be paid fees for the provision of secondary legal aid and furnishing of a conclusion referred to in paragraph 9 of Article 11 of this Law. The amount thereof and rules of payment shall be established by the Government. The rate of the lawyers' fees must be established in such a way as to promote an amicable settlement of disputes and to ensure the efficient and economical utilisation of the state budget funds allocated for State-guaranteed legal aid. A fee paid to the lawyers referred to in subparagraph 1 of paragraph 2 of this Article for the provision of secondary legal aid shall be fixed regardless of the amount of the secondary legal aid provided. The lawyers referred to in subparagraph 2 of paragraph 2 of this Article shall be paid a fee of the established rate for the provision of secondary legal aid in each case by taking account of the complexity of a case (the category of the instant case, stage of the proceedings, etc.).

6. The lawyers providing secondary legal aid shall collect and accumulate data about the secondary legal aid provided (being provided) in accordance with the procedure laid down by the Minister of Justice. The information technologies comprising the information system of State-guaranteed legal aid may be used for the collection, accumulation and transmission of the data. The regulations of this system shall be approved by the Minister of Justice. In collecting, accumulating and transmitting data about the secondary legal aid provided (being provided), protection of a lawyer's professional secret must be ensured.

Article 18. Procedure for Providing Secondary Legal Aid

1. A person wishing to receive secondary legal aid shall submit to the service an application, the documents substantiating his request and the documents attesting to his eligibility for secondary legal aid. The particulars and form of an application for the provision of secondary legal aid shall be approved by the Minister of Justice. An application and the documents attesting to the eligibility for secondary legal aid may be submitted either in person or by post.

2. A decision on the provision of secondary legal aid shall be taken by the service. The decision on the provision of secondary legal aid shall be taken immediately upon a person's application. Where the decision cannot be taken immediately, it shall be taken not later than within 3 working days of the receipt of the documents referred to in paragraph 1 of this Article, a lawyer's conclusion referred to in paragraph 9 of Article 11 or the information referred to in paragraph 13 of this Article. The service shall immediately give written notice to the applicant of the decision taken. Decisions of the service may be appealed against in accordance with the procedure laid down in the Republic of Lithuania Law on Administrative Proceedings.

3. A decision on the provision of secondary legal aid in a matter wherein a service's decision on secondary legal aid is disputed shall be taken by another service in accordance with the procedure laid down by the Minister of Justice.

4. A decision on the provision of secondary legal aid must specify:

1) date and place of the taking of the decision;

2) name and surname of the person who took the decision;

3) the name of the authority which took the decision;

4) name and surname of an applicant;

5) contents of legal aid – the type of the legal aid applied for;

6) the basis for the provision or for the refusal to provide secondary legal aid;

7) the level established to the person's property and income, where secondary legal aid is provided to the applicants referred to in subparagraph 1 of paragraph 2 of Article 11 and in subparagraph 6 of Article 12 of this Law;

8) the part of the costs of secondary legal aid to be guaranteed and covered by the State;

9) the name, surname, address, telephone number and reception hours of a lawyer assigned to provide secondary legal aid, where the decision is taken on the provision of secondary legal aid;

10) the procedure for and time limit of appealing against the decision;

11) other information which is significant in the opinion of the service.

5. When selecting a lawyer, the service shall take into account an applicant's proposal regarding the specific lawyer, the place of residence of the applicant, the place of employment of the lawyer, the workload of the lawyer and other circumstances significant for the provision of secondary legal aid.

6. A decision on the provision of secondary legal aid shall be an assignment for a lawyer to provide secondary legal aid and a document attesting to his powers.

7. At all pre-trial (non-trial) and trial stages of a matter, secondary legal aid shall be normally provided by one (the same) lawyer. A lawyer providing secondary legal aid may be replaced upon a written reasoned request of an applicant or the lawyer himself in the event of establishment of a conflict of interests or of other circumstances due to which the lawyer providing secondary legal aid cannot provide legal aid in the instant case. A decision on the replacement of the lawyer providing secondary legal aid shall be taken by the service.

8. Where secondary legal aid is provided for a time period longer than one year, the services shall annually, following the year after the taking of a decision on the provision of secondary legal aid, verify the eligibility of a person for secondary legal aid on the basis of a new resident's (family's) return of assets with a stamp of the local tax administrator confirming the submission of the return and having regard to the conditions set out by this Law.

9. At least one month prior to the end of the year following the taking of a decision on the provision of secondary legal aid, the lawyers providing secondary legal aid must notify an applicant of the obligation to declare his property and income if he wishes to continue receiving secondary legal aid. Where the provision of secondary legal aid is continued, a lawyer must furnish these statements annually at least one month prior to the end of the year.

10. In the cases provided for in international treaties of the Republic of Lithuania, the lawyers providing secondary legal aid must communicate with applicants in the language the latter understand, and, where this is impossible, interpretation of their communication must be ensured.

11. Where the level of an applicant's property and income changes, the service shall establish another part of the costs of secondary legal aid to be guaranteed and covered by the State.

12. Where the financial situation of an applicant referred to in subparagraph 6 of Article 12 of this Law changes so that his property and income or the property and income which he can freely dispose of do not correspond to the previously established level of a person's property and income, but correspond to another level of a person's assets and income, the applicant must immediately notify thereof the service by submitting a new resident's (family's) annual return of assets with a stamp of the local tax administrator confirming the submission of the return. In this case, the service shall establish another part of the costs of secondary legal aid to be guaranteed and covered by the State.

13. The service shall have the right to obtain, in accordance with the procedure laid down by laws of the Republic of Lithuania, from state and municipal institutions, state registers, other natural or legal persons the information available to them and required to determine the eligibility of a person to receive secondary legal aid or the accuracy of the data presented in applicants' applications and the documents enclosed therewith. These institutions and persons must furnish the requested information to the service not later than within 7 days from the receipt of the application.

Article 19. Peculiarities of the Provision of Secondary Legal Aid by Covering 50 per cent of Costs

1. An application for the provision of secondary legal aid must contain the applicant's consent to cover the costs of secondary legal aid, where the second level is established to his property and income. Where the application is filled in with the help of or by the persons providing State-guaranteed legal aid, the duty to cover 50 per cent of the costs of secondary legal aid in accordance with the procedure laid down by this Law must be explained to the applicant, and he shall be familiarised with the possible preliminary amount of the costs accounted according to the amounts of the fees paid to lawyers for the provision of secondary legal aid when necessary as specified by the Government.

2. Where 50 per cent of the costs of secondary legal aid are covered, an applicant shall pay the remaining 50 per cent of the costs of secondary legal aid related to defence and representation in court upon the receipt of a notification of a service. In the notification to the applicant, the service shall indicate the payable amount of the costs of secondary legal aid, the account to which he must transfer the amount and the time limit for the payment.

3. An applicant shall cover the costs referred to in paragraph 2 of this Article within a time limit indicated by a service, but not later than within 30 days of the receipt of a notification. Where he fails to pay the costs indicated in paragraph 2 of this Article, they shall be recovered in accordance with the procedure laid down by laws.

4. Where 50 per cent of the costs of secondary legal aid are covered, an applicant shall pay 50 per cent of other litigation costs (costs of the proceedings) in compliance with the time limits and procedure laid down by procedural laws.

Article 20. Exemption from the Stamp Duty and Other Litigation Costs (Costs of the Proceedings and Procedural Costs) and Coverage Thereof

1. In civil and administrative proceedings as well as when hearing the civil actions brought in criminal cases, the persons eligible for secondary legal aid shall, according to paragraph 4 of Article 14 of this Law, be exempt from the stamp duty and other litigation costs (with the exception of the litigation costs referred to in subparagraphs 6-8 of paragraph 1 of Article 88 of the Code of Civil Procedure), the costs of the proceedings and procedural costs in the case provided for in paragraph 2 of Article 104 of the Code of Criminal Procedure.

2. Where the physical presence of an applicant is required by the law or by the court, the travel costs to be borne by an applicant shall be borne by the services from the state budget finds allocated for that purpose.

3. An applicant shall submit to the court a decision taken by the service on the provision of secondary legal aid.

4. The provision of secondary legal aid shall not divest an applicant of the right to make use of the privileges of coverage and/or reimbursement of the litigation costs or of the costs of the proceedings as established in the laws on civil and administrative proceedings.

Article 21. Peculiarities of the Provision of Secondary Legal Aid in Criminal Matters

1. Where the physical presence of a defence lawyer in hearing criminal matters is required by Article 51 of the Code of Criminal Procedure and in other cases specified by laws when the presence of the defence lawyer is mandatory, a pre-trial investigation officer, prosecutor or the court shall notify a service or the co-ordinator indicated by it that a suspect, accused or convict requires the defence lawyer.

2. Upon the receipt of a notification referred to in paragraph 1 of this Article, a service or the co-ordinator indicated by it must immediately select a lawyer to provide secondary legal aid and notify thereof a pre-trial investigation officer, prosecutor or the court. Where a suspect, accused or convict was already provided secondary legal aid at an earlier stage of a matter wherein selection of a defence lawyer is requested, a lawyer who provided secondary legal aid to this suspect, accused or convict shall be normally selected as the defence lawyer.

3. On rest days and public holidays as well as outside the working hours of a service, a lawyer for the provision of secondary legal aid shall be appointed by a pre-trial investigation officer, prosecutor or a court on the basis of the duty lists of the lawyers providing secondary legal aid in criminal matters as compiled by the service.

4. The service shall pay fees to the lawyers referred to in paragraphs 2 and 3 of this Article in accordance with the procedure laid down in Article 17 of this Law.

5. The lawyer appointed by a pre-trial investigation officer, prosecutor or the court shall notify a service of the provision of secondary legal aid and furnish to the service a copy of the decision of the pre-trial investigation officer, prosecutor or the court to appoint the lawyer.

6. Where a defence lawyer is requested by a suspect, accused or convict and the presence of the defence lawyer is not necessary or mandatory in other cases provided for by laws, a decision on the provision of secondary legal aid shall be adopted by a service in accordance with the procedure laid down by Article 18 of this Law.

7. A representative of a legal person subject to criminal liability under paragraph 3 of Article 388 of the Code of Criminal Procedure may also be a lawyer providing secondary legal aid, with the provisions of this Chapter regulating the provision of secondary legal aid applied *mutatis mutandis*.

Article 22. Repealed on 1 January 2009.

Article 23. Termination of the Provision of Secondary Legal Aid

1. The provision of secondary legal aid shall be terminated where:

1) it transpires that a person receiving secondary legal aid is not eligible for secondary legal aid;

2) the person has deliberately submitted inaccurate information on the merits of a dispute or a case, his property or income;

3) the circumstances on the basis of which the person has been assigned to the persons referred to in paragraph 2 of Article 11 of this Law undergo a change;

4) the level of the person's property and income changes, and the person is divested of the right to receive secondary legal aid under this Law, including the case referred to in paragraph 6 of Article 12 of this Law;

5) an applicant fails to present a resident's (family's) annual return of assets with a stamp of the local tax administrator confirming the submission of the return within the time limit laid down by this Law, where secondary legal aid is provided for a period longer than one year;

6) an applicant abuses State-guaranteed legal aid, his substantive or procedural rights or demands that a lawyer exercises and defends the rights in an unacceptable manner;

7) following a change in the circumstances, it is established that the possible costs of secondary legal aid would significantly exceed the amount of property claims (property interest) of the applicant or that the non-pecuniary claim of the applicant lacks merit or that he is capable of independently exercising or defending his rights or the interests protected under law without the assistance of a lawyer;

8) an applicant submits an application for the termination of the provision of secondary legal aid;

9) representation in a case has no reasonable prospects of success;

10) a person receiving secondary legal aid does no longer co-operate with a service or a lawyer providing secondary legal aid;

11) an applicant to whose property and income the second level is established does not agree to pay 50 per cent of the costs of secondary legal aid;

12) an applicant dies.

2. A lawyer providing secondary legal aid must immediately notify the service or a pre-trial investigation officer, prosecutor or the court (where the physical presence of a defence lawyer is required by Article 51 of the Code of Criminal Procedure) of the circumstances referred to in paragraph 1 of this Article which have transpired and which are the basis for consideration of the

termination of secondary legal aid. In the event of a failure to fulfil this duty, the lawyer's fees for the provision of secondary legal aid may be reduced or withheld, and the lawyer must reimburse the losses incurred due to nonfeasance or misfeasance of the duty referred to in this paragraph.

3. A decision on the termination of the provision of secondary legal aid shall be taken by the service. Where 50 per cent of the costs of secondary legal aid were covered, the decision on the termination of the provision of secondary legal aid shall specify the payable amount of the costs of secondary legal aid, the account to which the amount must be transferred and the time limit for the payment. The amount must be paid with the time limit laid down in paragraph 3 of Article 19. A decision of the service on the termination of the provision of secondary legal aid may be appealed against in accordance with the procedure laid down by laws.

4. A person receiving secondary legal aid and the lawyer providing such aid must immediately submit to the court a decision taken by the service on the termination of the provision of secondary legal aid or on changing of the costs of State-guaranteed legal aid where a different level is established to the person's property and income. The persons who fail to fulfil this duty must cover the losses incurred due to nonfeasance or misfeasance thereof.

Article 24. Recovery and Refund of the Costs of Secondary Legal Aid

1. Where the provision of secondary legal has been terminated on the grounds referred to in subparagraphs 1, 2 and 6 of paragraph 1 of Article 23 of this Law, the costs of such aid shall be recovered from the person to whom it has been provided in accordance with procedure laid down by the law.

2. Where secondary legal aid is provided to the persons eligible for the litigation costs (costs of the proceedings) insurance benefits, which, according to the conditions of an insurance contract, are paid after the incurrence of the costs, the costs of the secondary legal aid which has been provided must be refunded to the state budget within one month of the payment of an insurance benefit in accordance with the procedure laid down by the Minister of Justice. Where a person fails to refund these costs, they shall be recovered in accordance with the procedure laid down by the law.

3. Where secondary legal aid has been provided to a person referred to in subparagraph 6 of Article 12 of this Law and where the circumstances on the basis of which he has been assigned to the persons referred to in the said subparagraph change, but the person cannot be assigned to the persons referred to in subparagraph 1 of paragraph 2 of Article 11 of this Law, such a person must refund the costs of the secondary legal aid which has been provided to the state budget within the time limit laid down by the service Where the person fails to refund the costs, they shall be recovered in accordance with the procedure laid down by the law.

4. Where 50 per cent of the costs of secondary legal aid are covered, and an applicant fails to fulfil the duty of paying 50 per cent of the costs of the proceedings in the case of civil proceedings or 50 per cent of the costs related to administrative proceedings within the time limits and in accordance with the procedures laid down in procedural laws, which results in the termination of the civil or administrative proceedings without the court taking a decision on the merits of the case, the applicant must refund the costs of provided secondary legal aid to the state budget within the time limits laid down by the service.

5. In the case indicated in paragraph 7 of Article 21 of this Law, the costs relating to representation of a legal person subject to criminal liability shall be recovered to the state budget from the legal person represented in accordance with the procedure laid down by laws.

6. Where the costs of secondary legal aid must be recovered, the State shall be represented by the service.

SECTION SIX
PECULIARITIES OF THE PROVISION OF STATE-GUARANTEED LEGAL AID IN CROSS-BORDER DISPUTES

Article 25. Scope of the Provision of State-Guaranteed Legal Aid in Cross-Border Disputes

1. The provisions of this Chapter shall be applied to the provision of State-guaranteed legal aid in cross-border disputes in civil and commercial matters whatever the nature of the court. The provisions of this Chapter shall not extend to revenue, customs or administrative matters.

2. State-guaranteed legal aid shall also be provided in compliance with this Chapter with regards to the enforcement of authentic instruments.

3. The provisions of this Law shall be applied to the provision of State-guaranteed legal aid in cross-border disputes unless otherwise established in this Chapter.

Article 26. Peculiarities of the Establishment of Eligibility for State-Guaranteed Legal Aid of Citizens of Other Member States of the European Union and of the Natural Persons Lawfully Residing in Other Member State of the European Union

Where the property and income of the natural persons lawfully residing in other Member States of the European Union exceed the property and income levels set by the Government of the Republic of Lithuania for the provision of State-guaranteed legal aid under this Law, but they indicate it is impossible for them to bear the costs of the proceedings, the service must establish whether an applicant is able to bear the costs of the proceedings by taking account of the subsistence costs of his domicile or the place where he is habitually resident in another Member State of the European Union and shall have the right to take a decision on the provision of secondary legal aid.

Article 27. Competent Authority

1. The Ministry of Justice of the Republic of Lithuania shall be the institution of the Lithuanian Republic (hereinafter referred to as "the receiving authority") authorised to receive applications for the provision of State-guaranteed legal aid in cross-border disputes (hereinafter referred to as "an application for legal aid") from the competent authorities of the Member States of the European Union.

2. The Ministry of Justice of the Republic of Lithuania shall be the institution of the Lithuanian Republic (hereinafter referred to as "the transmitting authority") authorised to transmit applications for the provision of State-guaranteed legal aid to the competent authorities of other Member States of the European Union.

3. The Ministry of Justice of the Republic of Lithuania shall submit to the Commission of the European Communities the information needed for the implementation of the European Union legal acts specified in the Annex to this Law.

Article 28. Peculiarities of the Provision of State-Guaranteed Legal Aid in Cross-Border Disputes Where the Ministry of Justice of the Republic of Lithuania is the Receiving Authority

1. An applicant shall have the right to submit an application for legal aid either to the competent authority of the Member State of the European Union in which the applicant is domiciled or habitually resident or directly to the Ministry of Justice of the Republic of Lithuania, where the court is to sit in the Republic of Lithuania or where the decision is to be enforced in the Republic of Lithuania.

2. An application for legal aid and the documents attesting to a person's eligibility for State-guaranteed legal aid submitted to the receiving authority must be translated into the Lithuanian language or another language which the Republic of Lithuania has indicated it can accept to the Commission of the European Communities. These documents shall be exempt from legalisation and any equal formality.

3. Upon the receipt of an application for legal aid from the competent authority of another Member State of the European Union, the Ministry of Justice of the Republic of Lithuania must,

within 30 days of the receipt of the application and all the necessary documents, examine it and take a decision on the transmission of the application to the appropriate executive institution of a municipality or to the service. The Ministry of Justice of the Republic of Lithuania shall have the right to refuse to transmit the application where not all the documents referred to in this Law have been submitted. Upon the taking of a decision to refuse to transmit the application, the Ministry of Justice of the Republic of Lithuania shall immediately notify the applicant thereof.

4. The executive institution of a municipality or the service must notify the applicant of a decision taken on the provision of State-guaranteed legal aid. Where an application for legal aid is rejected, the reasons for such a decision must be specified. The decision on the rejection of the application may be appealed against in accordance with the procedure laid down by laws of the Republic of Lithuania.

Article 29. Peculiarities of the Provision of State-Guaranteed Legal Aid in Cross-Border Disputes Where the Ministry of Justice of the Republic of Lithuania is the Transmitting Institution

1. Where the court is sitting in another Member State of the European Union or the decision is to be enforced in another Member State of the European Union, the applicant who is domiciled in the Republic of Lithuania or who is habitually resident in the Republic of Lithuania shall have the right to submit an application for legal aid and the documents attesting to the person's eligibility for legal aid either directly to the competent authority of the Member State of the European Union concerned or through the transmitting authority – the Ministry of Justice of the Republic of Lithuania.

2. The documents referred to in paragraph 1 of this Article shall be translated into the official language or one of the official languages of another Member State of the European Union which corresponds to one of the languages of the Community institutions or into another language which that Member State of the European Union has indicated it can accept to the Commission of the European Communities.

3. The Ministry of Justice of the Republic of Lithuania shall have the right to refuse to transfer an application for legal aid where the application is manifestly unfounded or is outside the scope of the present Chapter. Where the Ministry of Justice of the Republic of Lithuania takes a decision to refuse to transmit an application for legal aid, the reasons for the refusal must be specified to the applicant. The decision may be appealed against in accordance with the procedure laid down by laws of the Republic of Lithuania.

4. The Ministry of Justice of the Republic of Lithuania must notify the applicant of the documents which are required to enable an application for legal aid to be determined in another Member State of the European Union and shall ensure translation of the application and of the documents attesting to the person's eligibility for legal aid according to subparagraph 2 of paragraph 2 of Article 31 of this Law. The Ministry of Justice of the Republic of Lithuania must transmit the application for legal aid and the documents attesting to the person's eligibility for legal aid to the competent authority of another Member State of the European Union within 15 days of the receipt of translations of the application and of the documents attesting to the person's eligibility for legal aid into one of the languages referred to in paragraph 2 of this Article.

5. The Ministry of Justice of the Republic of Lithuania shall carry out the actions referred to in this Article free of charge. Where the competent authority of another Member State of the European Union rejects an application for legal aid, the applicant must repay the costs of translation of the application and of the documents attesting to the person's eligibility for legal aid borne by the Ministry of Justice of the Republic of Lithuania.

Article 30. Application Forms

The applications referred to in Articles 28 and 29 of this Law shall be submitted and transmitted in compliance with the form established by the Commission of the European Communities.

Article 31. Costs of the Provision of State-Guaranteed Legal Aid in Cross-Border Disputes

1. In the event of a cross-border dispute, the costs of State-guaranteed legal aid shall, in addition to the costs referred to in Article 14 of this Law, include:

1) the costs of interpretation;

2) the costs of translation of the procedural documents as required by the court or by another competent authority and presented by the applicant which are necessary for the resolution of the case;

3) travel costs to be borne by the applicant where the physical presence of the persons concerned with the presentation of the applicant's case is required in court by the law or by the court of the Republic of Lithuania and the court decides that the persons concerned cannot be heard to the satisfaction of the court by any other means.

2. Where the applicant is domiciled or habitually resident in the Republic of Lithuania, the costs of State-guaranteed legal aid shall, in the event of a cross-border dispute, cover the following costs:

1) the costs of the legal aid which has been provided in the Republic of Lithuania until the application for legal aid has been received in another Member State of the European Union where the court is sitting or where enforcement is sought;

2) the costs relating to the translation of the application for legal aid and of the documents attesting to the person's eligibility for legal aid.

Article 32. Continuity of the Provision of State-Guaranteed Legal Aid

An applicant who received legal aid in another Member State of the European Union in which the court was sitting shall have the right to receive State-guaranteed legal aid provided for by this Law, where recognition or enforcement is sought in the Republic of Lithuania.

SECTION SEVEN
FINAL PROVISIONS

Article 33. Financing of State-Guaranteed Legal Aid

1. Primary and secondary legal aid shall be financed from the state budget.

2. Funds for primary legal aid shall be allocated to municipalities as a special targeted grant for the performance of a state (delegated to municipalities) function.

3. Budget funds for the provision of State-guaranteed legal aid, with the exception of a special targeted grant referred to in paragraph 2 of this Article, shall be allocated to the Ministry of Justice.

Article 34. Treaties of the Republic of Lithuania on Legal Aid

Where an effective ratified treaty of the Republic of Lithuania establishes other norms than those provided for in this Law, the provisions of the treaty of the Republic of Lithuania shall be applied, with the exception of the cases when the provisions of this Law implementing European Union legal acts are applied to relations with other Member States of the European Union.

I promulgate this Law passed by the Seimas of the Republic of Lithuania.

PRESIDENT OF THE REPUBLIC VALDAS ADAMKUS

Annex to
the Republic of Lithuania
Law on State-guaranteed Legal Aid

IMPLEMENTED EU LEGAL ACTS

Council Directive 2003/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes.