

ANNEX 39

- Country Report LITHUANIA

CONTRACT
JLS/2006/C4/007-30-CE-0097604/00-36

IMPLEMENTED BY



DEMOLIN, BRULARD, BARTHELEMY

- HOCHÉ -

FOR



COMMISSION EUROPEENNE

**- DG FOR JUSTICE, FREEDOM
AND SECURITY -**

**Study on the Transparency of Costs of Civil Judicial
Proceedings in the European Union**

**Jean ALBERT
Team Leader**

- COUNTRY REPORT -

- LITHUANIA -

**Submitted by Valentinas Mikelėnas
Country Expert**

DECEMBER 30, 2007

COUNTRY REPORT	6
Introduction	8
Executive Summary	9
1 Summary of the mains sources of costs	9
2 Level of transparency in the sources of costs	10
3 Determination of the amounts of costs	11
4 Level of transparency in determining the actual costs	11
5 Proportion of each identified cost on the overall cost of civil judicial proceedings	12
6 Proportion of each identified cost on the overall volume of activity	13
7 Proportion of each indentified cost on the value of disputed claim	13
8 Specificities in relation to EU cross-border disputes	14
9 Recommendations for EU action/national action.....	14
10 Relationship between the costs of justice, the transparency in the costs of justice and access to justice	15
11 Conclusions and recommendations	15
Detailed Draft Report	16
1 General Questions	16
1.1 Level of information on the transparency of fees and costs of justice	16
1.2 Transparency perception	17
1.3 Solutions to improve transparency	19
1.4 Fairness of costs	19
1.5 Conclusions and recommendations	20
2 Court fees	20
2.1 General	20
2.2 Cost of bringing an action to the courts	21
2.3 Other proceedings costs	28
2.4 Costs of legal recourses (Appeals...)	28
2.5 Costs of ADR	28
2.6 Costs of legal Aid proceedings	30
2.7 Costs of fast track proceedings	31
2.8 Costs of Group actions'proceedings	31
2.9 Payment	32
2.10 E-justice	32
2.11 Impact of the number of hearings on costs	32
2.12 Transcription costs	33
2.13 Conclusions and Recommendations	33
3 Lawyers' consulting and representation fees	34
3.1 General	34
3.2 Fees depending on the nature of the litigation	37
3.3 Fees depending on the type of lawsuit or proceedings	39
3.4 Fees depending on the value of the claim	40
3.5 Fees depending on the jurisdiction	40
3.6 Legal aid cases	41
3.7 Contingency fees	42
3.8 Payment	42
3.8.1 Retainer	44
3.9 Conclusions and recommendations	44
4 Bailiff fees	44
4.1 General	44

4.2	Ante judgment	46
4.3	During proceedings	46
4.4	Post proceedings	46
4.5	Legal aid cases	49
4.6	Payment.....	50
4.6.1	Retainer	51
4.7	Conclusions and recommendations	51
5	Expert fees.....	51
5.1	General.....	51
5.2	Fees (medical experts, technical transports experts.....)	52
5.3	Payment.....	54
5.3.1	Retainer	54
5.4	Legal aid cases	54
5.5	Reimbursement of experts' fees	55
5.6	Practical questions ?.....	55
5.7	Conclusions and recommendations	56
6	Translation and interpretation fees	56
6.1	General.....	56
6.2	Translation fees	58
6.3	Interpretation fees.....	60
6.4	Payment.....	60
6.4.1	Retainer	61
6.5	Practical questions ?.....	61
6.6	Legal aid cases	62
6.7	Reimbursement.....	63
6.8	Conclusion and recommendations	63
7	Witness Compensation.....	64
7.1	General.....	64
7.2	Fees	64
7.3	Legal aid cases	65
7.4	Payment.....	66
7.5	Practical questions ?.....	66
7.6	Conclusions and recommendations	67
8	Pledges and security deposits	68
8.1	General.....	68
8.2	Fees	70
8.3	Payment.....	70
8.4	Conclusions and recommendations	71
9	Court decisions	71
9.1	Cost of notification.....	71
9.2	Cost of obtaining an authenticated decision	72
9.3	Conclusions and recommendations	72
10	Civil Legal aid.....	72
10.1	General.....	72
10.2	Conditions of grant.....	74
10.3	Strings attached ?	76
10.4	Practical questions.....	79
10.5	Conclusions and recommendations	81
11	Personal experience.....	81
12	Other costs.....	82

12.1	General	82
12.2	Expences connected to the verification	82
12.3	Expences for defendant search.....	83
12.4	Expences concerning the delivery of the procedural documents	83
12.5	Expences concerning the sums payable for the expenses of the curator's work	84
12.6	Other necessary and reasonable expenses	85
13	Case studies	85
13.1	Case study 1	85
13.2	Case Study 2.....	95
13.3	Case Study 3.....	103
13.4	Case Study 4.....	111
13.5	Case Study 5.....	118

ANNEXES TABLE:

ANNEXE 1 Questionnaire completed for the implementation of this study

COUNTRY REPORT

Preliminary notes

The Country Report is prepared according to the laws regulating litigation costs in the Republic of Lithuania, basically the Code of Civil Procedure (hereinafter - the CCP) that was adopted by the Seimas (Parliament) of the Republic of Lithuania on 28 February 2002 and entered into force as of 1 January 2003 as well as other legal acts that were adopted in order to implement particular provisions of the CCP:

1. Recommendations on the Calculation of Fees approved by the Ministry of Justice together with the Council of the Bar Association (regulates maximum fees of advocates that can be reimbursed to the winning party);
2. Instruction on Enforcement Proceedings endorsed by the Decree No 1R-352 of October 2005 of the Minister of Justice (defines bailiffs' fees);
3. Rules regarding the recovery and the amount of the expenses related to litigation approved by the Minister of Justice Order as of 6 December 2002, No 344 (defines the rules according to which the compensation to witnesses, experts and translators are paid);
4. Law on State Guaranteed Legal Aid (provides with the conditions under which the person is entitled to receive legal aid and other rules and principles related to provision of legal aid).

Other legal acts were also mentioned in the Report in order to describe general situation regarding particular issues (legal status of advocates, bailiffs, etc.) or to provide with the information related to litigation costs (for example, cases where

the representation of an advocate is necessary), *i. e.* Civil Code of the Republic of Lithuania, Law on Advocacy, Law on Bailiffs, Law on Notary, Law on Forensic Expertise, *etc.* In addition, in this Report relevant practise of the Supreme Court of Lithuania was also used as the legal source as well as the monographs Civil Procedure of Lithuania (written by Valentinas Mikelėnas and Dalia Mikelėnienė and published by Kluwer Law International BV, The Netherlands in 2006) and Litigation Costs in Civil Procedure (written in Lithuanian by Rimantas Simaitis and published by Justitia in 2007).

Costs are indicated in the Report in euros (1 EUR = LTL 3.4528).

Introduction

Every person who is involved in litigation suffers certain financial loss. Lithuania is not an exception to this rule. Litigation costs are defined in the Article 79 of the Civil Procedure Code as the sums of money which must be paid by the parties into the state budget or to each other. It basically means that persons shall suffer costs that are of two types: court fees (sums of money which must be paid by the parties into the state budget) and other costs related to litigation (sums of money which must be paid by the parties to each other). Therefore the Country Report mainly deals with the description of regulation and content of abovementioned costs (types of costs related to litigation, determination of the amount of costs, types of payment, *etc.*). It is undisputable that litigation costs vastly influence the right to access to the court, therefore not only the costs themselves are the subject of this Country Report but also the legal aid system of Lithuania and more importantly - the transparency of the costs are discussed in the Report.

The Country Report is generally based on the General Questionnaire. Since not all questions are relevant in case of litigation costs in Lithuania, some titles of the chapters were removed or replaced with other titles (for example, chapters lawyers fees depending on the nature of the litigation, depending on the type of lawsuit or proceeding and depending on the value of the claim were replaced with the chapter “Factors that influence the consultation and representation fees”, *etc.*). Also additional chapters were added to this Report as there are particular costs that were not discussed in the General Questionnaire (sums payable for curator’s work, *etc.*).

Executive Summary

1 Summary of the mains sources of costs

Article 79 of the CCP provides with the two kinds of legal costs: a stamp duty and other legal costs related to the litigation. Other costs related to litigation are defined in the Article 88 of the CCP and are as follows: (i) sums payable to witnesses, experts and translators; (ii) expenses connected with the verification; (iii) expenses for the defendant search; (iv) expenses concerning the delivery of the procedural documents; (v) sums payable as the costs of the enforcement of a court judgement; (vi) sums payable for the expenses of the curator's work; (vii) sums payable for the legal assistance of an advocate or associate advocate; (viii) other necessary and reasonable expenses.

Although there are nine types of litigation costs the main costs suffered by the party are sums payable for the legal assistance of an advocate or associate advocate (60-80%), enforcement of a court judgement costs (10-20%), and the stamp duty (5-20%).

The main source establishing basic principles regarding litigation costs is the CCP (particularly Part VIII of the CCP named "Litigation costs"). However, there are also other legal acts that regulate issues related to litigation costs, i. e.: (i) Recommendations on the Calculation of Fees approved by the Ministry of Justice

together with the Council of the Bar Association (regulates maximum fees of advocates that can be reimbursed to the winning party); (ii) Instruction on Enforcement Proceedings endorsed by the Decree No 1R-352 of October 2005 of the Minister of Justice (defines bailiffs' fees); (iii) Rules regarding the recovery and the amount of the expenses related with litigation approved by the Minister of Justice Order as of 6 December 2002, No 344 (defines the rules according to which the compensation to witnesses, experts and translators are paid); (iv) Law on State Guaranteed Legal Aid (provides with the conditions under which the person is entitled to receive legal aid and other rules and principles related to provision of legal aid).

2 Level of transparency in the sources of costs

All abovementioned rulings are publicly available as they are published on the government website (the official site of the Parliament of the Republic of Lithuania) www.lrs.lt where all legal acts passed in the Republic of Lithuania are announced (it is, of course, always possible to receive information contained in legal acts concerning litigation costs in state publication *Valstybės Žinios* where following the requirements of the Law on Procedure of Publication and Coming into Force of Republic of Lithuania Laws and other Legal Acts all legal acts are published). It means that the access to information regarding litigation costs is of the same manner as in any other case when legal information is needed. There is also a possibility to access legal information regarding litigation costs (to access legal acts establishing rules and principles concerning litigation costs) on private website www.litlex.lt (the access to abovementioned legal database costs between 20 and 49 EUR per month). However, www.litlex.lt provides with the same information as the www.lrs.lt except that the www.litlex.lt is in particular cases simpler to use as it provides with additional features for usage of database of the Lithuanian legal acts.

It is also available to receive information concerning the sources of costs following the procedure indicated in the Law on State Guaranteed Legal Aid. Every person despite of its income or amount of the property is entitled to receive primary legal aid (basically, legal consultations) that is provided by municipalities of the Republic of Lithuania. Therefore, every person shall have the right to receive legal

consultations regarding litigation costs from municipalities. Again, possibility to receive information related to litigation costs is of the same manner as in any other case when legal information is needed.

There are no other public or private websites, information centres or organisations that provide with the information concerning litigation costs, neither the courts nor professionals do usually provide persons with such information.

3 Determination of the amounts of costs

Some of the amounts of costs are determined by the legal acts, while others are freely agreed between professional and the client. For example:

- 1) the amount of stamp duty is calculated according to the CCP and may vary from 0 (in certain cases persons are exempt from the stamp duty) to 14 500 EUR;
- 2) advocate's fees are freely agreed between the advocate and the client (average amount for legal representation in the court is 1000 EUR);
- 3) bailiff's costs are regulated by the Instruction on Enforcement Proceedings endorsed by the Decree No 1R-352 of October 2005 of the Minister of Justice (defines bailiffs' fees), it can vary from 15 EUR to 2000 EUR
- 4) fees payable to experts are regulated by the Minister of Justice Order as of 6 December 2002, No 344, expert fees can vary from 15 to 200 EUR;
- 5) fees payable to witnesses are regulated by the Minister of Justice Order as of 6 December 2002, No 344, fees consists of compensation for the time spent away from the everyday work and for travel and living expenses;
- 6) fees for translation are freely agreed between the translator and the client and may vary from 10 to 19 EUR per page.

4 Level of transparency in determining the actual costs

Level of transparency in determining the actual costs depends on the particular type of legal cost. The following legal acts determine the costs (rules how to determine the costs):

- 1) the CCP. CCP determined the amount of stamp duty. The stamp duty is determined either in the lump sum (in non-patrimonial cases) or in percents of the claim (or the lamp sum plus particular percentage). There is also a possibility to use the calculator at <http://denver.tic.lt/zymin/Default.aspx>). CCP also establishes principles of the calculation of the pledge or security deposit.
- 2) Instruction on Enforcement Proceedings endorsed by the Decree No 1R-352 of October 2005 of the Minister of Justice. Instructions define bailiffs' fees. Instructions define only the rules how to calculate the actual fee.
- 3) Rules regarding the recovery and the amount of the expenses related with litigation approved by the Minister of Justice Order as of 6 December 2002, No 344. Rules define the rules of calculation of expert, translator (interpreter) and witness fees but not the actual fees.

Other costs (advocate fees, translator's fees, when it is not administrated trough the court) are not regulated by the government and are freely agreed by the professional and the client.

5 Proportion of each identified cost on the overall cost of civil judicial proceedings

COURT FEES

0% - 20% (depends on the type of claim (patrimonial/non-patrimonial))

BAILIFF FEES

10%-20%

LAWYER FEES

60%-80%

EXPERT FEES

2%

WITNESS COMPENSATION

2%-3%

TRANSLATION/INTERPRETATION

2%

6 Proportion of each identified cost on the overall volume of activity

COURT FEES

0% - 20% (depends on the type of claim (patrimonial/non-patrimonial))

BAILIFF FEES

10%-20%

LAWYER FEES

60%-80%

EXPERT FEES

2%

WITNESS COMPENSATION

2%-3%

TRANSLATION/INTERPRETATION

2%

7 Proportion of each identified cost on the value of disputed claim

COURT FEES

0% - 20% (depends on the type of claim (patrimonial/non-patrimonial))

BAILIFF FEES

10%-20%

LAWYER FEES

60%-80%

EXPERT FEES

2%

WITNESS COMPENSATION

2%-3%

TRANSLATION/INTERPRETATION

2%

8 Specificities in relation to EU cross-border disputes

The CCP does not provide for any special litigation costs in relation to EU cross-border disputes. If the proceedings are held in courts of the Republic of Lithuania there is no reason to require higher fees from the foreign litigant as the procedure is mainly the same for everyone. However, it is of course more expensive when court proceedings take place in foreign country as civil procedure as well as other laws and regulations differ according to particular country, hence it is necessary to hire the advocate, translate various documents, *etc.*

9 Recommendations for EU action/national action

Basic recommendations for EU as well as national action is to improve transparency of litigations costs as today it is impossible to obtain information regarding litigation costs in Lithuania only in Lithuanian language (except some insignificant issues) therefore the foreign litigant is almost pressurized to hire the advocate in

order to obtain information regarding litigation costs. Establishing information centres, creating public website, publishing brochures or any other action that would help to concentrate whole information regarding litigation costs in one place is recommended. It is, of course, required that the access to such information would be free of charge.

10 Relationship between the costs of justice, the transparency in the costs of justice and access to justice

It is undisputable that despite of the basic principle that costs are borne by the losing party the probability to suffer certain financial loss often deters persons from litigation (there are no guarantees that the party will receive favourable decision). In addition, the uncertainty can also deter persons from litigation in the court as it is almost impossible to define actual future costs.

11 Conclusions and recommendations

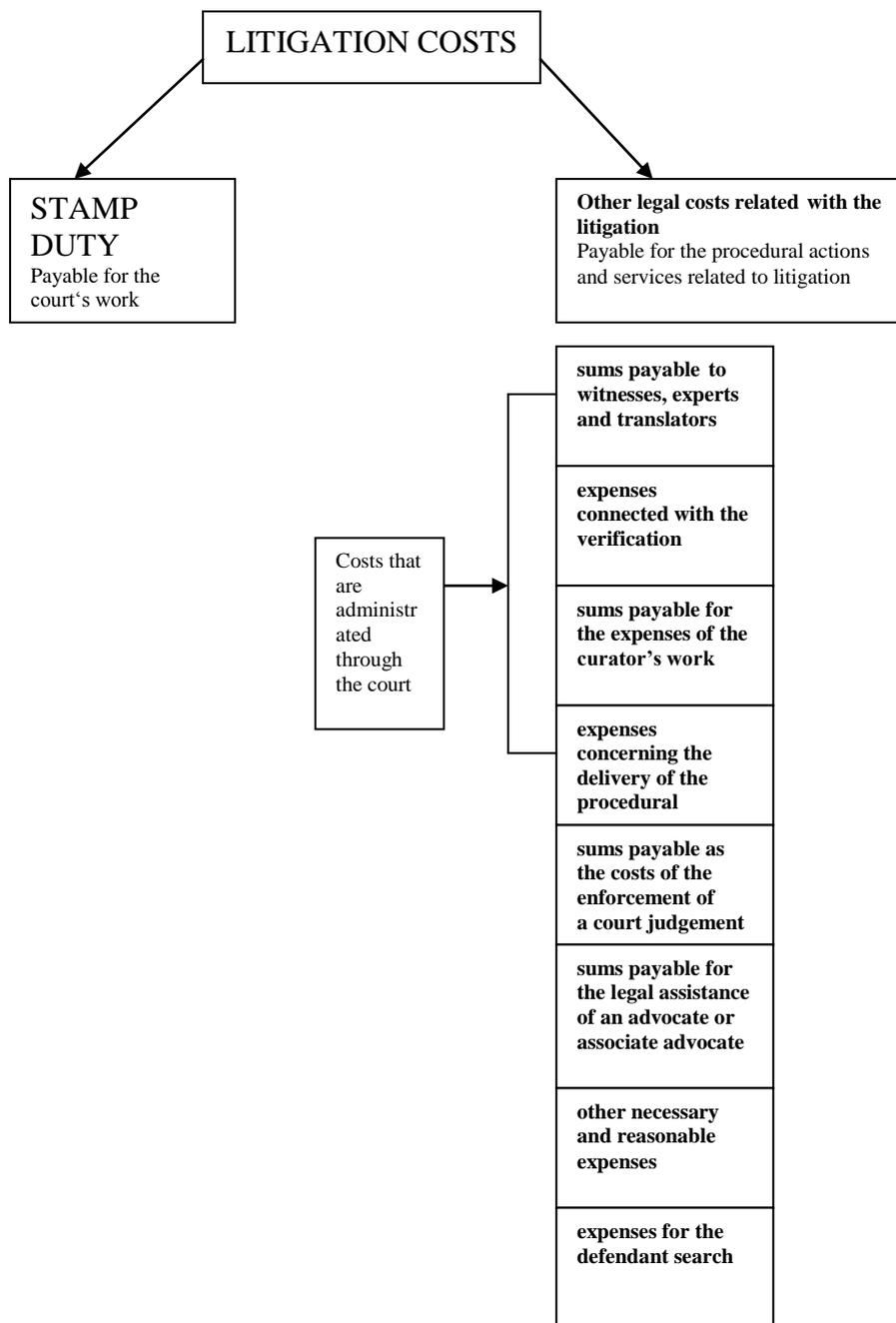
There are nine types of litigation costs established in Lithuanian legal acts (stamp duty, lawyers' fees, enforcement costs, sums, payable for expert, witness and translator; expenses connected with the verification; expenses for the defendant search; expenses concerning the delivery of the procedural documents; sums payable for the expenses of the curator's work; other necessary and reasonable expenses). Three of them, namely stamp duty, lawyers' fees and enforcements fees are three main costs that persons suffer during court proceedings. Although some of the costs are regulated by the government it is still very hard to determine the actual amount of future litigation costs. It caused by the reason that legal acts often indicate only principle of calculations of costs but not the actual sum of costs. In addition, such rules are often very complicated to understand.

Detailed Draft Report

1 General Questions

1.1 Level of information on the transparency of fees and costs of justice

Article 79 of the CCP provides with the two kinds of legal costs: a stamp duty and other legal costs related with the litigation. Other costs related with the litigation are defined in the Article 88 of the CCP and are as follows: (i) sums payable to witnesses, experts and translators; (ii) expenses connected with the verification; (iii) expenses for the defendant search; (iv) expenses concerning the delivery of the procedural documents; (v) sums payable as the costs of the enforcement of a court judgement; (vi) sums payable for the expenses of the curator's work; (vii) sums payable for the legal assistance of a lawyer; (viii) other necessary and reasonable expenses.



1.2 Transparency perception

As it was mentioned CCP is not the only legal source establishing rules in respect of litigation costs. Other legal acts regulate questions related to litigation costs as well, i. e.: (i) Recommendations on the Calculation of Fees approved by the Ministry of Justice together with the Council of the Bar Association (regulates maximum fees of advocates that can be reimbursed to the winning party); (ii)

Instruction on Enforcement Proceedings endorsed by the Decree No 1R-352 of October 2005 of the Minister of Justice (defines bailiffs' fees); (iii) Rules regarding the recovery and the amount of the expenses related with litigation approved by the Minister of Justice Order as of 6 December 2002, No 344 (defines the rules according to which the compensation to witnesses, experts and translators are paid); (iv) Law on State Guaranteed Legal Aid (provides with the conditions under which the person is entitled to receive legal aid and other rules and principles related to provision of legal aid).

All abovementioned rulings are publicly available through the government website (the official site of the Parliament of the Republic of Lithuania) www.lrs.lt where all legal acts passed in the Republic of Lithuania are announced. It means that the access to information regarding litigation costs is of the same manner as in any other case where legal information is needed. There is also a possibility to access legal information regarding litigation costs (to access legal acts establishing rules and principles concerning litigation costs) through private website www.litlex.lt (the access to abovementioned legal database costs between 20 and 49 euros per month). However, www.litlex.lt provides with the same information as the www.lrs.lt except that the www.litlex.lt is in particular cases simpler to use and it also provides with additional features for usage of database of the Lithuanian legal acts.

Actual amount of costs shall be calculated regarding the rules established in the abovementioned legal acts regulating particular types of legal costs. However, in some cases, when prices are not regulated by the government (for example, advocate's fees, translation fees, etc.) legal acts do not regulate the determination of the amounts of costs as well.

Level of transparency in determining the actual costs depends on the particular type of legal cost. For example it is quite simple to determine the actual amount of the stamp duty (there is also a possibility to use the calculator at <http://denver.tic.lt/zymin/Default.aspx>). In other cases the actual amount is not always clear as it depends on time expenditures or the type services provided by the certain professional (lawyer, bailiff, translator, etc.). Sometimes even the professional itself can not predict the future actual amount of the services.

1.3 Solutions to improve transparency

The most appropriate solution in order to improve transparency of litigation costs is centralization of the information on the operation and costs of justice. It is important in both, national and international, cases. It is also important that all information regarding litigation costs would be translated in at least one foreign language (English) and such information would be accessible publicly to everyone and free of charge.

1.4 Fairness of costs

Two main issues are mostly criticized by the law scholars and practitioners: the stamp duty and limitation of the reimbursement of litigation costs.

The first issue concerns the legal discussion whether the stamp duty is necessary. The main purpose of the stamp duty is to compensate the state for the dispute resolution and to reduce the amount of litigation in country. The first reason was properly disproved by dr. Rimantas Simaitis in his doctoral dissertation "Litigation costs in civil procedure" as he calculated the total income of the state and compared it to the income realized from the stamp duty. It emerged that the stamp duty forms only 0.1 part of whole income, hence it is not of the great necessity for the state to collect the stamp duty from the litigants as the state is financially able to support court system from other state budget resources. The second reason is also quite weak as it is proved in sociological researches that the obligation to pay the stamp duty rarely deters persons from litigation in courts, contrary, the obligation to pay the stamp duty can often deprive persons from access to court. However, despite of the discussions on the necessity of the stamp duty the same system of court fees remained in the new CCP.

The limitation of the advocate fees is also widely discussed by scholars, practitioners and also litigants themselves. The advocate fees that are reimbursable to the winning party are regulated by the Recommendations on Calculation of Fees approved by the Ministry of Justice together with the Council of the Bar Association. According to the abovementioned Recommendations the fees for legal services equal the sum of the coefficient established in Recommendations multiplied by minimum monthly salary in Lithuania (currently it equals 202.73 EUR),

for example, if the coefficient is 3, the fee is 608.19 EUR. The highest coefficient established by Recommendations is 3.5 (for cassation appeal), *i. e.* 710 EUR. Such regulation basically means that as long as the person is represented in the court by an advocate (or associate advocate) he/she shall necessarily suffer certain financial loss even he/she wins the case as advocate fees usually are higher than those established by Recommendations. However, sometimes the courts consider the complexity of the case and the length of the proceedings and order the losing party to compensate costs higher than the maximum amount of possible costs established in the Recommendations.

1.5 Conclusions and recommendations

To calculate even approximate future litigation expenses is difficult not only for litigants but for professionals as well (also, for the providers of primary legal aid). Inexplicit regulation of litigation costs therefore can easily deter from access to the court.

The most appropriate solution in order to improve transparency of litigation costs is centralization of the information on the operation and costs of justice. It is important in both, national and international, cases. It is also important that all information regarding litigation costs would be translated in at least one foreign language (English) and such information would be accessible publicly to everyone and free of charge.

2 Court fees

2.1 General

As it was mentioned before and as it is shown in the scheme of the structure of litigation costs in the Republic of Lithuania, the only court fee that shall be paid by the litigants is the stamp duty (Lith. *žyminis mokestis*). It is also important to note there is also separate fee payable to the court - payment for the issuance of the

procedural documents. It is defined by the Article 81 of the CCP but it is not usually classified as type of litigation costs as the main feature of litigations costs is reimbursement of litigation fees to the winning party while payment for the issuance of the procedural documents does not have such feature. It is paid by participants of the litigation for the second issuance of the court's procedural document (for example, if the party had lost particular procedural document) and by other persons for the issuance of the procedural documents.

The stamp duty is paid to the court for court's work. Court fees are established in the CCP. The amount of the stamp duty is established in the Article 80 of CCP and can be either fixed either proportional to the amount of the claim. In patrimonial cases the stamp duty shall be calculated as a percentage of the amount of the claim. Complaints in non-patrimonial cases shall be paid in a lump sum (there is also a possibility to use the calculator at <http://denver.tic.lt/zymin/Default.aspx>). The basic principle of the regulation of the stamp duty that the stamp duty is paid in advance, before the performance by the party of each procedural act explicitly established in the CCP (claim, counter-claim, appeal, cassation appeal, etc.), it means that for any other procedural document or procedural action that is not established in the CCP as liable to the stamp duty, the stamp duty is not required to pay (for example, responses to action, request for provisional protective measures, etc.).

There are also costs related with litigation that are administrated through the court: (i) sums payable to witnesses, experts and translators; (ii) expenses connected with the verification; (iii) expenses concerning the delivery of the procedural documents; (iv) sums payable for the expenses of the curator's work. However, theses costs are only administrated by the court but they are not considered as the court fees, the principle of administration is that the party pays the deposit to the court and the compensation for witness, experts, etc. are paid by using the party's deposit (the amount of the deposit shall correspond with the approximate amount of future particular litigation costs). After the case is solved the winning party's paid deposit is compensated from the other party.

2.2 Cost of bringing an action to the courts

The amount of the stamp duty depends on the type of the claim submitted to the court (patrimonial/non-patrimonial); no other criterions influence the amount of the stamp duty. In patrimonial cases the stamp duty is calculated as a percentage of the amount of the claim.

Amount of the claim	Stamp duty
Up to 28962 EUR (LTL 100 000)	3 per cent but not less than 14,48 EUR (LTL 50)
Greater than 28962 EUR and less than 86886 EUR (LTL 300 000)	868.86 EUR (LTL 3000) plus 2 percent of the amount of the statement exceeding 28962 EUR
Greater than 86886 EUR	2027.34 EUR (LTL 7000) plus 1 percent of the amount of the statement exceeding 86886 EUR.

In addition, total amount of the stamp duty in patrimonial cases may not exceed 8688.69 EUR (LTL 30 000).

Complaints in non-patrimonial cases must be paid by the stamp duties defined by the CCP in a lump sum. Usually such sum does not exceed 28.96 EUR (LTL 100):

Type of the complaint	Stamp duty
Petitions for reopening procedures and in other cases	28.96 EUR
In cases regarding the issuance of the court order	Quarter of the stamp duty that would be paid in the contentious procedure for the action (but not less than 2.90 EUR)
In documentary proceeding	Half of the stamp duty that would be paid in the contentious procedure for the action (but not less than 5.80 EUR)
Application to revise judgment by default	14.48 EUR

It should be mentioned that according to the Article 82 of the CCP the indexation of the stamp duty shall be applied when the consumer price index exceeds 110. It was publicly announced in July 2007 that the consumer price index reached 112. Therefore, the stamp duty (except for the part of the stamp duty that is calculated in percents) as well as enforcement costs and court penalties must be indexed. For example, the stamp duty for the petition for reopening the case shall be $28.96 \times 1.12 = 32.44$ EUR. In patrimonial cases, where the stamp duty consists of two parts - lump sum and certain percentage of the sum of the claim, index of 112 shall only be applied only the lump sum. For example, if the plaintiff claims for 40 000 EUR the stamp duty shall be $868.86 \times 1.12 + 11038 \times 0.02 = 973.12 + 220.76 = 1193.88$ EUR.

The stamp duty shall be paid before the case is filed. The value added tax is not applicable to the stamp duty.

According to abovementioned provisions of the CCP the two main features that cause the levy of the procedural document shall be emphasised:

- 1) procedural documents by which the party starts the litigation (actions, requests for the issuance of the court order, *etc.*);
- 2) procedural documents by which the party requires to revise the former court judgement (appeals, cassation appeals, requests for the reopening the procedures, *etc.*).

It is important to note that procedural documents where the party's claims are of procedural nature (for example, claim regarding the litigations costs or request for the provisional measures of protection, *etc.*) are not subject to stamp duty. Such principle was also approved by the Judgement of the Supreme Court of the Republic of Lithuania as of 8 November 2001, case *AB "Kasyba" v. AB Lietuvos taupomasis bankas* (No. 3K-7-861/2001).

Despite of the transparency of the amount of the stamp duty payable in particular case, the persons as well as the professionals often face difficulties when deciding on the nature of the case (patrimonial/non-patrimonial) and by assessing the value of the dispute (Article 85 of the CCP). It is therefore would be improper to conclude that it is easy to define the amount of stamp duty when the legal rules establishing criterions of patrimonial/non-patrimonial cases are not always transparent. In addition, the courts are subject to expand the concept of patrimonial case. For example, the claim regarding the declaration of the agreement as null and void is often treated by the courts as the patrimonial case despite of the fact that sometimes the party does not claim for restitution and any other property or payment is not subject of the case. The other example described above has happened in the practise of our Professional Law Partnership:

Our client (natural person) concluded the preliminary agreement with the bank regarding the future sale-purchase of the house. He paid the entire sum for the house (300 000 LTL, i. e. 86886 EUR) to the bank and was permitted to live in it. As the bank was avoiding from entering into the principal agreement of sale-purchase of the house he claimed for the recognition of the preliminary agreement as

principal agreement. As the arbitration clause was established in the preliminary agreement he lodged the action to the arbitration court. After the disadvantageous arbitration award he lodged the request for annulment of the arbitration award to the Court of Appeal stating that the dispute was illegally decided in the arbitration court as it arose from the consumer contract (According to the Law on Commercial Arbitration the disputes arising from the consumer contracts can not be decided in the arbitration courts). He paid the stamp duty for the request as for the patrimonial claim (7000 LTL, i.e. 2027,34 EUR). The Court of Appeal dismissed the request and also stated that the dispute is non-patrimonial and the stamp duty shall be refunded. Then the cassation appeal was lodged to the Supreme Court of the Republic of Lithuania. The selection panel of the Supreme Court ordered to eliminate the deficiencies of the cassation appeal, *i. e.* to pay the stamp duty as in patrimonial case. The stamp duty was paid and the cassation appeal was accepted by the Supreme Court. However, the Supreme Court in the final decision, again, emphasized that this case is non-patrimonial and the stamp duty must be refunded to the cassator.

In certain cases plaintiffs are exempt from the stamp duty. Article 83 of the CCP establishes 14 categories of the civil cases in which the plaintiff is released from the stamp duty:

- labour cases;
- maintenance (alimony) cases;
- cases concerning personal injury (regarding the compensation of damages caused to - person's health, or in case of the death of the person);
- cases concerning compensation of damages caused by the criminal actions of the defendant;
- public prosecutor, state and municipalities as well as other persons are exempt from the stamp duty in cases where they seek to protect public interest;
- cases regarding claims to compensate damage resulting either from unlawful conviction, or unlawful arrest, as a measure of suppression, as well as from unlawful detention, or application of unlawful procedural measures of enforcement, or unlawful infliction of administrative penalty - arrest as well as cases regarding the claims to compensate damages caused by unlawful actions of a judge or the court trying a civil case;
- cases regarding the lost property caused by the political repression;

- legal person which is under bankruptcy procedure (other participants of litigation are exempt from the stamp duty for appeals and appeals of cassation);
- bankruptcy cases and cases regarding restructuring of the legal person;
- state and municipalities are exempt from the stamp duty in cases regarding debt collection;
- the Bank of Lithuania, Joint Stock Company Turto bankas and State Property Fund;
- spouses in cases regarding divorce by the mutual consent of the spouses and on the application of one of the spouses when special conditions determined in the Article 3.55 of the Civil Code are met;
- cases that are examined under the rules set forth in the XXXIX part of the CCP (cases regarding the issuance of court permits or regarding the certifying of the facts, administration of the property, succession matters and other cases that are according to the legal acts are examined under rules set forth in the XXXIX part of the CCP);
- other cases prescribed by the CCP or other legal acts.

As it was mentioned before, court fees do not depend on subject matter of the case, however, we provide with the stamp duty paid in particular cases classified by the subject matter of the case.

Nature of the action	Filing fees (description of filing fees, time of payment and determination of payer)	Regulation
1. FAMILY LAW		
Divorce	There are three ways to initiate court proceedings regarding the divorce: (i) by the mutual consent of the spouses; (ii) on the application of one of the spouses when special conditions determined in the Article 3.55 of the Civil Code are met; (iii) on the basis of the fault of one or both of the spouses. In (i) and (ii) cases spouses are exempted from the stamp duty. In (iii) case the stamp duty shall be paid as in patrimonial cases (according to the amount of the sum of money that is claimed from the other spouse)	Article 80 and Subparagraph 12 of Paragraph 1 of Article 83 of the CCP
Children Custody Right	The stamp duty shall be paid as in non-patrimonial cases and shall be equal 28.96 EUR (100 LTL)	Subparagraph 2 of Paragraph 1 of Article 80 of the CCP
Alimony	The stamp duty shall be paid as in patrimonial cases, the amount of the stamp duty shall be determined according to the sum of alimony for	Article 80, Subparagraph 2 of 1 of Article 83 and

Nature of the action	Filing fees (description of filing fees, time of payment and determination of payer)	Regulation
	one year (for example, if required sum of money is 200 EUR per month the stamp duty shall be calculated from the sum of 12X200=2400 EUR. The claimant in case regarding the alimony is exempted from the stamp duty, therefore, the stamp duty shall only be paid by the defendant in case he lodges the appeal or appeal of cassation	Article 85 of the CCP
2. LABOUR LAW		
Work Accidents	Claimant (who claims for compensation of damages in work accident case) is exempted from the stamp duty. Therefore, the stamp duty shall only be paid by the defendant in case he lodges the appeal or appeal of cassation. The amount of the stamp duty depends on the nature of the dispute (patrimonial/non-patrimonial).	Article 80 and Subparagraph 3 of the Paragraph 1 83 of the CCP
Redundancies	Claimant (employee) is exempted from the stamp duty. In other cases the stamp duty shall be paid according to the nature of the dispute (patrimonial/non-patrimonial).	Article 80 and Subparagraph 1 of the Paragraph 1 of 83 of the CCP
3. COMMERCIAL LAW		
Payment for a commercial or services agreement	The stamp duty shall be paid as in patrimonial case.	Article 80 of the CCP
Goods or services not in accordance	Stamp duty shall be paid according to the nature of the claim (patrimonial/non-patrimonial)	Article 80 of the CCP
Litigation between associates	Stamp duty shall be paid according to the nature of the claim (patrimonial/non-patrimonial)	Article 80 of the CCP
Mandates and agents	Stamp duty shall be paid according to the nature of the claim (patrimonial/non-patrimonial)	Article 80 of the CCP
4. CIVIL LAW		
Consumers protection	Stamp duty shall be paid according to the nature of the claim (patrimonial/non-patrimonial)	Article 80 of the CCP
Liability	Claimants are exempted from the stamp duty in cases regarding the compensation of damages caused to person's health or in case of the death of the person. In other cases stamp duty shall be paid as in patrimonial case.	Article 80 and Subparagraph 3 of Paragraph 1 of Article 83 of the CCP
5. PROPERTY LAW		
Lease	Stamp duty shall be paid according to the nature of the claim (patrimonial/non-patrimonial)	Article 80 of the CCP
Ownership and co ownership	Stamp duty shall be paid according to the nature of the claim (patrimonial/non-patrimonial)	Article 80 of the CCP
6. CIVIL STATUS		
	Stamp duty shall be paid according to the nature of the claim (patrimonial/non-patrimonial)	Article 80 of the CCP
7. OTHERS (according to the type of claim)		
For petitions for reopening	28.96 EUR	Paragraph 5 of Article 80 of the

Nature of the action	Filing fees (description of filing fees, time of payment and determination of payer)	Regulation
procedures		CCP
In cases regarding the issuance of the court order	Quarter of the stamp duty that would be paid in the contentious procedure for the action (but not less than 2,90 EUR)	Subparagraph 3 of Paragraph 1 of Article 80 of the CCP
In documentary procedure	Half of the stamp duty that would be paid in the contentious procedure for the action (but not less than 5,80 EUR)	Subparagraph 4 of Paragraph 1 of Article 80 of the CCP
For application to revise judgement by default	14.88 EUR	Paragraph 3 of Article 80 of the CCP
In other disputes	28.96 EUR	Subparagraph 2 of Paragraph 1 of Article 80 of the CCP

According to the Article 93 of the CCP the litigation costs, including the stamp duty, shall be borne by the losing party. If the plaintiff wins the case, in which he is exempt from the stamp duty, the stamp duty is recovered by the court judgement from the defendant, payable into the state budget. If the losing party was relieved by the law from all legal costs, the legal costs are borne by the state.

If the financial situation of a party obligated to pay the stamp duty is difficult, it, after the presentation of corresponding documents, may request the judge to reduce the amount of the stamp duty. Upon the request of such person, the court, while taking into consideration the person's financial situation, is entitled by means of written proceedings to release him in part from the payment of the official fee, i. e. to reduce the amount of the payable stamp duty. A petition to reduce the stamp duty must be well grounded. The judge can also postpone the payment of a stamp duty up to a date of a final judgment. The rules on the reduction and the postponement of the payment of stamp duty are applied in respect to natural person as well as legal persons. However, it is important to note that the person (only natural person) shall be exempt from the stamp duty and other litigation costs under the conditions of State Guaranteed Legal Aid.

If the plaintiff withdraws an action or the parties conclude a settlement agreement, 75 percent of the amount of the stamp duty paid in is refunded.

In cross border litigation the stamp duty is of the same amount as in national litigation cases and shall be calculated according to the provisions of the CCP (basically, Articles 80, 83 and 85 of the CCP). It is also important to note that Article 794 of the CCP provides that in case the plaintiff is foreign natural or legal person and in case of the defendant's request, the plaintiff is obliged to pay the deposit that would guarantee the litigation costs of the defendant. However, CCP provides that the deposit for the foreign plaintiff shall not be required if it is contradictory to international treaty to which Lithuania is the party (for example, Treaty establishing the European Community, Convention on International Access to Justice, Hague 1980, *etc.*).

2.3 Other proceedings costs

There are no other proceedings costs payable to the court that shall be paid by the litigators during court proceedings.

2.4 Costs of legal recourses (Appeals...)

Paragraph 4 of Article 80 of the CCP provides that stamp duty for appeals and cassation appeals is of the same amount as in the first instance proceedings. However, in patrimonial cases the amount of the stamp duty is calculated according to the disputed sum (required sum in the first instance proceedings may differ from that required in the appellate proceedings). For example, the claimant claimed for 20 000 EUR and paid the stamp duty of 600 EUR ($0,03 \times 20\,000$), the court satisfied the claim. The defendant lodged the appeal but disputed not the whole sum awarded by the court but only 5 000 EUR. In such case the defendant will pay stamp duty of 150 EUR ($0,03 \times 5000$) irrespective of the fact the amount of the stamp duty paid in the first instance was 600 EUR). For petitions for reopening the proceedings the amount of 28.96 EUR shall be paid. For separate appeals on court orders, no stamp duty is paid.

2.5 Costs of ADR

ADR can be considered in a broad and a narrow sense. Mediation is qualified as ADR in a narrow sense while dispute resolution without the courts is ADR in a broader sense

which includes binding award. Lithuania is only in its way to broader usage of various ADR schemes. Today there is only possibility to solve the dispute by mediation in the Vilnius 2nd local court (it is experimental project established by the Decision of the Council of Courts regarding the Judicial Mediation as of 20 May 2005, No 13 P - 348). The procedure itself is free of charge. However, judicial mediation is possible only when the action was lodged to the court, therefore, the claimant should have paid the stamp duty at first as to start the proceedings. In case the mediation is successful (parties reach the amicable settlement) the 75% of the stamp duty is refunded. Other extra judicial procedures (for example, labour dispute commissions, also other institutions that legal acts obliges the claimant to settle dispute at first) are also free of charge but they are not considered as ADR as there is no mediator helping to solve the dispute (the dispute is heard by certain institution and it passes the decision regarding the dispute).

There is one Arbitration Court in Lithuania named Vilnius Court of Commercial Arbitration. The costs for the arbitration proceedings are regulated by the Decision of the Vilnius Court of Commercial Arbitration, a permanent court of arbitration, pursuant to the decision of the Board of the Court of December 8, 2003 (revised on December 19, 2005). The costs consist of the following costs:

1. Registration cost (273.40 EUR (LTL 944) plus VAT);
2. Arbitration fee (see table below);
3. Fee for the purpose of compensation (witness, arbitrators, expert expenses for travel, accommodation, etc).

Arbitration fees applicable when dispute is solved by Vilnius Court of Commercial Arbitration are as follow:

Price of the claim, EUR	Arbitration fee, EUR (with 18% VAT) (when one arbitrator is appointed)
up to 28962	683.50 + 4.13% of the sum in dispute
from 28962.29 to 57924	1879.63 + 2.95% of the sum in dispute exceeding 28962
from 5794.29 to 144810	2734.01 + 2.36% of the sum in dispute exceeding 57924
from 144810.29 to 289620	4784.52 + 1.18% of the sum in dispute exceeding 144810
from 289620.29 to 1448100	6493.28 + 0.59% of the sum in dispute exceeding 289620
from 1448100 to 2896200	13328.31 + 0.354% of the sum in dispute exceeding 1448100
above 2896200.29	18454.59 + 0.0236% of the sum in dispute exceeding 2896200

When three arbitrators are appointed, arbitration fee is increased by 40 %.

In case of non-patrimonial claim arbitration fee shall consist of administration fee of 683.50 EUR and arbitrator(s) fee(s) - 17.09-68.35 EUR per hour (included VAT 18 proc.). The amount of the arbitrator(s) fee(s) for non-patrimonial claim in any case shall be set by the Chairman of Vilnius Court of Commercial Arbitration.

There is also possibility to receive mediation and conciliation services in the Vilnius Court of Commercial Arbitration (however, the agreement concluded during such procedure does not have the effect of binding award until approved by the arbitration court or the court). The costs are defined by the Decision of the Board of the Vilnius Court of Commercial Arbitration as of December 8, 2003 (revised in 8 March 2004) and are as follows:

1. Registration fee ((434.43 EUR (LTL 1500) plus VAT);
2. Mediation/Conciliation fee (2% from the sum of the dispute);
3. Compensation fee.

If the dispute is settled by two mediators/conciliators the registration fee is increased by 20%; if the dispute is settled by three mediators/conciliators the registration fee is increased by 30%, mediation/conciliation fee - by 1,5%.

2.6 Costs of legal Aid proceedings

Pursuant to Article 14 of the Law on State Guaranteed Legal Aid secondary legal aid includes drafting of documents, defence and representation in court, including the process of enforcement, 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 also covers 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.

According to the Article 20 of the Law on State Guaranteed Legal Aid the persons eligible for secondary legal aid shall 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 CCP, *i. e.*, advocate

(associate advocate) fees, fees concerning the legal aid and other fees. Therefore, persons eligible for secondary legal aid shall cover costs of legal aid proceedings by themselves. However, legal aid proceedings are free of charge, therefore, the person suffers only expenses of small amount, *i.e.* travel expenses, photocopying expenses, etc. Usually the total amount of expenses does not exceed 20 EUR. Following the Article 93 of the CCP the costs, including costs of legal aid proceedings are borne by the losing party.

2.7 Costs of fast track proceedings

CCP establishes several kinds of summary proceedings:

- documentary proceedings (Articles 424-430 of the CCP) ;
- proceedings for the issuing of court order for payment (Articles 431-440 of the CCP);
- proceedings for small claims.

CCP provides for several preferences in respect of stamp duty in summary proceedings. In documentary proceedings the stamp duty equals half of the stamp duty that would be paid in the contentious procedure for the action (but not less than 5.80 EUR). In proceedings for the issuing of court order for payment the stamp duty equal quarter of the stamp duty that would be paid in the contentious procedure for the action (but not less than 2.90 EUR). However, there are no preferences related to stamp duty in proceedings for small claims. It can cause the situation when the stamp duty paid in the proceedings for small claims constitutes half of the sum claimed as the minimum amount of the stamp duty is 14.48 EUR (for example, if the party claimed for 30 EUR he will be obliged to pay 14.48 EUR stamp duty).

2.8 Costs of Group actions'proceedings

There are no rules establishing group action proceedings in CCP. There is only one legal norm in the CCP indicating that a group (class) action may be submitted to protect a public interest (Article 49 of the CCP). Without the conditions of a group action and the procedure of its realization being determined in the CCP this institute failed to acquire the actual content of group action. In addition, as it

refers to the protection of public interest it can be rather considered as so-called collective action. However, Lithuanian legal environment is favourable to the group action as such because it enables protection of the interests of a number of people by means of a single judgement (the persons who start a group action will be recognized as plaintiffs). In such cases CCP do not provide for any peculiarities in respect of stamp duty.

2.9 Payment

Stamp duty shall be paid at the credit institution (bank, etc.) to the respective account of the State Tax Inspectorate (*Valstybinė mokesčių inspekcija*) before the claim is submitted to the court. The transfer shall be paid in cash or by payment order. Stamp duty shall also be paid by transferor himself using the electronic banking system, in such case the credit institution shall confirm that the payment was actually performed (to make a note on the document proving the money transfer, to issue the document confirming that the money transfer was performed, etc.). There is no possibility to pay stamp duty directly to the court.

2.10 E-justice

There are no online court proceedings or online ADR proceedings available in Lithuania, emailing is also not yet authorized. However, video conferences may be organized during the arbitration proceedings (in such case the costs for such proceedings shall be paid by the parties).

2.11 Impact of the number of hearings on costs

Article 72 of the CCP obliges the court to guarantee a case to be heard within the shortest time possible; Article 7 obliges the court to guarantee the case to be heard during one court hearings.

There are no express legal right for a judge to limit hearings established in Lithuanian legal acts. However, the judge embodies its power to limit hearings by realization of the principle of procedure concentration that is guaranteed by various measures: (i) changing the elements of an action is permitted only within

the stage of preparation of a case of hearing (Article 141 of the CCP); (ii) possibility for submitting evidences is restricted when evidences could be submitted earlier and later submission can postpone the proceedings (Article 181 of the CCP), therefore, the court has a right to refuse to accept the delayed proof which is produced belatedly; (iii) the counterclaim can be lodged only until the court issues the ruling to decide to examine the case in the court (Article 143 of the CCP); (iv) parties are obliged to produce all arguments and to submit all proof during the stage of preparation of a case for hearing (Article 226 of the CCP), *etc.*

However, as it was mentioned before the stamp duty is paid once before the beginning of the proceeding and it does not depend on the number of hearings or length of the proceedings (except for the rule that stamp duty shall be paid in every step of litigation: first instance proceedings, appeal, cassation appeal).

2.12 Transcription costs

There are no such costs as “transcription costs” in Lithuania. However, Article 81 of the CCP defines fees for the issuance of the court’s procedural document.

The procedural documents of the court are delivered to participants of the case free of charge. The participants of the case shall pay only for the secondary issuance of procedural documents - 2.90 EUR for the issuance of the document plus 0.29 EUR for every page of procedural document. Other persons shall pay the same fee for the first issuance of court’s procedural documents as well. The fee is paid in cash directly to the court in court’s premises.

The CCP does not provide for the possibility to make copies of documents that are filed in the case. Nevertheless, the copying of documents is very common in the court. Usually the fees for copying of documents are 0.08 EUR per page. The fee is paid in cash directly to the court in court’s premises.

2.13 Conclusions and Recommendations

Stamp duty is the only fee that must be paid to the court by the litigants. It is the same for national as well as for cross-border cases.

The amount of stamp duty is established in the CCP, the amount of stamp duty depends on the type of the case - patrimonial/non-patrimonial. Despite of the transparency of the amount of the stamp duty payable in particular case, the persons as well as the professionals often face difficulties when deciding on the nature of the case (patrimonial/non-patrimonial) and by assessing the value of the dispute.

The stamp duty must be paid by the party before the case is filled and the tariffs of the stamp duty are considered as high. Both reasons are serious obstacle for many persons who intend to realize their constitutional right of access to court. Therefore, the stamp duty could be suppressed. In addition, the financial burden suffered by litigants is disproportionate to the financial benefit received by the state. According to the data provided by State Tax Inspectorate in year 2002 2.660 million EUR was collected from the stamp duty. It constitutes 8.31 percents of State expenditures for court system and only 0.1 percent of whole budget of the State.

3 Lawyers' consulting and representation fees

3.1 General

Legal services in Lithuania can be provided by advocates (Lith.: *advokatas*), associate advocates (Lith.: *advokato padėjėjas*), lawyers, etc. Lawyers' fees are freely agreed on between the lawyer and a client. According to the Article 51 of CCP parties can plead their case themselves or through their representatives. Article 56 of CCP defines that the representative of the party can only be:

1. advocates;
2. associate advocates (if they have a permission of the advocate supervising the associate's internship; the permission shall be issued to represent the party in every particular case; it is also important to note that According to the Law on Advocacy the associate advocate can only be the representative of the party in the first instance court proceedings);

3. co-plaintiff/co-defendant, if other co-plaintiffs/co-defendants assign him/her to represent them in the proceeding (when there are several plaintiffs, defendants, etc.);
4. persons who have higher (university) legal education if they represent their close relatives or spouse (living partner);
5. labour unions, if they represent their members in labour cases.

The employees of the legal person shall also act as representatives of the legal person (in appellate instances only employees of the legal person who have higher (university) legal education shall have the right to act as the representatives of the legal person, Article 55 of the CCP).

Lawyers that are not advocates or associate advocates do not have the right to represent persons in the court. Such rule was established only by new CCP in year 2002. Former CCP of year 1964 allowed every person to be representative of the party during court proceedings. The party can also be represented by the advocate of the foreign state. Advocates of foreign states may practice law only according to the rules established by international treaties of the Republic of Lithuania upon legal assistance with exceptions established by Sections XII and XIII of the Law on Advocacy (abovementioned sections regulate the right of lawyers from the Member States of the European Union to provide legal services in the Republic of Lithuania on temporary or permanent basis). However, the possibility of foreign lawyer to provide legal services in Lithuania is rather theoretical as civil procedure in Lithuania is performed only in Lithuanian language.

According to the CCP the legal representation is obligatory in cassation proceedings as the cassation appeal must be signed by the advocate (Article 347 of CCP). There are two exceptions from this rule: first, those employees of a legal person who have a higher (university) legal education may also draw up the cassation appeal of legal persons; second, if the cassator is a natural person who has a higher (university) legal education, he is entitled to draw up the cassation appeal himself. There are also certain categories of civil cases in which the participation of advocate is obligatory, for example, civil cases regarding investigation of activities of a legal person (Art. 2.126 of Civil Code), civil cases regarding forced sale of shares (Art.2.115 of Civil Code). As the legal acts provides for the obligatory legal representation in such cases the party is forced to buy legal services from the

advocates and, of course, to pay for them. In other cases the persons can avoid representation costs as the CCP allows pleading their cases by themselves.

As it was mentioned before, advocate fees are freely agreed on between the lawyer and a client, it is not regulated by state institutions or professional organizations. However, the Ministry of Justice together with the Council of the Bar Association has approved Recommendations on the Calculation of Fees. According to the Article 98 of CCP sums paid by the party for the legal assistance of an advocate or associate advocate shall be reimbursed to the winning party according to the Recommendations, *i. e.* they shall not exceed maximum sums defined in Recommendations (for example, if the party paid to the advocate EUR 7000 for cassation appeal and his appeal was granted (he won the case) the maximum amount that shall be reimbursed to the winning party shall be EUR 680.20 as such maximum sum for the cassation appeal is defined in the Recommendations). These Recommendations are also used as the criteria in the event of a dispute between an advocate and a client or when there is no agreement on fees signed between them.

Fees for legal services indicated in Recommendations equals the sum of the coefficient established in Recommendations multiplied by minimum monthly salary in Lithuania (currently it is EUR 202,73 (LTL 700)), for example, if the coefficient is 3, the fee is $3 \times 202,73 = \text{EUR } 608,19$. The Recommendations provide with the following coefficients:

Type of procedural document	Coefficient
application in extrajudicial procedures (if the case later is decided in court)	0,35
action (counteraction, response to action or counteraction)	3
later preparatory documents (duplicatio, triplicatio)	1,75
application to revise judgement by default	1,75
submission of objections regarding the interlocutory court judgement and action; response to the submission	1
application to issue court order	0,5
application to reopen the case	3
appeal	3
appeal (if the attorney participated in the first instance)	2
response to appeal	1,5
cassation appeal	3,5
cassation appeal (if the attorney participated in the first instance or appellate instance)	2,5
other procedural documents	0,5
other documents	0,12
every query in evidence collection process	0,012
one hour of representation in the court session	0,9

3.2 Fees depending on the nature of the litigation

Usually lawyer's honorarium is calculated according to the hourly fee that is in general uniform irrespective of the type of the case. For that reason the lawyer's honorarium depends on the amount of hours he spent for particular case. As a rule the hourly fee fluctuate between 70 to 200 euros, but it can be lower, for example, if the lawyer practises in the small town, or can be higher if the case is very complicated and urgent.

It is possible to negotiate hourly rates (for example, if the person has a lot of cases or when the client is of bad financial situation and the lawyer *pro bono* wants to help him/her; it is also possible to negotiate the rates when the case generates big publicity as it can help to find new clients (it is very important factor as in Lithuania advocates are not allowed to advertise). There is also possibility to agree with the advocate for the fixed fee but as it is difficult to predict the length of the court proceedings such agreements are quite rare. However, it is possible to agree on fixed fee for the consultation or the preparation of the procedural documents but representation fees are usually calculated on hourly rate basis.

Information provided below must be considered as relative, fees are calculated according to the following assumptions:

- hourly rate of advocate's fee is 100 EUR;
- the case is simple;
- the case is solved during one court session.

Nature of the action	Average costs, EUR	Description
1. FAMILY LAW		
Divorce	Non-contested case: 1000	Discussion of the case - 1 hour; Reading the file, preparing procedural documents - 6 hours Hearings (including travelling time, completion of the case) - 3 hours
	Contentious proceedings: 1750	Discussion of the case - 1,5 hour; Reading the file, preparing procedural documents - 10 hours Hearings (including travelling time, completion of the case) - 6 hours

Nature of the action	Average costs, EUR	Description
Children Custody Right	1950	Discussion of the case - 1,5 hour; Reading the file, preparing procedural documents - 10 hours Hearings (including travelling time, completion of the case) - 8 hours
Alimony	900	Discussion of the case - 1 hour; Reading the file, preparing procedural documents - 5 hours Hearings (including travelling time, completion of the case) - 3 hours
2. LABOUR LAW		
Work Accidents	1850	Discussion of the case - 1,5 hour; Reading the file, preparing procedural documents - 12 hours Hearings (including travelling time, completion of the case) - 5 hours
Redundancies	1000	Discussion of the case - 1 hour; Reading the file, preparing procedural documents - 5 hours Hearings (including travelling time, completion of the case) - 4 hours
3. COMMERCIAL LAW		
Payment for a commercial or services agreement	1550	Discussion of the case - 1,5 hour; Reading the file, preparing procedural documents - 13 hours Hearings (including travelling time, completion of the case) - 2 hours
Goods or services not in accordance	1900	Discussion of the case - 1 hour; Reading the file, preparing procedural documents - 15 hours Hearings (including travelling time, completion of the case) - 3 hours
Litigation between associates	1500	Discussion of the case - 1 hour; Reading the file, preparing procedural documents - 11 hours Hearings (including travelling time, completion of the case) - 3 hours
Mandates and agents	1200	Discussion of the case - 1 hour; Reading the file, preparing procedural documents - 8 hours Hearings (including travelling time, completion of the case) - 3 hours
3. CIVIL LAW		
Consumers protection	900	Discussion of the case - 1 hour; Reading the file, preparing procedural documents - 5 hours Hearings (including travelling time, completion of the case) - 3 hours
Liability	2200	Discussion of the case - 1 hour; Reading the file, preparing procedural documents - 18 hours Hearings (including travelling time, completion of the case) - 3 hours

Nature of the action	Average costs, EUR	Description
4. PROPERTY LAW		
Lease	1200	Discussion of the case - 1 hour; Reading the file, preparing procedural documents - 8 hours Hearings (including travelling time, completion of the case) - 3 hours
Ownership and co ownership	1900	Discussion of the case - 1 hour; Reading the file, preparing procedural documents - 12 hours Hearings (including travelling time, completion of the case) - 6 hours
5. CIVIL STATUS	1200	Discussion of the case - 1 hour; Reading the file, preparing procedural documents - 8 hours Hearings (including travelling time, completion of the case) - 3 hours

In case of cross border dispute hourly rate is the same as in case of internal dispute but it is important to bear in mind that in case of cross border litigation the provision of legal services might take much more time (if the client is foreigner, it will take time to explain how the legal system in Lithuania works, to translate documents, it can also happen that it would be possible to communicate with the client only through the interpreter, *etc.*).

3.3 Fees depending on the type of lawsuit or proceedings

It is important to point that fees are marginally influenced by the type of proceedings. The fees are influenced in so far as it concerns the length of the proceedings.

Information provided below must be considered as relative, fees are calculated according to the following assumptions:

- hourly rate of advocate's fee is 100 EUR;
- the case is simple;
- the case is solved during one court session (or defendant gives no response to preliminary decision (in documentary proceedings) or court order (in cases concerning issuance of court order)).

Type of proceeding	Costs, EUR
Contentious proceedings	1500

Type of proceeding	Costs, EUR
	Discussion of the case - 1 our Reading the file, preparing an action - 11 hours Court hearings - 3 hours
Non-contentious proceedings	1500 Discussion of the case - 1 our Reading the file, preparing an action - 11 hours Court hearings - 3 hours
Documentary proceedings	600 Discussion of the case - 1 our Reading the file, preparing an action - 5 hours
Cases regarding issuance of court order	300 Discussion of the case - 0,5 our Reading the file, preparing an action - 2,5 hours

Legal acts does not provide for any specific cost in cross border litigations for a specific type of lawsuit.

3.4 Fees depending on the value of the claim

As it was mentioned before lawyers' fees usually are calculated on the hourly basis and therefore, it does not depend on the value of the claim. Nevertheless, the fee for legal services can be influenced by the outcome of the case, i.e. parties can agree on contingency fee.

3.5 Fees depending on the jurisdiction

Jurisdiction	Approximate costs, EUR
Arbitration	1700 Discussion of the case - 2 hour Reading the file, preparing an action - 12 hours Hearings - 3 hours
Appellate instance	1700 or 1300 (if the advocate provided legal services in first instance proceedings)
Supreme Court	1200 or 1500 (if the advocate provided legal services in first and appellate instance proceedings)

3.6 Legal aid cases

Law on State Guaranteed Legal Aid provides for two types of legal aid, *i. e.* primary and secondary legal aid.

Primary legal aid is the provision of legal information in accordance with the procedure laid down by the Law on State Guaranteed Legal Aid, legal advice and drafting of the documents to be submitted to state and municipal institutions, with the exception of procedural documents. This legal aid also covers advice on the out-of-court settlement of a dispute, actions for the amicable settlement of a dispute and drafting of a settlement agreement.

Secondary legal aid includes drafting of documents, defence and representation in court, including the process of enforcement, 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 also covers 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.

Article 20 of the Law on State Guaranteed Legal Aid provides that 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, except for expenses related to payment for services of advocate or associate advocate. Such rule is established in Law on State Guaranteed Legal Aid because in case the person is entitled to secondary legal aid the State-guaranteed legal aid service appoints the advocate to provide secondary legal aid.

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. With a view to ensuring the continuity of the provision of secondary legal aid, separate agreements are concluded: (i) with the lawyers who

continuously provide secondary legal aid only to the persons eligible for it; (ii) with the lawyers who provide secondary legal aid in case of necessity.

Pursuant to the Article 18 of the Law on State Guaranteed Legal Aid advocates are paid according to the rates established by the Government. Such fees are compensated by the State.

It is also important to note that only in case when the first level of person's property and income is established he is entitled to compensation of 100% litigation costs. In case the second level of person's income is established, he is entitled to compensation of 50% of litigation costs. Where 50 % of the costs of secondary legal aid are covered, an applicant shall pay the remaining 50 % of the costs of secondary legal aid related to defence and representation in court upon the completion of the provision of secondary legal aid.

3.7 Contingency fees

Part 2 of Article 50 of the Law on Advocacy provides that in civil cases, as well as in cases when civil cases a civil claim is issued in criminal proceedings, it is permitted to agree to make the size of the advocate's fee dependable on the outcome of the case, provided it does not contradict the principles of the activity of the Bar. However, it should be noted that pursuant to the Code of Conduct for European lawyers a lawyer shall not be entitled to make a *pactum de quota litis* (by "*pactum de quota litis*" is meant an agreement between a lawyer and the client entered into prior to final conclusion of a matter to which the client is a party, by virtue of which the client undertakes to pay the lawyer a share of the result regardless of whether this is represented by a sum of money or by any other benefit achieved by the client upon the conclusion of the matter). Therefore, although the contingency fee is permitted by the Law on Advocacy, it is considered negatively by the rules of professional ethics.

3.8 Payment

Fees are freely agreed between the client and the lawyer, therefore the methods of payment and the course of payment is also freely agreed by the parties. The consultation and representation services are subject to the value added tax (18%). However, Part 2 of 71 article of Law on Value Added Tax provides that a taxable person of the Republic of Lithuania need not file an application to be identified for VAT purposes nor calculate VAT on supplies of goods and/or services and pay it into the budget if the total amount of consideration for supplies of goods and/or services in the performance of economic activities (during previous 12 months) has not exceeded 28962 EUR (100 000 LTL). Calculation of VAT must commence from the month during which the above threshold was exceeded. VAT on supplies of goods and services the consideration for which amounted to the specified sum of 28962 EUR (100 000 LTL) shall not be calculated. Following such regulation the person shall pay bigger price for legal services when the lawyer is the VAT payer.

According to the article 98 of CCP sums paid by the party for the legal assistance of an advocate or associate advocate shall be reimbursed to the winning party according to the Recommendations, *i. e.* they shall not exceed maximum sums defined in Recommendations. The courts usually applies Recommendations when deciding on compensation on litigation costs but there are also cases when the compensations for the advocate's representation exceeds maximum amount established by the Recommendations (for example, when the case was of high complexity or continued for a very long time).

As it is shown in the scheme of litigation costs and described in this report the CCP provides the type of litigation costs as "sums payable for the legal assistance of an advocate or associate advocate". It does not mean that the sums paid to the lawyer (who is not recognized as an advocate or associate advocate) for legal services concerning particular case shall not be reimbursed. Article 85 of the CCP also establishes the separate type of litigation costs - "other necessary and reasonable expenses". Hence if the expenses for the legal services provided by the lawyer were reasonable and necessary such costs shall be considered as litigations costs and shall be borne to the winning party despite of the fact that services were provided not by the advocate or associate advocate. Such interpretation of abovementioned rules was also indicated in the Recommendation of the Supreme Court of the Republic of Lithuania as of 2 May 2005.

3.8.1 Retainer

There are no legal regulations requiring the person to pay the retainer for the legal services. However, it is common to require the retainer when the person is natural person. Also the advocates who have low income usually require retainer from all clients. Big law firms usually do not require the retainer from their clients and invoices them monthly. In other words, it is not legal requirements but simple economic reasons cause the requirement of the retainer from the client.

3.9 Conclusions and recommendations

Advocate's fees are freely agreed between the client and the professional. It is not regulated by the government and only economic law (demand/supply) influence the amount of the costs. The fee most of the time is calculated based on hourly rates that are uniform almost in all cases without references to subject of the case (family, commercial, *etc.*), type of the case (patrimonial/non-patrimonial; national/cross-border), *etc.*

It is recommended to revoke the rule regulating that the sums paid to the advocate are reimbursed not exceeding the amount established in the Recommendations on the Calculation of Fees approved by the Ministry of Justice together with the Council of the Bar Association. Fees indicated in the Recommendations do not correspond to the nowadays existing advocate fee while advocate fee institutes the main part of all costs suffered by the person during court proceedings (60-80%).

4 Bailiff fees

4.1 General

Law on Bailiffs provides that a bailiff (Lith. *antstolis*) is a person authorised by the State, empowered by it to perform the functions of enforcement of writs of

execution, to make material ascertainment on the factual circumstances, to serve proceedings and carry out any other functions provided by law. A bailiff may provide the services set forth in the Law on Bailiffs unless this interferes with the performance of the bailiff's functions.

Article 21 of the Law on Bailiffs defines what particular services apart from those prescribed by law (enforce writs of execution, make material ascertainment issuing out of any court, serve, by court order, written proceedings issuing out of court on natural and legal persons in the Republic of Lithuania) can be provided by bailiffs:

- 1) to keep/administer property during the process of execution;
- 2) to make material ascertainment, serve written proceedings issuing out of court on natural and legal persons in the Republic of Lithuania without court order;
- 3) to provide legal assistance other than representation in courts and in relations with third parties;
- 4) to sell pledged movable property as collateral in auction;
- 5) to act as an agent in the performance of property obligations.

Abovementioned classification of bailiffs' activities (performance of state granted functions and providing other services) causes the classification of bailiffs' fees.

Article 21 of Law on Bailiffs defines that the procedure and amount of remuneration to a bailiff for enforcement of executory documents defined by law, making material ascertainment by a court order, service of written proceedings issuing out of court by a court order to natural and legal persons in the Republic of Lithuania shall be determined by the Government of the Republic of Lithuania or an authority authorised by it. Currently it is determined in the Instruction on Enforcement Proceedings (hereinafter - Instructions) endorsed by the Decree No 1R-352 of October 2005 of the Minister of Justice)¹.

The procedure and amount of remuneration for services specified above is agreed between the bailiff and the client by entering into a contract, unless otherwise provided by law.

¹ It should be mentioned that according to the Article 82 of the CCP the indexation of the enforcement costs shall be applied when the consumer price index exceeds 110. It was publicly announced in July 2007 that the consumer price index reached 112. Therefore, all the costs indicated in the Instructions (except for those expressed in percents) must be indexed (multiplied by the coefficient of 1.12).

4.2 Ante judgment

Intervention of a bailiff is not required by law prior to judicial proceedings. However, as it was mentioned before, bailiffs can provide particular services that are not directly connected to the State granted enforcement functions unless this interferes with the performance of the bailiff's functions. In such cases the bailiffs' fees are agreed between the bailiff and the client.

4.3 During proceedings

Despite of the main function of bailiff to enforce the decisions of the court and other institutions, the services of the bailiff are also required during judicial proceedings. The intervention of a bailiff is required (i) for the delivery of procedural documents (if the delivery of the documents was unsuccessful by other means (mail, etc.)), (ii) enforcement of the court's decision regarding provisional measures of protection, (iii) enforcement of the court's order to ascertain factual circumstances, (iv) enforcement of the court's order to compile the inventory of the devisor's (deceased person) estate, (v) enforcement of other court's orders. The fees for abovementioned actions of the bailiffs are as follows:

Nature of proceeding	Costs, EUR	Costs
Delivery of procedural documents	8.69 (LTL 30) for every addressee	LTL 30 for every addressee
Execution of the court's order to ascertain factual circumstances	17.38 (LTL 60) for bailiffs' working hour	LTL 60 for bailiffs' working hour
Execution of the court's decision regarding interim measures	18.96 (LTL 100) plus 17.38 (LTL 60) for the working hour of the bailiff	LTL 100 plus LTL 60 for the working hour of the bailiff
Execution of other court's orders (if it is not mentioned specifically in the Instructions)	17.38 (LTL 60) plus 17.38 (LTL 60) for bailiff's working hour	LTL 60 plus LTL 60 for bailiff's working hour

4.4 Post proceedings

The main function of the bailiff is the enforcements of the final court judgment therefore the intervention of a bailiff is required for the enforcement of the court

judgements, arbitral awards, court orders, settlement agreements approved by the courts, foreign court's decisions and arbitral awards (for cases defined by international treaties and Lithuanian laws). In addition, the intervention of a bailiff is required for other documents that are executable by the same rules as the above mentioned documents (decisions in administrative cases, decisions of various institutions or officials, etc.)

Costs of bailiffs (enforcement costs) consist of three types of costs (A+B+C):

Common enforcement costs that are defined in the Instructions in a lump sum that depends on the recoverable sum or the type of the executable document (A)

Enforcement costs related to the particular actions taken by the bailiff (B)

Payment for the bailiff for the enforcement of the certain document (C)

Costs of bailiff are classified into the two major groups:

Enforcement costs when the certain sum of money is recoverable.

Enforcement costs when the specific document defined in the Instructions is executable.

Enforcement costs when the certain sum of money is recoverable are as follows:

Recoverable sum, EUR	A Common enforcement costs, EUR	C Payment for the bailiff for the enforcement of the certain document, EUR
Up to 2.90 (LTL 10)	8.69 (LTL 30)	5.79 (LTL 20)
From 2.90 (LTL 10) to 14.48 (LTL 50)	11.58 (LTL 40)	14.48 (LTL 50)
From 14.48 (LTL 50) to 57.92 (LTL 200)	14.48 (LTL 50)	28.96 (LTL 100)
From 57.92 (LTL 200) to 289.62 (LTL 1000)	17.38 (LTL 60)	57.92 (LTL 200)
From 289.62 (LTL 1000) to 579.24 (LTL 2000)	20.27 (LTL 70)	19% from the sum recovered but not less then 57.92 (LTL 200)
From 579.24 (LTL 2000) to 868.86 (LTL 3000)	23.17 (LTL 80)	18% from the sum recovered but not less then 110.06 (LTL 380)
From 868.86 (LTL 3000) to 1158.48 (LTL 4000)	26.07 (LTL 90)	17% from the sum recovered but not less then 156.39 (LTL 540)
From 1158.48 (LTL 4000) to 1448.10 (LTL 5000)	28.96 (LTL 100)	16% from the sum recovered but not less then 196.94 (LTL 680)
From 1448.10 (LTL 5000) to 2027.34 (LTL 7000)	34.75 (LTL 120)	15% from the sum recovered but not less then 231.70 (LTL 800)

Recoverable sum, EUR	A Common enforcement costs, EUR	C Payment for the bailiff for the enforcement of the certain document, EUR
7000)		
From 2027.34 (LTL 7000) to 2606.58 (LTL 9000)	40.55 (LTL 140)	14% from the sum recovered but not less then 304.10 (LTL 1050)
From 2606.58 (LTL 9000) to 3185.82 (LTL 11000)	46.34 (LTL 160)	13% from the sum recovered but not less then 364.92 (LTL 1260)
From 3185.82 (LTL 11000) to 4344.30 (LTL 15000)	57.92 (LTL 200)	12% from the sum recovered but not less then 414.16 (LTL 1430)
From 4344.30 (LTL 15000) to 8688.60 (LTL 30000)	72.41 (LTL 250)	10% from the sum recovered but not less then 521.32 (LTL 1800)
From 8688.60 (LTL 30000) to 14481 (LTL 50000)	101.37 (LTL 350)	8% from the sum recovered but not less then 868.86 (LTL 3000)
From 14481 (LTL 50000) to 28962 (LTL 100000)	173.77 (LTL 600)	6% from the sum recovered but not less then 1158.48 (LTL 4000)
Over 28962 (LTL 100000)	289.62 (LTL 1000)	4% from the sum recovered but not less then 1737.72 (LTL 6000)

Enforcement costs related to the particular actions taken by the bailiff. In cases when recoverable sum of money does not exceed 2.90 EUR (LTL 10), execution costs related to the particular actions shall not be calculated. When recoverable sum of money exceeds 2.90 (LTL 10) but does not exceed 14.48 EUR (LTL 50), execution costs related to the particular actions shall not exceed 5.79 EUR (LTL 20). When recoverable sum of money exceeds 14.48 EUR (LTL 50) but does not exceed 57.92 EUR (LTL 200), execution costs related to the particular actions shall not exceed 14.48 EUR (LTL 50).

Enforcement costs when the specific document defined in the Instructions is enforced are as follows:

Type of the document	A Common enforcement costs	C Payment for the bailiff for the enforcement of the certain document
Regarding the transfer of goods	28.96 (LTL 100)	17.38 (LTL 60) for the working hour of the bailiff
Regarding the determination of the child's residence	28.96 (LTL 100)	17.38 (LTL 60) for the working hour of the bailiff
Regarding the eviction from the residential or	57.92 (LTL 200)	17.38 (LTL 60) for the working hour of the bailiff

non-residential dwellings		
Regarding the involuntary accommodation	17.38 (LTL 60)	17.38 (LTL 60) for the working hour of the bailiff
Regarding the recovery of the periodical payments (except allowance)	8.69 (LTL 30)	10 percent from the sum recovered
Regarding the compilation of the inventory of the deceased person	28.96 (LTL 100)	17.38 (LTL 60) for the working hour of the bailiff
Regarding the interim measures	28.96 (LTL 100)	17.38 (LTL 60) for the working hour of the bailiff
Regarding requirement to take particular actions or to keep off particular actions	57.92 (LTL 200)	17.38 (LTL 60)
Regarding the confiscation of the asset	28.96 (LTL 100)	17.38 (LTL 60) for the working hour of the bailiff
Regarding the liquidation of the legal person when liquidation is imposed as a criminal sanction	28.96 (LTL 100)	17.38 (LTL 60) for the working hour of the bailiff
Regarding the limitation of the activities of the natural property when it is imposed as a criminal sanction	28.96 (LTL 100)	17.38 (LTL 60) for the working hour of the bailiff
Regarding other documents that are not defined in the Instructions	17.38 (LTL 60)	17.38 (LTL 60) for the working hour of the bailiff

The laws do not provide for the specific rules regarding bailiff fees in case of cross border disputes.

4.5 Legal aid cases

As it was mentioned before secondary legal aid includes drafting of documents, defence and representation in court, including the process of enforcement, 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 also covers 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.

Article 20 of the Law on State Guaranteed Legal Aid provides that 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 particular legal costs. It means that in case the person is provided with secondary legal aid the State compensates enforcement costs as well. Where 50 % of the costs of secondary legal aid are covered, the person shall pay the remaining 50 % of the enforcement costs by himself. The Law on State Guaranteed Legal Aid does not regulate the moment when the person shall pay 50% of enforcement fees but pursuant to the regulation of payment for the services of an advocate it should be considered that the fees should be paid upon the completion of the provision of secondary legal aid.

4.6 Payment

The payment is made in advance by the creditor and after the completion of enforcement is recovered to the creditor by the debtor. The bailiff may release the creditor from the payment according to the financial situation of the creditor. Creditors that according to the legal acts are considered as socially supportable (or are entitled to state guaranteed legal aid) are released from the payment in all cases. In addition, the bailiff may postpone the payment until the closure of the enforcement case.

The bailiffs' fees are subject to value added tax (18%). However, Part 2 of 71 article of Law on Value Added Tax provides that a taxable person of the Republic of Lithuania need not file an application to be identified for VAT purposes nor calculate VAT on supplies of goods and/or services and pay it into the budget if the total amount of consideration for supplies of goods and/or services in the performance of economic activities (during previous 12 months) has not exceeded 28962 EUR (LTL 100 000). Calculation of VAT must commence from the month during which the above threshold was exceeded. VAT on supplies of goods and services the consideration for which amounted to the specified sum of 28962 EUR (LTL 100 000) shall not be calculated.

The person shall settle with the bailiff using various legal methods of payment available. However, Clause 26 of the Instructions provides that the bailiff may refuse to receive the payment in cash if the payment exceeds 57.92 EUR (LTL 200).

4.6.1 Retainer

The applicant shall first of all pay common enforcement costs of the bailiff (above in this report indicated as “A”), except in cases the bailiff released the creditor from the payment according to the bad financial situation of the creditor. If the bailiff does not receive common enforcement costs he is entitled to refuse to provide enforcement services.

4.7 **Conclusions and recommendations**

Bailiff’s fees are regulated by the Government. Fees are uniform regardless the case is national or cross-border. However, the regulation of bailiff’s fees is complicated and unclear, therefore, it is difficult to calculate and predict future actual enforcement costs.

5 **Expert fees**

5.1 **General**

Article 177 of the CCP establishes that the expert report (*eksperto išvada*) is one of the several sources of evidences in Lithuanian civil procedure. According to the Law on Forensic expertise, expertise can only be performed by experts (*ekspertas*) that are in the list of the experts of the Republic of Lithuania. Only in case when there is no expert with required specialization in the list of experts, a person that is not included in the list of expert can be appointed as the expert. In addition, by necessity the person, that can be an expert in other country of European Union or in country which have the agreement regarding the legal assistance with Lithuania,

can be appointed as an expert. The list of experts of the Republic of Lithuania is published in the website of the Ministry of Justice.

The expert may be appointed on the request of the parties or on the initiative of the judge. The judge may appoint one or several experts. As a rule, the judge decides only upon a special institution which specializes in the area of forensic expertise, and the expert is appointed by the head of this institution. There are several state institutions in Lithuania responsible for the performance of expert activities in civil and criminal cases. The most popular is the Institute of Forensic Expertise at the Ministry of Justice of Lithuania. All expertises on medical questions are performed by the Centre of Forensic Medicine at the Ministry of Health of Lithuania.

According to the Article 212 of the CCP it is the court's discretion to decide whether expertise is necessary, except in cases when the law provides that expert's report is necessary. For example, according to the Article 466 of the CCP, in cases regarding the declaration of a natural person as incapable the court is obliged to appoint the expert and only after receiving expert's report the court can decide on the merits of the case.

5.2 Fees (medical experts, technical transports experts.....)

Information regarding expert fees is provided by the CCP and Rules regarding the recovery and the amount of the expenses related with litigation (approved by the Minister of Justice Order as of 6 December 2002, No 344).

It is important to note that sums payable to experts are administrated through the court (except in cases expressly established in substantial law). Article 90 of the CCP states that in case the party requested the court for the expertise, it is obliged to pay the deposit to the court (the amount of the deposit is determined according to the approximate costs that will be paid to the expert). After the expert submits the expertise report to the court the experts cots are paid to the expert by the court using the deposit paid by the party. If the expertise was ordered by the court on the court's own initiative the expert costs are paid to the expert by the court from the state budget.

According to the Rules regarding the recovery and the amount of the expenses related with litigation Compensations paid to the expert consists of three parts:

- (i) compensation for the time spent away from the everyday work;
- (ii) compensation for the travel, living expenses;
- (iii) compensation for the expertise.

The first two types of compensation are regulated by the above mentioned Rules while the third type of compensation depends on the type of expert appointed by the court. When the public institution of expertise is appointed (as a rule the judge decides only upon a special institution which specializes in the area of forensic expertise, and the expert is appointed by the head of this institution) the compensation is determined by the rules approved by the expertise institution. According to the Rules regarding the recovery and the amount of the expenses related with litigation such compensation shall not exceed work and material expenditures that are necessary for the expertise. In case private expert is appointed the compensation is determined by the agreement between the court and the expert. Usually expert fees vary from EUR 100 to EUR 499.

In case the special institution which specializes in the area of forensic expertise is appointed the fee for the expertise usually will not depend on the nature of litigation. For example, if Forensic Science Center of Lithuania (FSCL) is appointed, the compensation for the expert (third type of compensation) will be defined by the rules of FSCL. It is indicated in the rules that compensation (C) is calculated in the following way:

$C = (V \times L \times I) + ((V \times L \times I) \times 18\%) \text{ VAT}$, where:

- V - average hourly fee of the employee of FSCL;
- L - hours spent for the expertise by the expert;
- I - expenditure coefficient of particular year.

None of the criteria depends on the type of the nature of litigation.

However, in case private expert is appointed, the compensation may depend on the nature of the case (for example, if the case is unique and very complicated question must be examined by the expert).

5.3 Payment

As expert fees are administrated through the court the payment for the expertise is always made by the court. In cases the expertise was requested by the party (or both parties) the party is obliged to pay the deposit to the court. According to the Article 90 of the CCP determines that the amount of deposit shall correspond to the future costs for the expertise. If both parties requested for the expertise the deposit shall be paid to the court by both parties in equal parts. Only in cases expressly established in substantial law (for example, Article 2.118 of Civil Code of the Republic of Lithuania defines that the court must appoint experts to set the price of shares (interest, contributions) in case of forced sale of shares) the party itself pays directly to the expert.

After the expert submits the expertise report to the court the court pays the expert its fees. If the expertise was ordered according to the request of the party (or party) the payment for the expertise is paid using the deposit paid by the party (parties). If the expertise was ordered by the court on its own initiative the payment is made using the state budget resources.

5.3.1 Retainer

When the expert fees are administrated through the court (or when the court appointed the expert on its own initiative) the payment for expert services is made after the expert submits expert's report. In case it was requirement to submit expert's report indicated in substantial law the parties are free to agree on the retainer but it is not required by the law.

5.4 Legal aid cases

According to the Article 20 of the Law on State Guaranteed Legal Aid the persons eligible for secondary legal aid shall be exempt from the stamp duty and other litigation costs. There are no explicit legal norms providing precise procedure according to which the party entitled to receive legal aid is exempt from the payment of a deposit guaranteeing expert costs. However, Article 33 of the Law on

State Guaranteed Legal Aid provides that primary and secondary legal aid is financed from the state budget. Therefore in case the party which is exempt from the litigation costs requests for the expert during the court proceeding shall be also exempt from the duty to pay the deposit to the court. In such case the expert fees are paid by the court to the expert using the state budget resources.

However, According to the Law on State Guaranteed Legal Aid, where the first level is established to the person's property and income the State recovers 100% litigations costs; where the second level is established to the person's property and income the State recovers 50% litigations costs. Therefore the person who is entitled to receive partial compensation of litigations costs shall be obliged to pay to the court the half of the required deposit guaranteeing the future expert costs.

5.5 Reimbursement of experts' fees

According to the Article 93 of the CCP litigation costs are borne by the losing party therefore the deposit paid by the party to the court to cover expert expenses shall be born by the losing party. In addition, if the losing party was relieved by the law from all legal costs, the legal costs are borne by the state. If the winner of the case was relieved by the law from all legal costs, the legal costs are recovered from the losing party, payable into the state budget.

5.6 Practical questions ?

Conditions for expert to be accredited by the court. According to the Law on Forensic expertise a person that seeks to become an expert must (i) have the higher education confirming the chosen specialization; (ii) pass the expert qualification exam; (ii) pass the legal knowledge exam; (iv) not to be convicted for criminal offence (felony) or for criminal offence against justice, state service or public interests. The procedure of admission consists of two stages - the stage of acquirement of the expert qualification certificate (a person shall pass the exams) and entry into the list of experts. After the qualification commission issues the qualification certificate, a person shall apply to the Minister of Justice for entry into the list of expert (the application shall be made during a year). Before the entry into the list of expert a person is obliged to take an oath before the Minister

of Justice. The qualification certificate is valid for five years. After the term expires the expert shall apply for the extension of the certificate to the qualification commission.

Validity term of the expert's report. Neither the Law on Forensic Expertise nor the CCP or any other legal act establishes the validity term of the expert's report. Notwithstanding that the factual situation of the case may cause the validity term. For example, the expert report in the price of the immovable property shall be valid only for a considerably short time as the prices of the immovable property changes (for example, in Lithuania prices of the immovable property increased in almost three-four times during past 3 years). However, the expert report regarding technical/scientific issues that never changes (for example, chemical composition of the particular material) is termless.

5.7 Conclusions and recommendations

Calculation of expert fees is regulated by the Government. However, according to the rules it is impossible to predict future expert costs as it only defines that expert fees consist of three parts. The main part, payment for the expertise, is freely agreed between the court and the expert (as the court, not the litigants, pays directly to the expert for the expertise). When the public institution of expertise is appointed the compensation is determined by the rules approved by the expertise institution and, again, the actual future fee is very hard to predict. As regards all litigation costs, it is recommended to centralise information regarding expert fees in particular cases, therefore, the litigants could predict at least approximate amount of future expert costs.

6 Translation and interpretation fees

6.1 General

Translators are private and independent professionals who provide translation services. There is no accreditation of translators' procedure in Lithuania, *i. e.* translators do not have to be accredited by the court. Article 113 and 114 of the

CCP provides that all procedural documents and their annexes have to be presented to the court in state language except in cases provided by the CCP or other legal acts (for example, Article 804 of the CCP provides that procedural documents that shall be delivered to the foreigner or foreign legal person have to be translated into English language or other language that is comprehensible to the addressee). Therefore, the party has to take care that all documents presented to the court shall be translated into Lithuanian language.

It is also important to note that there is no legal rule providing in what form the translated document shall be presented to the court. Article 113 and 114 of the CCP provides only that all procedural documents and their annexes have to be presented to the court in state language. In practice, the person goes to the translator who translates the document and certifies that the translation is true and the translator is aware of the responsibility regarding the false translation established in Lithuanian laws. Sometimes such translation is approved by the notary as the Law on Notary provides that one of the notary's functions is to certify the authenticity of the translation (Article 26 of the Law on Notary). However, there is no explicit rule in Lithuanian legal acts according to which it would be clear how the translation shall be certified (whether it is sufficient to receive the declaration of the translator that the translation is true or it is necessary to obtain additional approval of notary). In some cases (for example, Article 482 of the CCP states that all documents in adoption cases shall be translated into Lithuanian language and approved according to the rules provided by the laws) the court requires the translation to be approved by the notary.

As it was mentioned before the translators are private independent professionals that are not required to be accredited or to have certain education or qualification certificate. Therefore theoretically every person shall be entitled to translate documents provided to the court. However, in practice the court accepts only documents translated and approved by the translation bureau (*vertimų biuras*), i. e. the document that has the signature of the translator that the translation is true and the translator is aware of the responsibility regarding the false translation established in Lithuanian laws and that is confirmed by the seal of the translation bureau where the translator works. The translation of the other country's translator shall also be accepted by the court on Lithuania if it has abovementioned prerequisites.

Interpreters, as well as the translators are private independent professionals. According to Article 117 of the Constitution persons who do not know the Lithuanian language are guaranteed the right to participate in court proceedings through the interpreter. As it is the state's function to guarantee interpretation during the court proceedings sometimes courts hire interpreters as permanent employees of the court.

6.2 Translation fees

Fees are freely agreed between the translator (translation bureau) and the client. Article 91 of the CCP also provides that the translation of procedural documents can also be administrated through the court. In such case the party shall pay the deposit to the court and the costs of translator shall be covered using mentioned deposit. The fees payable to the translator in such case will be determined according to the Rules regarding the recovery and the amount of the expenses related with litigation and the translator will be hired not by the party but by the court.

In both cases (when the party itself takes care of the translation and when the party requests the court to translate procedural document) the compensation is paid to the translator according to the agreement between the translator and the client. The only difference is in the compensation procedure: when the party itself takes care of the translation, the compensation is paid directly by the party while when the party requests the court to translate procedural document the compensation for the translator is paid by the court using party's deposit.

Abovementioned Rules provide for the three types of compensation paid to the translator: (i) compensation for the time spent away from the everyday work; (ii) compensation for the travel, living expenses; (iii) compensation for the translation. The third type of the compensation is agreed between the court and the translator. As the translator does not have to participate in court proceedings, practically only the third type of compensation is paid to the translator, Therefore, in both cases (when the party itself takes care of the translation and when the party requests the court to translate procedural document) the compensation is paid to the translator

according to the agreement between the translator and the client. The only difference is in the compensation procedure: when the party itself takes care of the translation, the compensation is paid directly by the party while when the party requests the court to translate procedural document the compensation for the translator is paid by the court using party's deposit.

Translation fees (when it is not administrated through the court) are not regulated by legal acts. However, it is caused by economic law that in case when there are only few translators in the country that can provide translation into certain language (for example, Japanese) the fee for such translation will be higher then for translation into popular language (for example, English). The client and the translator usually agree on the fee calculated per one page of the document (the price for translation of one page of the document varies from 10 to 19 euros but in case of very difficult and rare language it can be higher while in cases where translator practices in small town the fees can be lower).

Translation fees are usually calculated per page (approximately from 1600 to 1800 characters without spaces).

Type of deed	Fees, per page
Translator's fees do not depend on type of deed	Depend on the language: Russian - 7.50 EUR English, German, French, Polish - 10 EUR Latvian, Czech, Slovak, Ukrainian - 11 EUR Italian, Spanish, Bulgarian, Danish, Estonian, Dutch, Norwegian, Swedish, Finnish, Hungarian, Serbian, Latin - 12 EUR Arabian, Armenian, Japanese, Greek/Hellenic, Portuguese, Turkish - 15 EUR

As the translation is treated as services, the translation fees, of course, are subject to value added tax (18%). As it was mentioned in other chapters of the Report following the Law on Value Added Tax provides that the person shall have the obligation to pay the value added tax to the state budget only in cases where the total amount of consideration for supply of services in the performance of economic activities (during previous 12 months) has exceeded 28962 EUR (LTL 100 000). Despite that it is more common that advocates or bailiffs do not register as VAT

payers (as it often happens that they act on their own as individuals) but in case of translators the value added tax almost always is charged as the translators work in certain translation bureau and its turnover usually exceeds 28962 EUR (LTL 100 000).

6.3 Interpretation fees

It is the state's function to guarantee interpretation during the court proceedings, therefore the litigants do not have to pay for interpretation services. In case interpreter provides interpretation services as independent professional the system of compensation for interpretation is regulated by the Rules regarding the recovery and the amount of the expenses related with litigation. In case interpreter is hired by the court as state official, the interpreter receives monthly salary for interpretation.

According to the above mentioned Rules the compensations paid to the interpreter are of three types: (i) compensation for the time spent away from the everyday work; (ii) compensation for the travel, living expenses; (iii) compensation for the interpretation. The first two types of compensation are regulated by the above mentioned Rules while the third type of compensation depends on the agreement between the court and the interpreter. It may be influenced by language of interpretation. It is caused by economic law that in case when there are only few interpreters in the country that can provide interpretation into certain language (for example, Japanese) the fee for such interpretation will be higher than for interpretation into popular language (for example, English). The fee is usually calculated per hour basis. The fee for one hour of an interpreter's varies from 25 to 70 euros per hour.

6.4 Payment

In case the translation fees are not administrated through the court the fees are paid directly to the translator (translation bureau) by the client. If the party requested the court to translate any documents and paid the deposit the fees are

paid by the court to the translator using the deposit. All legal methods of payment are acceptable; usually the payment is made by wire transfer or in cash.

The fees for interpretation are always paid to the interpreter by the state.

6.4.1 Retainer

In case the translation fees are administrated through the court the fee for the translation to the translator is paid after translator presents the translation. In other cases the parties (translator and the client) are free to agree on the retainer but usually translation fees are paid after the translation.

6.5 **Practical questions ?**

Translators are private and independent professionals who provide translation services. There is no accreditation of translators' procedure in Lithuania, *i. e.* translators do not have to be accredited by the court or any other institution. Legal acts do not provide for the rules regulating the validity of the translation as well. There are no legal requirements for translated documents as well. In practice court always require that the translation contain signature of the translator that the translation is true and the translator is aware of the responsibility regarding the false translation established in Lithuanian laws and that is confirmed by the seal of the translation bureau where the translator works. Lithuanian laws do not provide the prohibition to translate documents for other country's translators. In order to be accepted by the court such translated document should contain abovementioned record.

Practical case:

- "I already have a document translated by an accredited translator. I need this translation again but only have a photocopy of it." Can I use this photocopy or do I need it to be certified by a civil/legal authority? Or do I need to have the document translated again by an accredited translator?

Answer: there are no explicit legal requirements in what form the translation shall be presented to the court. In practice the court refuses to accept translation documents when there is no original signature of the translator. Therefore in such case it is suggested to translate the document repeatedly or to receive the original signature of the translator certifying that the translation is true. In addition, as it was mentioned before, in certain cases the court can require the authenticity of translation to be approved by the notary.

It is also important to note that in some cases a translation from a copy of the original document can also be produced. Article 113 of the CCP provides that the party shall present to the court original procedural documents. Article 114 of the CCP provides that the written documents that party uses as the evidence to prove its claim shall be presented in original form or shall be approved by the court, notary, advocate participating in the case or the person who issued the document. Therefore it can be concluded that the translation of the copy of the document would be acceptable to the court only if such copy would be approved according to the Article 114 of the CCP (by court, notary, advocate participating in the case or the person who issued the document).

6.6 Legal aid cases

According to the Law on State Guaranteed Legal Aid secondary legal aid includes drafting of documents, defence and representation in court, including the process of enforcement, 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 type of legal aid also covers 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. As translation costs are litigation costs, the state covers translation fees according to the provisions of Law on State Guaranteed Legal Aid.

In addition, Article 31 of State Guaranteed Legal Aid provides that in cross border disputes the costs of State-guaranteed legal aid include 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.

The procedure to obtain legal aid is the same for all of the litigation costs, the person can not apply only for the compensation of particular fee, i. e. translation fee.

A person wishing to receive secondary legal aid shall submit to the State-guaranteed legal aid service an application and the documents attesting to his eligibility for secondary legal aid. An application and the documents attesting to the eligibility for secondary legal aid may be submitted either in person or by post. A decision on the provision of secondary legal aid shall be taken by the State-guaranteed legal aid 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 within 3 days of the receipt of the documents. The service shall immediately give written notice to the applicant of the decision taken.

6.7 Reimbursement

Following the Article 93 of the CCP, the court orders losing party to pay successful party's legal costs (including sums paid for the translation). In addition, if the losing party was relieved by the law from all legal costs, the legal costs are borne by the state. If the winner of the case was relieved by the law from all legal costs, the legal costs are recovered from the losing party, payable into the state budget.

6.8 Conclusion and recommendations

Translation fees is the most easiest to foresee for the litigant as translators publicly declare translation fees for one page of the document. The fees are uniform for all types of litigations (national/cross-border) and there is no procedure of accreditation of the translators. However, it is not clear in what form the translation must be confirmed by the translator in order to be suitable for court proceedings. In practice, the translator only certifies that he is aware of the

responsibility regarding the false translation established in Lithuanian laws and also such confirmation is approved by the seal of the translation bureau where the translator works. There is no legal act regulating such rule, therefore the foreign litigant might face difficulties when searching the rules regarding certification of translated document. However, such problem could be easily solved by the mean of centralisation of the information regarding all litigation costs in one place (for example, internet site).

7 Witness Compensation

7.1 General

According to the Article 190 of the CCP witnesses are called to the court on the initiative of the parties. The party who requested the witness must indicate the name and residence of the witness, as well as the facts which could be proved by the witness. Witnesses may be called and questioned on the initiative of the court itself only in exceptional cases, e. g. in non-dispositive cases, like labour, family, etc., cases.

The law imposes exceptionally strict requirements in respect of witnesses. The person called to the court as a witness is obliged to appear before the court. The witness is under the duty to tell only the truth. Before the testimony at the public hearing this duty and the possibility of a criminal prosecution for the violation of this duty, is obligatorily explained to the witness (except witnesses under 16 years of age) have to sign a special document in conformation of his or her being aware of the witness's duties and responsibilities. The persons who refuse to appear before the court as witness may be imposed a fine up to the amount of LTL 1000. A misleading testimony of the witness may result in his or her criminal liability under Article 235 of the Criminal Code.

7.2 Fees

Witness' fees are administrated through the court. In cases when court on its own initiative calls witness to testify, the compensation for witness is paid by the court

using state budgeted resources while in cases when the witness is called on the request of the party (or parties) the witness is paid by the court using the party's deposit paid to the court. The fees are defined by the Rules regarding the recovery and the amount of the expenses related with litigation. Witnesses are compensated for the time spent away from the everyday work and for travel and living expenses (but not for the testifying itself).

7.3 Legal aid cases

According to the Article 20 of the Law on State Guaranteed Legal Aid the persons eligible for secondary legal aid shall be exempted from the stamp duty and other litigation costs. There are no explicit legal norms providing precise procedure according to which the party entitled to receive legal aid is exempt from the payment to witnesses. However, Article 33 of the Law on State Guaranteed Legal Aid provides that primary and secondary legal aid is financed from the state budget. Therefore in case the party which is exempt from the litigation costs requests for the witness during the court proceeding shall be exempt from the duty to pay the deposit to the court. The witnesses' fees are paid by the court to the witnesses using the state budget resources.

Where the first level is established to the person's property and income the State recovers 100% costs; where the second level is established to the person's property and income the State recovers 50% costs.

Person wishing to receive secondary legal aid shall submit to the State-guaranteed legal aid service an application and the documents attesting to his eligibility for secondary legal aid. An application and the documents attesting to the eligibility for secondary legal aid may be submitted either in person or by post. A decision on the provision of secondary legal aid shall be taken by the State-guaranteed legal aid 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 within 3 days of the receipt of the documents. The service shall immediately give written notice to the applicant of the decision taken.

7.4 Payment

As it was mentioned the witness is paid for the time spent away from the everyday work and for travel and living expenses but not for the testifying itself. There are no legal requirements established in respect of the payment methods to the witness therefore all methods of payment are acceptable. The value added tax does not usually chargeable in cases of witness fees as the court compensates for witness' expenses (the witness itself of course may have expenses where value added tax is included, for example, travel expenses).

Following the Article 93 of the CCP, the court orders losing party to pay successful party's legal costs (including sums paid for the witnesses). In addition, if the losing party was relieved by the law from all legal costs, the legal costs are borne by the state. If the winner of the case was relieved by the law from all legal costs, the legal costs are recovered from the losing party, payable into the state budget.

7.5 Practical questions ?

Recognition as the witness. The witness is defined as a natural person who possesses information about the facts of the civil case (Article 189 of the CCP). The CCP does not provide for any special requirements in regard of a person to be capable as a witness (age, *etc.*). Certain persons are granted immunity from being required to testify as witnesses. According to the Article 189 of the CCP, as witnesses may not testify: lawyers - about the facts which became known to them in the result of the lawyer - client relationship; persons with physical or mental disability - about the facts which may not have been truly understood by them because of their impediment; priests - about the facts which became known to them by confession; doctors (physicians) - about facts which constitute the professional secret.

Authenticity of the testimony. The testimony of witness is oral, and is always given during the hearing. Only in exceptional cases the court may decide upon the testimony of a witness outside the courtroom, *e. g.*, if in the event of illness or any other disability, the witness may not appear before the court. In such cases the witness could be questioned/interrogated in the place of his or her residence (Article

192 of the CCP). The court of trial may ask another court by a rogatory letter to interrogate a witness who resides in the territory of that court's jurisdiction. In all these cases the content of the protocol of the witness's testimony must be made known (must be read) at the public hearing (Article 195 of the CCP).

In case the witness is called to testify to the court in Lithuania, the testimony shall be collected orally. In case the witness do not speak Lithuanian witness's testimony shall be translated into Lithuanian language through the interpreter.

The testimony can also be collected according to the Council Regulation (EC) No. 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial cases or according other international treaties on legal assistance in civil cases or the CCP. Despite of the rules of abovementioned Regulation or international treaties on legal assistance the principle of state language is applied in all cases when the proceedings take place in the court of the Republic of Lithuania.

The testimony collected by the court of other country can be recognized as evidence in Lithuania only if it was collected by the other country's court request following the requirements of the Council Regulation (EC) No. 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial cases or according other international treaties on legal assistance in civil cases and the CCP.

7.6 Conclusions and recommendations

Calculation of witness fees is regulated by the government. The Rules define that the witness is compensated for the time spent away from the everyday work and for travel and living expenses. Therefore, it is obvious, that in case where the witness's residence is in other country, the fees will be higher than in case where the witness lives in the same country where court proceedings are held.

8 Pledges and security deposits

8.1 General

According to the Article 101 of the CCP, the court seeking to guarantee the performance of particular procedural action or reimbursement of possible damages is entitled to oblige the party or other participant of litigation to pay to the court a deposit. Cases in which the court can oblige to pay the deposit are determined in particular articles of the CCP:

(i) Article 77 provides that the court is entitled to require the party to pay the deposit in case the party applied for the prolongation of the procedural time limit. The deposit shall not exceed 289,62 EUR (LTL 1000).

(ii) Article 90 provides that the party which requested for the verification, expert, witness or which requested the translation of procedural document must pay the deposit to the court.

(iii) Article 147 provides that in case the court applies provisional measures of protection it can also require the plaintiff to secure possible damages of the defendant caused by the application of the provisional measures of protection. The bank guarantee may also stand for the security of the possible damages of the defendant.

(iv) Article 223 provides that in case the party requests the court for the security of evidences (if he/she proves that without security of evidences they can disappear) before he/she filed the action the court can oblige the party to pay the deposit.

(v) Article 794 provides that in case the plaintiff is foreign natural or legal person and in case of the defendant's request, the plaintiff is obliged to pay the deposit that would guarantee the litigation costs of the defendant. However, this rule is not applied if the application will contradict an international treaty.

(vi) Article 815 provides that court of cassation on the request of the party may suspend the enforcement procedure of the decision of the foreign court decision (arbitration award) in case of the cassation appeal regarding the recognition and enforcement of the decision (award) or to refuse satisfy the request for suspension. In latter case the court of cassation may oblige the party to pay the deposit

necessary to secure the enforcement of the decision (award). Abovementioned rule is not applied in case of the decisions of the courts of the European Union Member States.

Type of proceeding	Pledge	Deposit	Pledge or Deposit	Calculation of the amount
(i) The prolongation of the procedural time limit (Article 77 of the CCP)		✓		(28.96 EUR) LTL 100
(ii) Request of the party for the verification, expert, witness or which requested the translation of procedural document. (Article 90 of the CCP)		✓		The court shall determine the amount of the deposit according to the financial situation of the party. The amount of the deposit shall correspond to the procedural action which is secured by the deposit and in all cases shall not exceed 28962 EUR LTL 100 000 (Article 101 of the CCP).
(iii) In case of the security of evidences before the party filed the action to the court (Article 223 of the CCP).		✓		
(iv) In case the court require the plaintiff to secure possible damages of the defendant caused by the application of the provisional measures of protection (Article 147 of the CCP)			✓	The amount of the pledge (guarantee)/deposit shall be determined according to the amount of possible damages of the defendant caused by the provisional measures of protection (Article 147 of the CCP)
(v) In case plaintiff (foreign natural or legal person) is obliged to pay the deposit that would guarantee the litigation costs of the defendant (Article 794 of the CCP)		✓		The amount of the deposit shall be determined according to the amount of possible litigation costs of the defendants (except those related to the counter-claim) and shall not prevent the plaintiff from access to the court (Article 795 of the CCP).
(vi) In case the court of cassation obliges the party to pay the deposit necessary to secure the enforcement of the foreign court decision (arbitration award). Abovementioned rule is not applied in case of the decisions of the courts of the European Union Member States (Article 815 of the CCP)		✓		The court shall determine the amount of the deposit according to the financial situation of the party. The amount of the deposit shall correspond to the procedural action which is secured by the deposit and in all cases shall not exceed 28962 EUR LTL 100 000 (Article 101 of the CCP)

As it is obvious from the abovementioned regulation the deposit is required regardless of the type of litigation except in two cases (v and vi). The CCP does not provide for the possibility to substitute the deposit with other security measures except in case where the possible damages caused by the application of the provisional measures of protection are required to secure under the Article 147 of the CCP.

8.2 Fees

Article 102 of the CCP provides that the court shall determine the amount of the deposit according to the financial situation of the party. The amount of the deposit shall correspond to the procedural action which is secured by the deposit and in all cases shall not exceed 28962 EUR (LTL 100 000). The 28962 EUR (LTL 100 000) limit does not apply in cases where the possible damages caused by the application of the provisional measures of protection are required to secure under the Article 147 of the CCP.

Law on State Guaranteed Legal Aid does not provide for possibility where the deposit is organized by legal aid organization. However, court shall determine the amount of the deposit according to the financial situation of the party (Article 101 of the CCP). Therefore, the court shall release the party from the duty to pay the deposit if the party is of bad financial situation

8.3 Payment

The basic requirement for the payment of the deposit (or the bank guarantee) is that it shall be paid before the required procedural action. There are cases where the party can avoid from paying the deposit. First of all, in some cases the party shall be required to pay the deposit or the bank guarantee only when the other party submitted written request to the court. Such cases are established in the Article 147 (where the party shall be obliged to secure possible damages caused by the application of the provisional measures of protection); Article 794 (where the plaintiff who is a foreigner is obliged to pay the deposit that would guarantee the litigation costs of the defendant). The court, despite of the request of the other party is entitled not to require the deposit. For example, if the court determines

that the deposit securing defendant's litigation costs shall prevent the plaintiff from the access to the court, the court may refuse to grant the request of the defendant.

Secondly, in cases where the deposit can be required to pay on the initiative of the court, the court can merely not to require paying the deposit as there are no explicit criterions according to which the court may decide upon the deposit.

Thirdly, the Article 101 of the CCP determines that the court shall determine the amount of the deposit according to the financial situation of the party. Therefore the court shall release the party from the duty to pay the deposit if the party is of bad financial situation.

However, in some cases the deposit is required automatically. These are the cases when the litigation costs are administrated through the court (expert, witness, translation fees).

8.4 Conclusions and recommendations

The pledges and security deposits are regulated by the CCP. The regulation is clear and persons can easily foresee the amount of deposit required. In addition, the court can order to pay the lesser deposit if the person is of bad financial situation or even not to require paying the deposit at all. The amount of the deposit does not depend on the type of litigation (national/cross-border). However, in two cases of cross-border disputes the deposit can be required from the litigants but such rules are very rarely practically applied as it is not in consistence with international law principles.

9 Court decisions

9.1 Cost of notification

Lithuanian legal acts do not provide for the costs related to the notification. It is the state's obligation to send court decision to the participants of the case. In

addition, all decisions of the Supreme Court and Court of Appeal are publicly available at www.lat.litlex.lt and www.vtr.lt (the access is free of charge).

9.2 Cost of obtaining an authenticated decision

The fee for obtaining an authentic court decision is defined in the Article 81 of the CCP. Payment for the issuance of the procedural documents is not included in litigation costs that shall be reimbursed to the winning party, it is paid by participants of the litigation for the second issuance of the court's procedural document (for example, if the party had lost particular procedural document) and by other persons for the issuance of the procedural documents.

The fee is 2.90 EUR (LTL 10) for the issuance of the document and 0.29 EUR (LTL 1) for every page of the document.

9.3 Conclusions and recommendations

Lithuanian legal acts do not provide for the costs related to the notification.

10 Civil Legal aid

10.1 General

Provision of legal aid in Lithuania is regulated by the Law on State-Guaranteed Legal Aid. Law on State-Guaranteed Legal Aid states that state-guaranteed legal aid consists of the primary legal aid and secondary legal aid provided in accordance with the procedure laid down by the Law on State Guaranteed Legal Aid.

Primary legal aid is the provision of legal information in accordance with the procedure laid down by the Law on State Guaranteed Legal Aid, legal advice and drafting of the documents to be submitted to state and municipal institutions, with the exception of procedural documents. This legal aid also covers advice on the

out-of-court settlement of a dispute, actions for the amicable settlement of a dispute and drafting of a settlement agreement.

Secondary legal aid includes drafting of documents, defence and representation in court, including the process of enforcement, 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 also covers 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.

Primary legal aid is 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 or lawyers (professional partnerships of lawyers) or the public agencies with which municipalities have concluded an agreement. Municipal institutions are free, by taking account of the quality, efficiency and economy of primary legal aid, to select a specific way of the provision of primary legal aid. Almost all municipalities chose to provide legal aid through civil servants of the municipality administration. Municipality of Vilnius city also provides primary legal aid through public agencies - Law Clinic of the Vilnius University and Legal Aid Center of the Mykolas Romeris University.

Article 17 of the Law on State Guaranteed Legal Aid provides that the secondary legal aid shall be provided by the advocates that shall enter into agreements with state guaranteed legal aid services. The services shall select lawyers for the provision of secondary legal aid on the basis of competition (the competition regulations shall be approved by the Minister of Justice upon agreement with the Lithuanian Bar). Lawyers shall be paid fees for the provision of secondary legal aid. The rate thereof shall be established by the Government.

According to the Article 20 of the Law on State Guaranteed Legal Aid the persons eligible for secondary legal aid shall be exempted 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 CCP (i. e., advocate

(associate advocate) fees, fees concerning the legal aid and other fees). It means that the following fees are covered:

- (i) sums payable to witnesses, experts and translators;
- (ii) expenses connected with the verification;
- (iii) expenses for the defendant search;
- (iv) expense concerning the delivery of the procedural documents;
- (v) sums payable as the costs of the enforcement of a court judgement;
- (vi) sums payable for the expenses of the curator's work.

Although the State covers litigation costs of the person, in case the person wins the case, litigation costs are borne from the losing party into the State budget.

10.2 Conditions of grant

According to the Part 1, Article 11 of the Law on State Guaranteed Legal Aid 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. Primary legal aid shall not be provided where:

- i) Claims of the applicant are manifestly unfounded;
- ii) The applicant has already been offered a comprehensive advice from a lawyer on the same issue or it is obvious that he can receive the advice without resorting to the State-guaranteed legal aid;
- iii) 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.
- iv) Person has already received primary legal aid on the same issue.

The Law on State Guaranteed Legal Aid provides that the following persons are eligible to secondary legal aid:

- (i) 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 (where the first level is established to the person's property and income the State recovers

100% costs; where the second level is established to the person's property and income the State recovers 50% costs; the levels of the person's property and income are established in the Resolution of the Government concerning the levels of the persons' property and income as of 27 April 2005 No. 468);

(ii) 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 if they are:

- persons eligible for legal aid in criminal proceedings according to Code of Criminal Procedure;
- 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;
- the persons eligible for a social allowance under the Republic of Lithuania Law on Cash Social Assistance for Low-Income Families and single residents;
- the persons maintained by the State in stationary care institutions;
- the persons who have been established a severe disability or for whom incapacity for work has been recognised as well as guardians of these persons, where State-guaranteed legal aid is required for the representation and defence of rights and interests of a ward;
- 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;
- the persons suffering from serious mental disorders, when issues of their forced hospitalisation in psychiatric institutions and treatment are being considered according to the Republic of Lithuania Law on Mental Health Care, and their guardians, where State-guaranteed legal aid is required for the representation of rights and interests of a ward;

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

Secondary legal aid shall not be provided where:

- (i) claims of the applicant are manifestly unfounded;
- (ii) representation in a case has no reasonable prospects of success;
- (iii) the applicant is claiming non-pecuniary damage related to the protection of his honour and dignity, but has suffered no property damage;

- (iv) the application concerns a claim arising directly out of the applicant's trade or self-employed profession;
- (v) the applicant can receive required legal services without resorting to State-guaranteed legal aid;
- (vi) 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;
- (vii) the claim for which an application for secondary legal aid is filed has been transferred to the applicant for the purpose of receiving State-guaranteed legal aid.

According to the Article 1 of the Law on State Guaranteed Legal Aid only natural persons are eligible to legal aid.

It is also important to note that Part 3, Article 11 of the Law on State Guaranteed Legal Aid states that citizens of other Member States of the European Union as well as natural persons residing lawfully in other Member States of the European Union shall be eligible for State-guaranteed legal aid under the Law on State Guaranteed Legal Aid only in the event of a cross-border dispute. The Law on State Guaranteed Legal Aid provides that 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.

10.3 Strings attached ?

Primary legal aid. In order to receive primary legal aid a person shall go to the municipality (according to his/her place of residence or, where a person has no place of residence, to the executive institution of a municipality where the person is resident) during municipality's working hours. 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. 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. A person may apply for primary legal aid on the same issue only once.

Secondary legal aid. A person wishing to receive secondary legal aid shall submit to the State-guaranteed legal aid service an application and the documents attesting to his eligibility for secondary legal aid. An application and the documents attesting to the eligibility for secondary legal aid may be submitted either in person or by post.

A decision on the provision of secondary legal aid shall be taken by the State-guaranteed legal aid 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 within 3 days of the receipt of the documents. The service shall immediately give written notice to the applicant of the decision taken. According to the Article 18 of the Law on State Guaranteed Legal Aid decisions of the service may be appealed against in accordance with the procedure laid down in the Republic of Lithuania Law on Administrative Proceedings.

Provision of legal aid depends on period of time during which the legal aid is provided. Part 7 of the Article 18 of the Law on State Guaranteed Legal Aid where secondary legal aid is provided for a time period longer than one year, the legal aid state-guaranteed legal aid 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 property declaration with a stamp of the local tax administrator confirming the submission of the declaration and having regard to the conditions set out by Law on State Guaranteed Legal Aid.

Legal Aid in cross-border disputes. Citizens of other Member States of the European Union as well as natural persons residing lawfully in other Member States of the European Union shall be eligible for State-guaranteed legal aid under the Law on State Guaranteed Legal Aid only in the event of a cross-border dispute. Conditions to obtain legal aid are the same as in case of internal dispute, except the rule defined in Article 26 of the Law on State Guaranteed Legal Aid. Article 26 provides that where the property and income of citizens of other Member States of the European Union as well as of other 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, but they indicate it is impossible for them to bear the costs of the proceedings, the State-guaranteed legal aid service institution 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 28 of the Law on State Guaranteed Legal Aid provides that an applicant (citizens of other Member States of the European Union as well as of other natural persons lawfully residing in other Member States of the European Union) 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. 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.

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. 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.

According to the Article 29 of the Law on State Guaranteed Legal Aid 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.

10.4 Practical questions

Person entitled to secondary legal aid can be compensated either 100% or 50% of litigation costs. It depends on the level of the person's property and income.

The levels of the person's property and income are established in the Resolution of the Government concerning the levels of the persons' property and income as of 27 April 2005 No. 468.

The person's property and income is considered to be of the first level when:

1) the person's property does not exceed normative of property value established in the Law on social assistance for low income families (single residents). The normative of property value is calculated by summing up the normative of immovable and immovable property. Normative of a dwelling per family (single resident) shall be 60 square meters of the useful floor space of the dwelling per one family member who have declared the place of residence in that dwelling, by adding 15 square meters for each additional family member. Normative of the land plot per family (single resident) shall be:

- household plot area: in cities - 6 ares, in towns and villages - 25 ares;
- an agricultural land plot under 1 hectare (including the household plot): in cities - 6 ares, in towns and villages - 25 ares;

- an agricultural land plot over 1 hectare, a land plot comprising only a water body and a forestry land plot - 3.5 hectares.

The normative of immovable property value is calculated by multiplying the normative of immovable property by the average market price of the real estate of that type located in the place of residence declared by the applicant (determined for each town for times a year by the Commission for the Assessment of Property Subject to Registration).

The normative of movable property value is calculated by summing up 45 state supported income amounts (68.06 EUR) for one family member (single resident) over 18 years of age, 30 state supported income amounts for each additional family member over 18 years of age and 15 state supported income amounts for each child under 18 years of age.

For example, two person family lives in Vilnius, the normative of person's property value is calculated in the following way:

Normative of a dwelling per family is 60 square meters plus 15 square meters = 75 square meters;

The normative of immovable property value is calculated by multiplying the square by average market price of the real estate: 75 square meters x 923.30 EUR/sq.m = 69 247.5 EUR;

The normative of the land plot shall be 6 ares x 4312.44 EUR/are = 25 874.64 EUR;

The total amount of the normative of immovable property value is 69 247.5 EUR + 25 874.64 EUR = 95 122.14 EUR.

The normative of movable property value is 45 x 68.06 EUR + 30 x 68.06 EUR = 5104.5 EUR.

The normative of property value is 95 122.14 EUR + 5104.5 EUR = 100 226.64 EUR.

2) the person's annual income does not exceed eight minimum monthly salaries (173.77 EUR) adding the 3 of minimum monthly salary for each encumbrance (173.77 x 8 + 173.77 x 3 = 1911.47 EUR).

Therefore, if the person's property value does not exceed 100 226.64 EUR and income does not exceed 2172.13 EUR, the person's property and income is considered to be of the first level.

The person's property and income is considered to be of the second level when:

- 1) the person's property value does not exceed 1.5 value of property for the first level of property value;
- 2) the person's income does not exceed 12 minimum monthly salaries (173.77 EUR) adding the 4.5 of minimum monthly salary for each encumbrance.

10.5 Conclusions and recommendations

Legal aid is regulated by the Law on State Guaranteed Legal Aid in the Republic of Lithuania. Residents of the Republic of Lithuania are entitled to legal aid in all cases while citizens of other Member States of the European Union as well as natural persons residing lawfully in other Member States of the European Union shall be eligible for State-Guaranteed legal aid under the Law on State Guaranteed Legal Aid only in the event of a cross-border dispute.

It is recommended to clarify the rules establishing the calculation of person's property and income level as it is very complicated at the moment and it is difficult for the person to determine the possibility to receive legal aid.

11 Personal experience

Costs that could be driven down. Stamp duty could be suppressed as the financial burden suffered by litigants is disproportionate to the financial benefit received by the state. According to the data provided by State Tax Inspectorate in year 2002 2.660 million EUR was collected from the stamp duty. It constitute 8.31 percents of State expenditures for court system and only 0.1 percent of whole budget of the State. The stamp duty paid by the litigant sometimes exceeds his monthly salary.

Costs that constitute a deterrent to seeking justice today in cross-border disputes. Not the costs themselves but the non-transparency of the legal rules regarding litigation costs can deter to seek justice in cross-border disputes as well as in case of internal disputes.

Best practices in terms of costs transparency. The best way to improve transparency of litigation costs is to centralize the information in one place in each Member State and to make easy access to it (Internet, Information centres, etc).

12 Other costs

12.1 General

It was mentioned in the beginning of the Report that Article 88 of the CCP defines other costs related to litigation as follows:

- (i) sums payable to witnesses, experts and translators;
- (ii) expenses connected with the verification;
- (iii) expenses for the defendant search;
- (iv) expenses concerning the delivery of the procedural documents;
- (v) sums payable as the costs of the enforcement of a court judgement;
- (vi) sums payable for the expenses of the curator's work;
- (vii) sums payable for the legal assistance of a lawyer;
- (viii) other necessary and reasonable expenses.

Witness, expert and translation costs as well as representation and enforcement costs were described in different chapters of the Report. This chapter deals with the other types of costs related to litigations, namely:

- (i) expenses connected with the verification;
- (ii) expenses for the defendant search;
- (iii) expense concerning the delivery of the procedural documents;
- (iv) sums payable for the expenses of the curator's work;
- (v) other necessary and reasonable expenses.

12.2 Expences connected to the verification

According to the Article 154 of the CCP the court hearings are held in the premises of the particular court. Despite of that rule CCP also provides the possibility to perform verification outside the court premises in order to ascertain particular circumstances related to the case. According to the Rules regarding the recovery and the amount of expenses related to the litigation verifications costs include travel and performance of various searches, plans, pictures expenses. Verification costs are administrated through the court. It means that the party who requested for verification shall pay the court the deposit and verification costs are covered using the deposit. If the court itself initiated verification the costs are covered from the state budget.

It is important to note that verification is very rarely applicable during court procedure in Lithuania and it forms a very small part of litigation costs (usually it does not exceed 30 EUR).

12.3 Expenses for defendant search

Article 97 of the CCP establishes that expenses for defendant search consists of expenses of plaintiff who requested for defendant's search expenses and court expenses related to search. The Rules regarding the recovery and the amount of expenses related to the litigation also adds other expenses of the plaintiff for defendant search. The main principle of the expenses of the defendant is that plaintiff itself pays necessary expenses as well as the court covers its expenses for defendant search and both types of expenses are reimbursed to the state or the winning party after the case is solved in the court. The Rules also establish maximum amount of the expenses for the defendant search that shall be reimbursed to the court and the winning party. It shall not exceed minimum monthly salary (currently it equals 202.73 EUR (LTL 700)). In case the search is performed in foreign country such costs shall not exceed two minimums monthly salary (405.47 EUR (LTL 1400)).

12.4 Expenses concerning the delivery of the procedural documents

Article 92 of the CCP provides that expenses for the delivery of the procedural documents shall be covered by the party whose document shall be delivered to the

other party. It is also established that the amount of expenses in the rules regarding the payment of such expenses shall be determined by the rules approved by Minister of Justice together with the Minister of Finances (currently it is regulated by the Order No 343/388 of 6 December 2002). It is important to note that according to abovementioned rules the party whose documents shall be delivered to other litigants shall be obliged to pay for the delivery of procedural documents only if he/she requested for the particular delivery of the documents. In such case the party is requested to pay the deposit for the delivery. In other cases delivery expenses are covered from the state budget and reimbursed to the state by the losing party.

12.5 Expenses concerning the sums payable for the expenses of the curator's work

Article 39 of the CCP provides that the party can request the court to appoint the curator for the other party if the other party does not have active legal capacity, or does not have statutory representative, or the place of residence or work of the party is undisclosed. The curator of the party acts as statutory representative during the proceedings. Sums payable for the curator's work shall be paid by the party in advance. According to the Rules regarding the recovery and the amount of expenses related to the litigation the curator's fees are equal the sum of the coefficient established in Rules multiplied by minimum monthly salary in Lithuania (202.73 EUR (LTL 700)). Rules establish the following coefficients:

- i) 0,15 - for one representation day during the court proceedings;
- ii) 0,03 - for the analysis of each book of the case;
- iii) 0,09 - for the preparation of counterclaim, response to the claim;
- iv) 0,09 - for the preparation of the appeal and cassation of appeal;
- v) 0,02 - for the preparation of other procedural documents.

The travel and living expenses shall also be compensated to the curator.

According to the Rules regarding the recovery and the amount of expenses related to the litigation the party who requests for the appointment of the curator shall pay the deposit that shall be equal approximate future expenses of the curator. However, it is almost always impossible to predict the approximate expenses.

It must be emphasized that the appointment of the curator is very rare in Lithuania. The legal institute of the curator was established by the new CCP and because of the difficult in uncertain regulation of the appointment and compensation of the curator is practically never used.

12.6 Other necessary and reasonable expenses

Article 88 of the CCP provides that the party shall be entitled to the recovery for other necessary and reasonable costs. Legal acts do not provide for the criteria according to which other expenses are treated as necessary and reasonable. The court in every particular case decides whether other expenses were necessary and reasonable. The court usually requires to provide written documents proving actual expenses of the party.

13 Case studies

13.1 Case study 1

Case A - National situation: a couple gets married. Later they separate and agree to a divorce.

Case B - Transnational situation: Two nationals from a same Member State (Member State A) get married. The marriage is celebrated in Member State A. After the wedding, the couple moves to live and work in another Member State (Member State B) where they establish their residence. Shortly thereafter the couple separates with the wife returning to Member State A and the husband remaining in Member State B. The couple agrees to a divorce. Upon her return to Member State A, the wife immediately files for a divorce before the courts of Member State B².

² N.B : Article 3 of Regulation EC n°2201/2003 provides that: "In matters relating to divorce, legal separation or marriage annulment, jurisdiction shall lie with the courts of the Member State (a) in whose territory:— the spouses are habitually resident, or— the spouses were last habitually resident, insofar as one of them still resides there"

It is presumed that the State B is Lithuania and the court proceedings are held in Lithuania as every Member State establishes different legal rules regarding to the litigation costs and it is not in our competence to describe litigation costs in other Member States.

Case Study	Court			Appeals			ADR	
	Initial court fees ³	Tr an scr ipt ion fee s	Ot he r fee s	Initial court fees	Tran scrip tion fees	Othe r fees	Is this option open f or this type of case?	C o s t s
Case A	Non-contentious proceedings - 0 Contentious proceedings - 28.96 EUR (as the claim regarding the divorce is considered as non-patrimonial claim) In case the alimony is also claimed from the other spouse the plaintiff is exempt from the stamp duty.	-	-	Non-contentious proceedings - 0 Contentious proceedings - 28.96 EUR (as the claim regarding the divorce is considered as non-patrimonial claim) The amount of the stamp duty is of the same amount as in the first instance proceedings	-	-	No	-
Case B (Lithuania is the state "B")	Non-contentious proceedings - 0 Contentious proceedings - 28.96 EUR (as the claim regarding the divorce is considered as non-patrimonial claim) In case the alimony is also claimed from the other spouse the plaintiff is exempt from the stamp duty.	-	-	Non-contentious proceedings - 0 Contentious proceedings - 28.96 EUR (as the claim regarding the divorce is considered as non-patrimonial claim) The amount of the stamp duty is of the same amount as in the first instance proceedings	-	-	No	-

³ There are three ways to initiate court proceedings regarding the divorce: (i) by the mutual consent of the spouses; (ii) on the application of one of the spouses when special conditions determined in the Article 3.55 of the Civil Code are met; (non-contested case) (iii) on the basis of the fault of one or both of the spouses (contentious proceedings).

Case Study	Lawyer		Bailiff			Expert	
	Is representation compulsory?	Average costs	Is representation compulsory?	Pre-judgment costs	Post-judgment costs	Is use compulsory?	Cost
Case A	No	<p>Non-contested case: 1000 Discussion of the case - 1 hour; Reading the file, preparing procedural documents - 6 hours Hearings (including travelling time, completion of the case) - 3 hours</p> <p>Contentious proceedings: 1750</p> <p>Discussion of the case - 1,5 hour; Reading the file, preparing procedural documents - 10 hours Hearings (including travelling time, completion of the case) - 6 hours</p>	Only in cases regarding the alimony and the application of the provisional protection measures	Costs regarding application of provisional protection measures: 28.96 EUR (LTL 100) plus 17.38 EUR (LTL 60) for one working hour of the bailiff	Regarding the alimony ⁴ - 14,48 EUR (LTL 50) to 2027,34 EUR (LTL 7000)	No	EUR 100-499
Case B (Lithuania is the state "B")	No. However, it is recommended to hire the advocate in Lithuania at least for legal consulting as he/she would	<p>Non-contested case: 1000 Discussion of the case - 1 hour; Reading the file, preparing procedural documents - 6 hours Hearings (including travelling time, completion of the case) - 3 hours</p> <p>Contentious proceedings: 1750</p> <p>Discussion of the case -</p>	Only in cases regarding the alimony and the application of the provisional protection measures	Costs regarding application of provisional protection measures: 28.96 EUR (LTL 100) plus 17.38 EUR (LTL 60) for one working hour of the bailiff	Regarding the alimony - 14,48 EUR (LTL 50) to 2027,34 EUR (LTL 7000)	No	EUR 100-499

⁴ The decision regarding the divorce is enforced without the participation of the bailiff. Ex-spouses must register the decision in registry office.

Case Study	Lawyer		Bailiff			Expert	
	Is representation compulsory?	Average costs	Is representation compulsory?	Pre-judgment costs	Post-judgment costs	Is use compulsory?	Cost
	provide legal information regarding civil procedure in Lithuania.	1,5 hour; Reading the file, preparing procedural documents - 10 hours Hearings (including travelling time, completion of the case) - 6 hours					

Case	Witness compensation		Pledge or security		Other fees	
	Are witnesses compensated?	Cost	Does this exist and when and how is it used?	Cost	Description	Cost
Case A	Yes	compensation for the time spent away from the everyday work; compensation for travel and living expenses. Costs will depend on factual expenses of the witness. Cost are administrated through the court, please see column "pledge or security".	The party who requests the court to call the witness will be required by the court to pay the deposit.	The amount of the deposit will be calculated according the approximate expenses of the witness.	-	-
Case B	Yes	compensation for the time spent away	The party who requests the court to call the witness will be required	The amount of the deposit will be calculated	-	-

Case	Witness compensation		Pledge or security		Other fees	
	Are witnesses compensated?	Cost	Does this exist and when and how is it used?	Cost	Description	Cost
		from the everyday work; compensation for travel and living expenses. Costs will depend on factual expenses of the witness. Cost are administrated through the court, please see column "pledge or security".	by the court to pay the deposit	according the approximate expenses of the witness. If the witness is called from another state the fees of course will be higher.		

Case	Legal Aid			Reimbursement			
	When and under which conditions is it applicable?	When is support total?	Conditions?	Can the winning party obtain reimbursement of litigation costs?	If reimbursement is not total what is percentage in general?	What costs are never reimbursed?	Are there instances when legal aid should be reimbursed to the legal aid organisation?
Case A	Primary legal aid (consultations)	Primary legal aid is always	Conditions to receive legal aid are the same in all cases ⁵ .	Yes	Compensation for the assistant	All costs that are	Primary legal aid costs are never reimbursed to the primary legal aid

⁵ According to the Part 1, Article 11 of the Law on State Guaranteed Legal Aid 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. The Law on State Guaranteed Legal Aid provides that the following persons are eligible to secondary legal aid:
(i) 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 (where the first level is

Case	Legal Aid			Reimbursement			
	When and under which conditions is it applicable?	When is support total?	Conditions ?	Can the winning party obtain reimbursement of litigation costs?	If reimbursement is not total what is percentage in general?	What costs are never reimbursed?	Are there instances when legal aid should be reimbursed to the legal aid organisation?
	is granted for every person regardless its income or property . Secondary legal aid is granted according to the person's income and property .	supported in 100 percent. Where the first level is established to the person's property and income the State recovers			ce of advocate or associate advocate is limited to the amount established in Recommendations on Calculation of Fees.	necessary and reasonable are reimbursed	providers. In case the person is granted secondary legal aid the costs are reimbursed by the losing party to the state budget.

established to the person's property and income the State recovers 100% costs; where the second level is established to the person's property and income the State recovers 50% costs; the levels of the person's property and income are established in the Resolution of the Government concerning the levels of the persons' property and income as of 27 April 2005 No. 468);

(ii) 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 if they are:

- persons eligible for legal aid in criminal proceedings according to Code of Criminal Procedure;
- 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;

the persons eligible for a social allowance under the Republic of Lithuania Law on Cash Social Assistance for Low-Income Families and single residents;

- the persons maintained by the State in stationary care institutions;
- the persons who have been established a severe disability or for whom incapacity for work has been recognised as well as guardians of these persons, where State-guaranteed legal aid is required for the representation and defence of rights and interests of a ward;
- 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;
- the persons suffering from serious mental disorders, when issues of their forced hospitalisation in psychiatric institutions and treatment are being considered according to the Republic of Lithuania Law on Mental Health Care, and their guardians, where State-guaranteed legal aid is required for the representation of rights and interests of a ward;

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

Case	Legal Aid			Reimbursement			
	When and under which conditions is it applicable?	When is support total?	Conditions?	Can the winning party obtain reimbursement of litigation costs?	If reimbursement is not total what is percentage in general?	What costs are never reimbursed?	Are there instances when legal aid should be reimbursed to the legal aid organisation?
		100% costs; where the second level is established to the person's property and income the State recovers 50% costs.					
Case B	Primary legal aid (consultations) is granted for every person regardless its income or property. Secondary legal aid is granted	Primary legal aid is always supported in 100 percent. Where the first level is established to the person	The conditions are the same as in national case except the rule defined in Article 26 of the Law on State Guaranteed Legal Aid (Article 26 provides that where the property and income of citizens of other Member States of the European Union as well as of other natural persons lawfully residing in other	Yes	Compensation for the assistance of advocate or associate advocate is limited to the amount established in Recommendation	All costs that are necessary and reasonable are reimbursed	Primary legal aid costs are never reimbursed to the primary legal aid providers. In case the person is granted secondary legal aid the costs are reimbursed by the losing party to the state budget.

Case	Legal Aid			Reimbursement			
	When and under which conditions is it applicable?	When is support total ?	Conditions ?	Can the winning party obtain reimbursement of litigation costs?	If reimbursement is not total what is percentage in general ?	What costs are never reimbursed?	Are there instances when legal aid should be reimbursed to the legal aid organisation ?
	according to the person's income and property .	's property and income the State recovers 100% costs; where the second level is established to the person's property and income the State recovers 50% costs.	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, but they indicate it is impossible for them to bear the costs of the proceedings, the State-guaranteed legal aid service institution 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		Calculation of Fees.		

Case	Legal Aid			Reimbursement			
	When and under which conditions is it applicable?	When is support total ?	Conditions ?	Can the winning party obtain reimbursement of litigation costs?	If reimbursement is not total what is percentage in general ?	What costs are never reimbursed?	Are there instances when legal aid should be reimbursed to the legal aid organisation ?
			secondary legal aid). In addition, wife shall submit the application for the secondary legal aid either to the competent authority of the Member State of the European Union in which she is domiciled or habitually resident or directly to the Ministry of Justice of the Republic of Lithuania.				

Case	Translation		Interpretation		Other costs specific to cross-border disputes ?	
	When and under which conditions is it necessary ?	Approximative cost ?	When and under which conditions is it necessary?	Approximative cost ?	Description	Approximative cost?
Case A	All procedural documents submitted to the court shall be in translated into	Depends on the pages of the action and language. It may vary from 10 to 19	When spouses do not know Lithuanian language. The state always compensates	-	-	-

Case	Translation		Interpretation		Other costs specific to cross-border disputes ?	
	When and under which conditions is it necessary ?	Approximative cost ?	When and under which conditions is it necessary?	Approximative cost ?	Description	Approximative cost?
	state language.	euros per page.	such costs as it is state's constitutional duty.			
Case B	All procedural documents submitted to the court shall be in translated into state language. In addition, if the husband do not know Lithuanian language, the procedural documents that shall be delivered to the foreigner have to be translated into English language or other language that is comprehensible to the addressee	Depends on the pages of the action and language. It may vary from 10 to 19 euros per page.	When spouses do not know Lithuanian language. The state always compensates such costs as it is state's constitutional duty	-	No	-

13.2 Case Study 2

Case A - National situation: Two persons have lived together unmarried for a number of years. They have a three year old child when they separate. A court decision grants custody of the child to the mother and a right of access to the father. The mother sues to limit the father's right of access.

Case B - Transnational situation where you are a lawyer in Member State A: Two persons have lived together unmarried in a Member State (Member State B) for a number of years. They have a child together but separate immediately after the child's birth. A court decision in Member State B gives the child's custody to the mother with a right of access to the father. The mother and the child move to live in another Member State (Member State A) as authorized to do so by the Court decision and the father remains in Member State B. A few years later, the mother sues in Member State A to change the father's right of access⁶.

It is presumed that the State A is Lithuania and the court proceedings are held in Lithuania as every Member State establishes different legal rules regarding to the litigation costs and it is not in our competence to describe litigation costs in other Member States.

Case Study	Court						ADR	Costs
		Transcript ion fees	Other fees	Initial court fees	Tran scription fees	Othe r fees		
Case A	28.96 EUR (LTL 100)	-	-	28.96 EUR (LTL 100)	-	-	No	-
Case B	28,96 EUR (LTL 100)	-	-	28,96 EUR (LTL 100)	-	-	No	-

⁶ N.B : Article 8 of Regulation EC n°2201/2003 provides that : "The courts of a Member State shall have jurisdiction in matters of parental responsibility over a child who is habitually resident in that Member State at the time the court is seized."

Case Study	Lawyer		Bailiff			Expert	
	Is representation compulsory ?	Average costs	Is representation compulsory ?	Pre-judgment costs	Post-judgment costs	Is use compulsory ?	Cost
Case A	No	1950 Discussion of the case - 1,5 hour; Reading the file, preparing procedural documents - 10 hours Hearings (including travelling time, completion of the case) - 8 hours	-	-	-	No	EUR 100-499
Case B (Lithuania is the state "B")	No. However, it is recommended to hire the advocate in Lithuania at least for legal consulting as he/she would provide legal information regarding civil procedure in Lithuania.	1950 Discussion of the case - 1,5 hour; Reading the file, preparing procedural documents - 10 hours Hearings (including travelling time, completion of the case) - 8 hours	-	-	-	No	EUR 100-499

Case	Witness compensation		Pledge or security		Other fees	
	Are witnesses compensated ?	Cost	Does this exist and when and how is it used ?	Cost	Description	Cost

Case	Witness compensation		Pledge or security		Other fees	
	Are witnesses compensated?	Cost	Does this exist and when and how is it used?	Cost	Description	Cost
Case A	Yes	compensation for the time spent away from the everyday work; compensation for travel and living expenses. Costs will depend on factual expenses of the witness. Cost are administrated through the court, please see column "pledge or security".	The party who requests the court to call the witness will be required by the court to pay the deposit.	The amount of the deposit will be calculated according the approximate expenses of the witness.	-	-
Case B	Yes	compensation for the time spent away from the everyday work; compensation for travel and living expenses. Costs will depend on factual expenses of the witness. Cost are administrated through the court, please see column "pledge or security".	The party who requests the court to call the witness will be required by the court to pay the deposit	The amount of the deposit will be calculated according the approximate expenses of the witness. If the witness is called from another state the fees of course will be higher.	-	-

Case	Legal Aid			Reimbursement			
------	-----------	--	--	---------------	--	--	--

	When and under which conditions is it applicable?	When is support total ?	Conditions ?	Can the winning party obtain reimbursement of litigation costs?	If reimbursement is not total what is percentage in general ?	What costs are never reimbursed?	Are there instances when legal aid should be reimbursed to the legal aid organisation ?
Case A	Primary legal aid (consultations) is granted for every person regardless its income or property. Secondary legal aid is granted according to the person's income and property.	Primary legal aid is always supported in 100 percent. Where the first level is established to the person's property and income the State recovers 100% costs; where the second level is established to the person's property and income the State	Conditions to receive legal aid are the same in all cases ⁷ .	Yes	Compensation for the assistance of advocate or associate advocate is limited to the amount established in Recommendations on Calculation of Fees.	All costs that are necessary and reasonable are reimbursed	Primary legal aid costs are never reimbursed to the primary legal aid providers. In case the person is granted secondary legal

⁷ *Ibidem.*

Case	Legal Aid			Reimbursement			
	When and under which conditions is it applicable?	When is support total ?	Conditions ?	Can the winning party obtain reimbursement of litigation costs?	If reimbursement is not total what is percentage in general ?	What costs are never reimbursed?	Are there instances when legal aid should be reimbursed to the legal aid organisation ?
		recovers 50% costs.					aid the costs are reimbursed by the losing party to the state budget.
Case B	Primary legal aid (consultations) is granted for every person regardless its income or	Primary legal aid is always supported in 100 percent. Where the first level is established to the person's property	The conditions are the same as in national case except the rule defined in Article 26 of the Law on State Guaranteed Legal Aid (Article 26 provides that where the property and income of citizens of other Member States of	Yes	Compensation for the assistance of advocate or associate advocate is limited to the amount	All costs that are necessary and reasonable are reimbursed	Primary legal aid costs are never reimbursed to the prim

Case	Legal Aid			Reimbursement			
	When and under which conditions is it applicable?	When is support total ?	Conditions ?	Can the winning party obtain reimbursement of litigation costs?	If reimbursement is not total what is percentage in general ?	What costs are never reimbursed?	Are there instances when legal aid should be reimbursed to the legal aid organisation ?
	property. Secondary legal aid is granted according to the person's income and property.	and income the State recovers 100% costs; where the second level is established to the person's property and income the State recovers 50% costs.	the European Union as well as of other 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, but they indicate it is impossible for them to bear the costs of the proceedings, the State-guaranteed legal aid service institution must establish whether an applicant is able to bear the costs of the proceedings by taking account of		established in Recommendations on Calculation of Fees.		ary legal aid providers. In case the person is granted secondary legal aid the costs are reimbursed by the losing party to the state

Case	Legal Aid			Reimbursement			
	When and under which conditions is it applicable?	When is support total ?	Conditions ?	Can the winning party obtain reimbursement of litigation costs?	If reimbursement is not total what is percentage in general ?	What costs are never reimbursed?	Are there instances when legal aid should be reimbursed to the legal aid organisation ?
			<p>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).</p> <p>In addition, father shall submit the application for the secondary legal aid either to the competent authority of the Member State of the European Union in which she is domiciled or habitually resident or directly to the</p>				budget.

Case	Legal Aid			Reimbursement			
	When and under which conditions is it applicable?	When is support total?	Conditions?	Can the winning party obtain reimbursement of litigation costs?	If reimbursement is not total what is percentage in general?	What costs are never reimbursed?	Are there instances when legal aid should be reimbursed to the legal aid organisation?
			Ministry of Justice of the Republic of Lithuania.				

Case	Translation		Interpretation		Other costs specific to cross-border disputes?	
	When and under which conditions is it necessary?	Approximative cost?	When and under which conditions is it necessary?	Approximative cost?	Description	Approximative cost?
Case A	All procedural documents submitted to the court shall be in translated into state language.	Depends on the pages of the action and language. It may vary from 10 to 19 euros per page.	When parties do not know Lithuanian language. The state always compensates such costs as it is state's constitutional duty.	-	-	-

Case	Translation		Interpretation		Other costs specific to cross-border disputes ?	
	When and under which conditions is it necessary ?	Approximative cost ?	When and under which conditions is it necessary?	Approximative cost ?	Description	Approximative cost?
Case B	All procedural documents submitted to the court shall be in translated into state language. In addition, if the husband do not know Lithuanian language, the procedural documents that shall be delivered to the foreigner have to be translated into English language or other language that is comprehensible to the addressee	Depends on the pages of the action and language. It may vary from 10 to 19 euros per page.	When parties do not know Lithuanian language. The state always compensates such costs as it is state's constitutional duty.	-	No	-

13.3 Case Study 3

Case A - National situation: Two persons have lived together unmarried for a number of years. They have a three year old child when they separate. A court decision grants custody of the child to the mother. The only outstanding dispute relates to the amount of the alimony owed to the mother by the father for the support and education of the child. The mother sues on this.

Case B - Transnational situation where you are a lawyer in Member State A: Two persons have lived together unmarried in a Member State (State B). They have a three year old child. They separate. A court decision in Member State B gives the child's custody to the mother. With the agreement of the father, the mother and the child move to live in another Member State (Member State A) where they establish their residence.

An outstanding dispute remains. This relates to the amount of the alimony owed to the mother by the father for the support and education of the child. The mother sues on this in Member State A⁸.

It is presumed that the State A is Lithuania and the court proceedings are held in Lithuania as every Member State establishes different legal rules regarding to the litigation costs and it is not in our competence to describe litigation costs in other Member States.

Case Study	Court			Appeals			ADR	
	Initial court fees	Transcription fees	Other fees	Initial court fees	Transcription fees	Other fees	Is this option open for this type of case?	Costs
Case A	The stamp duty shall be calculated according to the amount of alimony for one year. For example, if the monthly alimony required equals 100 EUR, the stamp duty shall be calculated from the 1200 EUR and shall be equal 36 EUR.	-	-	The amount of the stamp duty is of the same amount as in the first instance (in patrimonial cases the amount of the stamp duty is calculated according to the disputed	-	-	No	-

⁸ NB Article 5 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 provides that: "in matters relating to maintenance, in the courts for the place where the maintenance creditor is domiciled or habitually resident or, if the matter is ancillary to proceedings concerning the status of a person, in the court which, according to its own law, has jurisdiction to entertain those proceedings, unless that jurisdiction is based solely on the nationality of one of the parties"

Case Study	Court			Appeals			ADR	
	Initial court fees	Transcription fees	Other fees	Initial court fees	Transcription fees	Other fees	Is this option open for this type of case?	Costs
				sum)				
Case B	The stamp duty shall be calculated according to the amount of alimony for one year. For example, if the monthly alimony required equals 100 EUR, the stamp duty shall be calculated from the 1200 EUR and shall be equal 36 EUR.	-	-	The amount of the stamp duty is of the same amount as in the first instance (in patrimonial cases the amount of the stamp duty is calculated according to the disputed sum)	-	-	No	-

Case Study	Lawyer		Expert	
	Is representation compulsory ?	Average costs	Is use compulsory ?	Cost
Case A	No	900 Discussion of the case - 1 hour; Reading the file, preparing procedural documents - 5 hours Hearings (including travelling time, completion of the case) - 3 hours	No	EUR 100-499
Case B (Lithuania is the state "B")	No. However, it is recommended to hire the advocate in Lithuania at least for legal consulting as he/she would provide legal information regarding civil procedure in Lithuania.	900 Discussion of the case - 1 hour; Reading the file, preparing procedural documents - 5 hours Hearings (including travelling time, completion of the case) - 3 hours	No	EUR 100-499

Case study	Bailiff		
	Is representation compulsory ?	Pre-judgment costs	Post-judgment costs
Case A	In cases regarding the application of the provisional measures of protection and enforcement of the fines decision.	Costs regarding application provisional measures of protection: 28.96 EUR (LTL 100) plus 17.38 EUR(LTL 60) for one working hour of the bailiff	If alimony is recovered from the debtor's salary or other income the fees are 8.69 EUR (LTL 30) plus enforcement costs related to the particular actions taken by the bailiff (copying documents, filing necessary documents, etc). If alimony is recovered from the property of the debtor or from its financial resources that are in credit institutions the fee is calculated according to the recovered sum (please see Chapter 4.4)
Case B	In cases regarding the application of the provisional measures of protection and enforcement of the fines decision.	Costs regarding application provisional measures of protection: 28.96 EUR (LTL 100) plus 17.38 EUR(LTL 60) for one working hour of the bailiff	If alimony is recovered from the debtor's salary or other income the fees are 8.69 EUR (LTL 30) plus enforcement costs related to the particular actions taken by the bailiff (copying documents, filing necessary documents, etc). If alimony is recovered from the property of the debtor or from its financial resources that are in credit institutions the fee is calculated according to the recovered sum (please see Chapter 4.4)

Case	Witness compensation		Pledge or security		Other fees	
	Are witnesses compensated ?	Cost	Does this exist and when and how is it used ?	Cost	Description	Cost
Case A	Yes	compensation for the time spent	The party who requests the court	The amount of the	-	-

Case	Witness compensation		Pledge or security		Other fees	
	Are witnesses compensated?	Cost	Does this exist and when and how is it used?	Cost	Description	Cost
		away from the everyday work; compensation for travel and living expenses. Costs will depend on factual expenses of the witness. Cost are administrated through the court, please see column "pledge or security".	to call the witness will be required by the court to pay the deposit.	deposit will be calculated according the approximate expenses of the witness.		
Case B	Yes	compensation for the time spent away from the everyday work; compensation for travel and living expenses. Costs will depend on factual expenses of the witness. Cost are administrated through the court, please see column "pledge or security".	The party who requests the court to call the witness will be required by the court to pay the deposit	The amount of the deposit will be calculated according the approximate expenses of the witness. If the witness is called from another state the fees of course will be higher.		-

Case	Legal Aid		
	When and under which conditions is it applicable?	When is support total?	Conditions?
Case A	Primary legal aid (consultations) is granted for every person	Primary legal aid is always supported in 100 percent.	Conditions to receive legal aid are the same in all cases ⁹ .

⁹ *Ibidem.*

Case	Legal Aid		
	When and under which conditions is it applicable?	When is support total ?	Conditions ?
	regardless its income or property. Secondary legal aid is granted according to the person's income and property.	Where the first level is established to the person's property and income the State recovers 100% costs; where the second level is established to the person's property and income the State recovers 50% costs.	
Case B	Primary legal aid (consultations) is granted for every person regardless its income or property. Secondary legal aid is granted according to the person's income and property.	Primary legal aid is always supported in 100 percent. Where the first level is established to the person's property and income the State recovers 100% costs; where the second level is established to the person's property and income the State recovers 50% costs.	The conditions are the same as in national case except the rule defined in Article 26 of the Law on State Guaranteed Legal Aid (Article 26 provides that where the property and income of citizens of other Member States of the European Union as well as of other 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, but they indicate it is impossible for them to bear the costs of the proceedings, the State-guaranteed legal aid service institution 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

Case	Legal Aid		
	When and under which conditions is it applicable?	When is support total ?	Conditions ?
			<p>provision of secondary legal aid).</p> <p>In addition, father shall submit the application for the secondary legal aid either to the competent authority of the Member State of the European Union in which she is domiciled or habitually resident or directly to the Ministry of Justice of the Republic of Lithuania.</p>

Case Study	Reimbursement			
Case A	Can the winning party obtain reimbursement of litigation costs?	If reimbursement is not total what is percentage in general ?	What costs are never reimbursed?	Are there instances when legal aid should be reimbursed to the legal aid organisation ?
	Yes	Compensation for the assistance of advocate or associate advocate is limited to the amount established in Recommendations on Calculation of Fees.	All costs that are necessary and reasonable are reimbursed	Primary legal aid costs are never reimbursed to the primary legal aid providers. In case the person is granted secondary legal aid the costs are reimbursed by the losing party to the state budget.
	Yes	Compensation for the assistance of advocate or associate advocate is limited to the amount established in Recommendations	All costs that are necessary and reasonable are reimbursed	Primary legal aid costs are never reimbursed to the primary legal aid providers. In case the person is granted secondary legal aid the costs are reimbursed by the losing party to the state budget.

Case Study	Reimbursement			
Case A	Can the winning party obtain reimbursement of litigation costs?	If reimbursement is not total what is percentage in general ?	What costs are never reimbursed?	Are there instances when legal aid should be reimbursed to the legal aid organisation ?
		tions on Calculation of Fees.		

Case	Translation		Interpretation		Other costs specific to cross-border disputes ?	
	When and under which conditions is it necessary ?	Approximative cost ?	When and under which conditions is it necessary?	Approximative cost ?	Description	Approximative cost?
Case A	All procedural documents submitted to the court shall be in translated into state language.	Depends on the pages of the action and language. It may vary from 10 to 19 euros per page.	When parties do not know Lithuanian language. The state always compensates such costs as it is state's constitutional duty.	-	-	-
Case B	All procedural documents submitted to the court shall be in translated into state language. In addition, if the father do not know Lithuanian language, the procedural documents that shall be delivered to the foreigner have to be translated into English language or other language that is comprehensible to the addressee	Depends on the pages of the action and language. It may vary from 10 to 19 euros per page.	When parties do not know Lithuanian language. The state always compensates such costs as it is state's constitutional duty.	-	No	-

13.4 Case Study 4

Case A - National situation: A company delivered goods worth 20.000 euros. The seller has not been paid because the buyer considers that the goods do not conform to what was agreed. The seller believes that the goods conform to what was agreed and asks for payment in full because he asserts that the goods were purpose made and he will not be able to sell them to someone else.

The seller decides to sue to obtain the full payment of the price.

Case B - Transnational situation: A company whose head office is located in Member State B delivers goods worth 20.000 euros to buyer in Member State A. The contract is subject to Member State B's law and written in Member State B's language. This seller has not been paid because the buyer located in Member State A considers that the goods do not conform to what was agreed. The seller believes that the goods conform to what was agreed and asks for payment in full because he asserts that the goods were purpose made and he will not be able to sell them to someone else. The seller decides to sue in Member State A to obtain full payment of the price as provided under the contract with the buyer.

It is presumed that the State A is Lithuania and the court proceedings are held in Lithuania as every Member State establishes different legal rules regarding to the litigation costs and it is not in our competence to describe litigation costs in other Member States.

Case Study	Court			Appeals			ADR	
	Initial court fees	Transcription fees	Other fees	Initial court fees	Transcription fees	Other fees	Is this option open for this type of case?	Costs
Case A	EUR 600	-	-	600 EUR (if the disputed sum is less, the amount of stamp duty (3%) shall be	-	-	Yes, if the parties agreed on Vilnius Court of Commercial	The arbitration fee shall be 1880 EUR plus registration

Case Study	Court			Appeals			ADR	
	Initial court fees	Transcription fees	Other fees	Initial court fees	Transcription fees	Other fees	Is this option open for this type of case?	Costs
				calculated from the disputed sum)			Arbitration the dispute can be solved by Vilnius Court of Commercial Arbitration.	n fee 273 EUR LTL plus fees for the purpose of compensation (witness, expert, etc.)
Case B	EUR 600	-	-	600 EUR (if the disputed sum is less, the amount of stamp duty (3%) shall be calculated from the disputed sum)	-	-	Yes, if the parties agreed on Vilnius Court of Commercial Arbitration the dispute can be solved by Vilnius Court of Commercial Arbitration.	The arbitration fee shall be 1880 EUR plus registration fee 273 EUR LTL plus fees for the purpose of compensation (witness, expert, etc.)

Case Study	Lawyer		Expert	
	Is representation compulsory ?	Average costs	Is use compulsory ?	Cost
Case A	No	30-200 euros per hour	No, however, expert may be invoked for confirmation that goods were conform to what was agreed	EUR 100-499
Case B (Lithuania is the state "B")	No. However, it is recommended to hire the advocate in Lithuania at least for legal consulting as	30-200 euros per hour	No, however, expert may be invoked for confirmation that goods were	EUR 100-499

Case Study	Lawyer		Expert	
	Is representation compulsory ?	Average costs	Is use compulsory ?	Cost
	he/she would provide legal information regarding civil procedure in Lithuania.		conform to what was agreed	

Case study	Bailiff		
	Is representation compulsory ?	Pre-judgment costs	Post-judgment costs
Case A	In cases regarding application of the provisional measures of protection and the enforcement of the final decision.	Costs regarding application provisional measures of protection: 28.96 EUR (LTL 100) plus 17.38 EUR(LTL 60) for one working hour of the bailiff	If the court satisfies the claim and defendant refuses to fulfil its obligation, the enforcement costs shall be 1373.77 EUR (173.77 EUR plus 6% from the sum recovered but not less than 1158.48 EUR)
Case B	In cases regarding application of the provisional measures of protection and the enforcement of the final decision.	Costs regarding application provisional measures of protection: 28.96 EUR (LTL 100) plus 17.38 EUR(LTL 60) for one working hour of the bailiff	If the court satisfies the claim and defendant refuses to fulfil its obligation, the enforcement costs shall be 1373.77 EUR (173.77 EUR plus 6% from the sum recovered but not less than 1158.48 EUR)

Case	Witness compensation		Pledge or security		Other fees	
	Are witnesses compensated ?	Cost	Does this exist and when and how is it used ?	Cost	Description	Cost
Case A	Yes	compensation for the time spent away from the everyday work; compensation for travel and living expenses. Costs will depend on factual expenses of the witness. Cost are administrated	The party who requests the court to call the witness or expert will be required by the court to pay the deposit.	The amount of the deposit will be calculated according the approximate expenses of the witness and expert.	-	-

Case	Witness compensation		Pledge or security		Other fees	
	Are witnesses compensated?	Cost	Does this exist and when and how is it used?	Cost	Description	Cost
		through the court, please see column "pledge or security".				
Case B	Yes	compensation for the time spent away from the everyday work; compensation for travel and living expenses. Costs will depend on factual expenses of the witness. Cost are administrated through the court, please see column "pledge or security".	The party who requests the court to call the witness or expert will be required by the court to pay the deposit	The amount of the deposit will be calculated according the approximate expenses of the witness and expert. If the witness/expert is called from another state the fees of course will be higher.	-	-

Case	Legal Aid			Reimbursement			
	When and under which conditions is it applicable?	When is support total?	Conditions?	Can the winning party obtain reimbursement of litigation costs?	If reimbursement is not total what is percentage in general?	What costs are never reimbursed?	Are there instances when legal aid should be reimbursed to the legal aid organisation?
Case A	Legal aid is not granted to legal persons.	-	-	Yes	Compensation for the assistance of advocate or associate advocate is limited	All costs that are necessary and reasonable are reimbursed	Primary legal aid costs are never reimbursed to the primary legal aid providers. In case the person is granted secondary

Case	Legal Aid			Reimbursemen t			
	When and under which conditions is it applicable?	When is support total ?	C o n d i t i o n s ?	Can the winning party obtain reimbursement of litigation costs?	If reimb ursem ent is not total what is percen tage in genera l?	What costs are never reimbursed?	Are there instances when legal aid should be reimbursed to the legal aid organisation ?
					d to the amoun t establi shed in Recom menda tions on Calcul ation of Fees.		legal aid the costs are reimbursed by the losing party to the state budget.
Case B	Legal aid is not granted to legal persons.	-	-	Yes	Compe nsatio n for the assista nce of advoc ate or associ ate advoc ate is limite d to the amoun t establi shed in Recom menda tions on Calcul	All costs that are necessary and reasonable are reimbursed	Primary legal aid costs are never reimbursed to the primary legal aid providers. In case the person is granted secondary legal aid the costs are reimbursed by the losing party to the state budget.

Case	Legal Aid			Reimbursement			
	When and under which conditions is it applicable?	When is support total ?	Conditions ?	Can the winning party obtain reimbursement of litigation costs?	If reimbursement is not total what is percentage in general ?	What costs are never reimbursed?	Are there instances when legal aid should be reimbursed to the legal aid organisation ?
					ation of Fees.		

Case	Translation		Interpretation		Other costs specific to cross-border disputes ?	
	When and under which conditions is it necessary ?	Approximative cost ?	When and under which conditions is it necessary?	Approximative cost ?	Description	Approximative cost ?
Case A	All procedural documents submitted to the court shall be translated into state language.	Depends on the pages of the action and language. It may vary from 10 to 19 euros per page.	When litigants do not know Lithuanian language. The state always compensates such costs as it is state's constitutional duty.	-	-	-

Case	Translation		Interpretation		Other costs specific to cross-border disputes ?	
	When and under which conditions is it necessary ?	Approximative cost ?	When and under which conditions is it necessary?	Approximative cost ?	Description	A p p r o x i m a t i v e c o s t ?
Case B	All procedural documents submitted to the court shall be in translated into state language. In addition, if the other party do not know Lithuanian language, the procedural documents that shall be delivered to the foreigner have to be translated into English language or other language that is comprehensible to the addressee	Depends on the pages of the action and language. It may vary from 10 to 19 euros per page.	When litigants do not know Lithuanian language. The state always compensates such costs as it is state's constitutional duty.	-	No	-

13.5 Case Study 5

Case A - National situation: A heating equipment manufacturer delivers a heater to an installer. The installer on-sells (and installs) the heater to a customer to equip his/her house. The house catches fire shortly thereafter. Every participant (heating equipment manufacturer, installer, end-customer) is insured. The origin of the fire is contested. Nobody wants to compensate the customer.

The customer decides to sue for full compensation the heating equipment manufacturer, the heating equipment installer and the insurance companies.

Case B - Transnational situation: A heating equipment manufacturer in a Member State B delivers heater to an installer in a Member State C. The installer on-sells the heater (and installs) the heater to a customer in Member State A to equip his/her house. The house catches fire shortly thereafter. Each participant (heating equipment manufacturer, installer, end-customer) is insured by an insurance company in its own Member State. The origin of the fire is contested. Nobody wants to compensate the customer.

The customer decides to sue in Member State A for full compensation the heating equipment manufacturer, the heating equipment installer and the insurance companies in Member State A.

It is presumed that the State A is Lithuania and the court proceedings are held in Lithuania as every Member State establishes different legal rules regarding to the litigation costs and it is not in our competence to describe litigation costs in other Member States.

Case Study	Court			Appeals			ADR	Costs
	Initial court fees	Transcription fees	Other fees	Initial court fees	Transcription fees	Other fees	Is this option open for this type of case?	
Case A	The amount of the stamp duty depends on the sum claimed	-	-	The amount of the stamp duty is of the same amount as in the first instance	-	-	No	-

Case Study	Court			Appeals			ADR	
	Initial court fees	Transcription fees	Other fees	Initial court fees	Transcription fees	Other fees	Is this option open for this type of case?	Costs
	The stamp duty can vary from 16.22 EUR to 9731,23 EUR			except in cases the disputed sum differs				
Case B	The amount of the stamp duty depends on the sum claimed The stamp duty can vary from 16.22 EUR to 9731,23 EUR	-	-	The amount of the stamp duty is of the same amount as in the first instance except in cases the disputed sum differs	-	-	No	-

Case Study	Lawyer	Average costs	Expert	Cost
	Is representation compulsory?		Is use compulsory?	
Case A	No	2200 EUR Discussion of the case - 1 hour; Reading the file, preparing procedural documents - 18 hours Hearings (including travelling time, completion of the case) - 3 hours	No	EUR 100-499
Case B (Lithuania is the state "B")	No. However, it is recommended to hire the advocate in Lithuania at least for legal consulting as he/she would provide legal information regarding civil	2200 EUR Discussion of the case - 1 hour; Reading the file, preparing procedural documents - 18 hours Hearings (including travelling time,	No	EUR 100-499

Case Study	Lawyer		Expert	
	Is representation compulsory?	Average costs	Is use compulsory ?	Cost
	procedure in Lithuania.	completion of the case) - 3 hours		

Case study	Bailiff		
	Is representation compulsory ?	Pre-judgment costs	Post-judgment costs
Case A	Yes (in post-judgement stage if the defendant refuses to execute court's decision)	In case provisional protection measures are applied, the costs are 28.96 EUR (LTL 100) plus 17.38 EUR(LTL 60) for one working hour of the bailiff	It depends on the sum awarded by the court and can vary from 15 to 2000 EUR
Case B	Yes (in post-judgement stage if the defendant refuses to execute court's decision)	In case provisional protection measures are applied, the costs are 28.96 EUR (LTL 100) plus 17.38 EUR(LTL 60) for one working hour of the bailiff	It depends on the sum awarded by the court and can vary from 15 to 2000 EUR

Case	Witness compensation		Pledge or security		Other fees	
	Are witnesses compensated?	Cost	Does this exist and when and how is it used?	Cost	Description	Cost
Case A	Yes	compensation for the time spent away from the everyday work; compensation for travel and living expenses. Costs will depend on factual expenses of the witness. Cost are administrated through the court, please	The party who requests the court to call the witness will be required by the court to pay the deposit.	The amount of the deposit will be calculated according the approximate expenses of the witness.	-	-

Case	Witness compensation		Pledge or security		Other fees	
	Are witnesses compensated?	Cost	Does this exist and when and how is it used?	Cost	Description	Cost
		see column "pledge or security".				
Case B	Yes	compensation for the time spent away from the everyday work; compensation for travel and living expenses. Costs will depend on factual expenses of the witness. Cost are administrated through the court, please see column "pledge or security".	The party who requests the court to call the witness will be required by the court to pay the deposit	The amount of the deposit will be calculated according the approximate expenses of the witness. If the witness is called from another state the fees of course will be higher.	-	-

Case	Legal Aid		
	When and under which conditions is it applicable?	When is support total ?	Conditions ?
Case A	Primary legal aid (consultations) is granted for every person regardless its income or property. Secondary legal aid is granted according to	Primary legal aid is always supported in 100 percent. Where the first level is established to the person's property and income the State recovers 100% costs;	Conditions to receive legal aid are the same in all cases ¹⁰ .

¹⁰ *Ibidem.*

Case	Legal Aid		
	When and under which conditions is it applicable?	When is support total ?	Conditions ?
	<p>the person's income and property.</p> <p>Only consumer is entitled to receive legal aid.</p>	<p>where the second level is established to the person's property and income the State recovers 50% costs.</p>	
Case B	<p>Primary legal aid (consultations) is granted for every person regardless its income or property. Secondary legal aid is granted according to the person's income and property.</p> <p>Only consumer is entitled to receive legal aid.</p>	<p>Primary legal aid is always supported in 100 percent.</p> <p>Where the first level is established to the person's property and income the State recovers 100% costs; where the second level is established to the person's property and income the State recovers 50% costs.</p>	<p>The conditions are the same as in national case except the rule defined in Article 26 of the Law on State Guaranteed Legal Aid (Article 26 provides that where the property and income of citizens of other Member States of the European Union as well as of other 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, but they indicate it is impossible for them to bear the costs of the proceedings, the State-guaranteed legal aid service institution 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).</p> <p>In addition, consumer shall submit the application for the secondary legal aid either to the competent authority of the Member State of the European Union in which she is domiciled or habitually resident or directly to the Ministry of Justice of the Republic of Lithuania.</p>

Case study	Reimbursement			
Case A	Can the winning party obtain reimbursement of litigation costs?	If reimbursement is not total what is percentage in general ?	What costs are never reimbursed?	Are there instances when legal aid should be reimbursed to the legal aid organisation ?
Case B	Yes	Compensation for the assistance of advocate or associate advocate is limited to the amount established in Recommendations on Calculation of Fees.	All costs that are necessary and reasonable are reimbursed.	Primary legal aid costs are never reimbursed to the primary legal aid providers. In case the person is granted secondary legal aid the costs are reimbursed by the losing party to the state budget.
	Yes	Compensation for the assistance of advocate or associate advocate is limited to the amount established in Recommendations on Calculation of Fees.	All costs that are necessary and reasonable are reimbursed.	Primary legal aid costs are never reimbursed to the primary legal aid providers. In case the person is granted secondary legal aid the costs are

Case study	Reimbursement			
				reimbursed by the losing party to the state budget.

Case	Translation		Interpretation		Other costs specific to cross-border disputes ?	
	When and under which conditions is it necessary ?	Approximative cost ?	When and under which conditions is it necessary?	Approximative cost ?	Description	Approximative cost?
Case A	All procedural documents submitted to the court shall be in translated into state language.	Depends on the pages of the action and language. It may vary from 10 to 19 euros per page.	When litigants do not know Lithuanian language. The state always compensates such costs as it is state's constitutional duty.	-	-	-
Case B	All procedural documents submitted to the court shall be in translated into state language. In addition, if the	Depends on the pages of the action and language. It may vary from 10 to 19 euros per page.	When litigants do not know Lithuanian language. The state always compensates	-	No	-

Case	Translation		Interpretation		Other costs specific to cross-border disputes ?	
	When and under which conditions is it necessary ?	Approximative cost ?	When and under which conditions is it necessary?	Approximative cost ?	Description	Approximative cost?
	husband do not know Lithuanian language, the procedural documents that shall be delivered to the foreigner have to be translated into English language or other language that is comprehensible to the addressee		such costs as it is state's constitutional duty.			