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## THE REPUBLIC OF LITHUANIA LAW ON COMMERCIAL ARBITRATION

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### CHAPTER I GENERAL PROVISIONS

#### **Article 1. Purpose of the Law**

This Law regulates arbitral examination taking place in the Republic of Lithuania, establishes the requirements for the form and content of the arbitration agreement, the composition and competence of the arbitral tribunal, the application of interim measures and making of preliminary rulings and arbitral awards and closing a case without making an award on its merits, the procedure for setting aside arbitral awards, the procedure for recognition and enforcement of foreign arbitral awards in the territory of the Republic of Lithuania, and also regulates other issues pertaining to arbitration.

#### **Article 2. Scope of the Law**

1. This Law shall apply to arbitration, if the place of arbitration is in the territory of the Republic of Lithuania, irrespective of the citizenship or nationality of the parties to the dispute, as well as irrespective of whether the parties to the dispute are natural or legal entities and whether the arbitration procedure is organised by a permanent arbitral institution or *ad hoc* arbitration is held.

2. The provisions of this Law regulating judicial recognition of an arbitration agreement, disputing such agreement, judicial application of interim measures and recognition and enforcement of foreign arbitral awards, shall be applied irrespective of the arbitration place or where separate arbitration procedural actions are carried out.

#### **Article 3. Main terms of the Law**

1. **Ad hoc arbitration** means arbitration where, according to the agreement of the parties, the dispute resolution procedure is not organised by the permanent arbitral institution.

2. **Arbitrator** means a natural person appointed, either by a party to the dispute or by agreement of the parties to the dispute or according to the procedure established by this Law, to resolve the dispute.

3. **Place of arbitral examination** means a place where hearings of the arbitral tribunal are held and other actions of examination of a commercial dispute are carried out.

4. **Arbitral examination** means commercial arbitration procedure from the commencement of examination of the dispute in arbitration until the day of coming into effect of the arbitral award or ruling closing the case without making an award on its merits.

5. **Arbitration agreement** means agreement by two or more parties to refer to the arbitral tribunal all or certain disputes arising or which are likely to arise between them in respect of any particular contractual or other legal relationships that may be the subject matter of the arbitral examination. A state, municipality and other public legal entities may also conclude an arbitration agreement.

6. **Regulations of arbitral procedure** means the rules approved by the permanent arbitral institution standing as a basis in examining and resolving disputes in arbitration.

7. **Arbitral tribunal** means an arbitrator or panel of arbitrators handling the arbitration case.

8. **Arbitration place** means the arbitration place indicated in the arbitration agreement or determined by the arbitral tribunal. If the parties have not agreed on the arbitration place or the parties' agreement regarding the arbitration place is not clear and as long as the arbitration place has not been determined by the arbitral tribunal, the arbitration place shall be deemed the office of the permanent arbitral institution; in the case of *ad hoc* arbitration, the residential place or office of the respondent, and in the case of several respondents, the residential place or office of one of the respondents at the claimant's choice. The arbitration place may be different than the place of arbitral examination.

9. **Institutional arbitration** means arbitration, where upon agreement of the parties dispute resolution is organised and administered, conditions are created for arbitral examination and other powers granted under agreement of the parties are exercised by the permanent arbitral institution.

10. **Commercial arbitration** (hereinafter – **arbitration**) means a mode of resolving a commercial dispute where natural persons or legal entities agree to refer or undertake to refer their dispute not to the court, but to the arbitrator (arbitrators) appointed by their agreement or according to the procedure established by this Law (irrespective of whether the arbitration procedure is organised by the permanent arbitral institution (institutional arbitration) or *ad hoc* arbitration is held) who make the arbitral award which is binding upon the parties to the dispute.

11. **Commercial dispute** means any controversy between the parties over issues of fact and/or law arising out of contractual or non-contractual legal relationships, including but not limited to, supply of goods or provision of services, distribution, commercial agency, factoring, lease, contracting, consulting, engineering services, licencing, investing, financing, banking activity, insurance, concession, creation and carrying out of joint venture and any other industrial or business cooperation, compensation of damage caused through violation of rules of the competition law, agreements concluded based on public procurement, transportation of goods or passengers by air, sea and land.

12. **Permanent arbitral institution** means a public legal entity organising and administering arbitration on an ongoing basis.

13. **Chairman of a permanent arbitral institution** means a natural person appointed according to the procedure established by the incorporation documents of the permanent arbitral institution to organise the activities of this institution and discharge the administration functions of this institution and the functions attributed to him by this Law.

14. **Court** means any institution or organisation being a part of the judicial system of the state.

15. **Foreign arbitral award** means an arbitral award made in an arbitration case where the arbitration place is outside the Republic of Lithuania.

#### **Article 4. Interpretation and terms of the Law**

1. In all cases where this Law gives the parties to the dispute the freedom to decide on certain issues, except for the right to select the substantive law applicable to dispute resolution, the parties to the dispute may decide themselves on this issue or appoint any third party or institution to make a decision.

2. The parties to the dispute shall have the right upon their mutual agreement to deviate from all rules of this Law, except for the imperative rules.

3. The agreement of the parties regarding examination of the dispute in arbitration shall also cover application of the provisions of any regulations of arbitral procedure indicated in the above agreement.

4. The provisions of this Law regarding the claim or answer to the claim shall also be applied *mutatis mutandis* to the counterclaim or answer to the counterclaim.

5. The interpretation of this Law and the terms used in it should be subject in a subsidiary manner to the 1985 Model Law of the United Nations Commission on International Trade Law regarding international commercial arbitration, with subsequent amendments and supplements.

6. The issues governed by this Law, but not regulated in detail shall be dealt with in accordance with the principles of justice, reasonableness, good faith and other general principles of law.

7. This Law shall be interpreted to ensure the maximum compliance of the arbitration procedure taking place according to this Law with the arbitration principles.

#### **Article 5. Permanent arbitral institution**

1. Associations of the Republic of Lithuania representing production, business and legal activity undertakings of the Republic of Lithuania may establish independent limited civil liability legal entities having the legal form of a permanent arbitral institution. The main function of a permanent arbitral institution is to organise and administer arbitration, discharge other functions conferred by the parties to the dispute and related to the activity of the permanent arbitral institution.

2. The issues of establishment and management, representation and liability of the permanent arbitral institutions stipulated in paragraph 1 of this article shall be solved according to the procedure established by laws. The statute of the permanent arbitral institution prepared and approved by the founders of the permanent arbitral institution shall be registered with the Register of Legal Entities according to the procedure established by legal acts.

3. The permanent arbitral institution shall be prohibited from resolving disputes by arbitration or exert any influence on the arbitral examination, arbitral tribunal or arbitrators, except for giving advice to the arbitral tribunal regarding the form of an arbitral award. During arbitral examination, the permanent arbitral institution shall only have the rights that were granted to it upon agreement of the parties to the dispute. The permanent arbitral institution may not refuse to fulfil its functions, if it has announced its activities in public and the parties to the arbitral examination pay the permanent arbitral institution the charges established by such permanent arbitral institution.

4. The permanent arbitral institution shall approve the regulations of arbitral procedure. The regulations of arbitral procedure approved by the permanent arbitral institution shall be legally binding upon the parties only where the parties have decided to apply them under their arbitration agreement.

5. The permanent arbitral institution shall be headed by its chairman. The chairman of the permanent arbitral institution shall discharge the functions determined in this Law and attributed to him by the permanent arbitral institution.

#### **Article 6. Receipt of written notifications**

Unless the parties have agreed otherwise, it shall be deemed that:

1) any written notification has been received, if it is delivered to the addressee personally, to its office, place of residence or to the indicated postal address or by electronic communications terminal equipment. If, after an information search, it is impossible to identify any such locations, a written notification shall be deemed to have been received by the addressee when such notification is delivered by registered mail or any other means witnessing the sending of the notification by the sender, to the last known office, residential place or postal address or by the electronic communications terminal equipment of the addressee;

2) the notification is received on the day on which it is handed in or delivered according to item 1 of this article.

**Article 7. Waiver of the right to objection**

1. If a party to the dispute being aware of its infringed right proceeds with participation in the arbitral examination procedure and fails to express its dissent as to such infringement within a reasonable time, such party shall be deemed to have waived its right to objection.

2. The rule established in paragraph 1 of this article shall also be applied to claims regarding recognition of the arbitration agreement as invalid, its cancellation, and recognition and enforcement of the arbitral award.

**Article 8. Principles of arbitration procedure**

1. The arbitral tribunal, permanent arbitral institution and its chairman shall be independent while resolving the issues regulated in this Law.

2. Courts may not interfere with the activity of the arbitral tribunal, permanent arbitral institution and its chairman, except for cases stipulated in this Law.

3. The arbitration procedure shall be confidential.

4. The parties to arbitration shall have equal procedural rights.

5. The parties to arbitration shall have the right to freely dispose of their rights.

6. The arbitration procedure shall take place in compliance with the principle of autonomy of the parties, adversarial principle, principles of economy, cooperation and expedition.

**Article 9. Court's assistance in the arbitration procedure**

1. The arbitration agreement shall not prevent the party or parties or in the cases established by this Law the arbitral tribunal, from applying to:

1) Vilnius District Court regarding performance of the actions indicated in Articles 14, 16, 17, 25, 27, 36 and 38 of this Law;

2) The Court of Appeals of Lithuania regarding performance of the actions indicated in Articles 26, 50 and 51 of this Law.

**CHAPTER II  
ARBITRATION AGREEMENT**

**Article 10. Form of an arbitration agreement**

1. An arbitration agreement may be in the form of an arbitration clause in a contract or in the form of a separate contract concluded by the parties.

2. The arbitration agreement shall be concluded in writing and shall be considered to be valid if:

1) executed as a joint document signed by the parties; or

2) concluded in an exchange by the parties of letters (which may be sent by electronic communications terminal equipment, provided that the integrity and authenticity of the information being transmitted is ensured) or other documents recording the fact of conclusion of such agreement; or

3) concluded through electronic communications terminal equipment, provided that the integrity and authenticity of the information being transmitted is ensured and the information contained therein can be accessed for further use; or

4) the parties exchange a claim and an answer to the claim where one of the parties asserts, while the other party does not deny, that they have concluded the arbitration agreement; or

5) there is other written evidence to the effect that the parties have concluded or recognise the arbitration agreement.

3. The reference in a contract concluded by the parties to a document containing an arbitration clause shall constitute an arbitration agreement, provided that the contract or the document meets the requirements of form established in paragraph 2 of this article.

**Article 11. Judicial recognition of the arbitration agreement**

1. Having received a claim regarding a matter in respect of which the parties have concluded an arbitration agreement in the form established in Article 10 of this Law, the court shall reject the claim. If the fact of conclusion of the arbitration agreement transpires after the court has admitted the claim, the court shall not proceed with the case regarding the matter in respect of which the arbitration agreement was concluded.

2. The arbitration agreement may be recognised as invalid in judicial procedure upon request of one of the parties under the general grounds of recognising transactions as invalid or upon finding violation of the requirements of Articles 10 and 12 of this Law. Upon starting the arbitral examination, the issue of invalidity of the arbitration agreement shall be solved only according to the procedure established in Article 19 of this Law.

3. The court shall stay the case if hearing of the case may not proceed pending the disposition of the arbitration case.

**Article 12. Disputes not to be referred to arbitration**

1. All disputes may be resolved in arbitration, except for cases stipulated in this article.

2. Arbitration may not resolve disputes which should be heard under administrative proceedings or hear cases, the examination of which falls within the competence of the Constitutional Court of the Republic of Lithuania. Disputes arising from family legal relationships and disputes regarding registration of patents, trademarks and design may not be referred to arbitration. Disputes arising from employment and consumption contracts, except for cases where the arbitration agreement was concluded after the dispute arose may not be referred to arbitration.

3. Disputes to which a state or municipal enterprise or an institution or organisation, except for the Bank of Lithuania is a party to, may not be referred to arbitration, unless the prior consent of the founder of such enterprise, institution or organisation regarding the arbitration agreement has been obtained.

4. The Government of the Republic of Lithuania (hereinafter – the Government) or its authorised state institution may conclude an arbitration agreement in respect of disputes relating to commercial contracts concluded by the Government or its authorised state institution under the general procedure.

**CHAPTER III  
COMPOSITION OF THE ARBITRAL TRIBUNAL**

**Article 13. Number of arbitrators**

1. The parties may determine the number of arbitrators. The number of arbitrators shall be uneven. An arbitral award made by an arbitral tribunal consisting of an even number of arbitrators shall not render such an award invalid.

2. Failing such determination, three arbitrators shall be appointed.

**Article 14. Appointment of arbitrators**

1. Any legally capable natural person may be appointed an arbitrator, unless the parties agree otherwise. In all cases the written consent of a person willing to act as an arbitrator shall be required.

2. The parties may agree at their discretion regarding the procedure for appointment of an arbitrator or arbitrators in compliance with the requirements of paragraphs 5 and 6 of this article.

3. Unless the parties agree otherwise, then:

1) where the arbitral tribunal is to consist of three arbitrators, each of the parties shall appoint one arbitrator, and these two arbitrators shall appoint the third arbitrator – the chairman of the arbitral tribunal;

2) where the arbitral tribunal is to consist of one arbitrator and the parties cannot agree regarding such appointment, the chairman of the permanent arbitral institution shall appoint an arbitrator at the request of any of the parties;

3) where the claimant stating its claim fails to appoint an arbitrator within 20 days following the day of stating the claim, the chairman of the permanent arbitral institution shall appoint an arbitrator within 20 days following the expiration of the term for the claimant to appoint an arbitrator;

4) where the respondent fails to appoint an arbitrator within 20 days following the day of receipt of the claim, the chairman of the permanent arbitral institution shall appoint an arbitrator within 20 days following the expiration of the term for the respondent to appoint an arbitrator;

5) where the arbitrators appointed by the parties fail to agree on the appointment of the third arbitrator within 20 days following their appointment, the chairman of the permanent arbitral institution shall appoint this arbitrator within 20 days following the expiration of the term for the arbitrators to appoint the third arbitrator;

6) in case of *ad hoc* arbitration, if the party fails to appoint an arbitrator, Vilnius District Court shall appoint an arbitrator, and if the arbitrators appointed by the parties fail to agree on appointment of the chairman of the arbitral tribunal within 20 days following their appointment, Vilnius District Court shall appoint the chairman of the *ad hoc* arbitral tribunal within 20 days following the expiration of the term for the party to appoint an arbitrator or for the arbitrators to appoint the chairman of the arbitral tribunal.

4. If upon agreement by the parties regarding the procedure for appointment of arbitrators, one of the parties fails to comply with this agreement, the arbitral tribunal shall be composed according to the procedure established in paragraph 3 of this article.

5. Where two or more claimants are involved in arbitration (procedural cooperation), while submitting their claim to the arbitral tribunal co-claimants shall present a written agreement regarding appointment of a joint arbitrator. If while submitting their claim the co-claimants have failed to present a written agreement regarding appointment of a joint arbitrator to the arbitral tribunal, the co-claimants shall present such agreement to the arbitral tribunal within 20 days following the day of submitting the claim to the arbitral tribunal. Should the co-claimants fail to appoint an arbitrator within this term, the chairman of the permanent arbitral institution shall appoint an arbitrator within 20 days following the expiration of the above term. In the case of *ad hoc* arbitration, should the co-claimants fail to appoint an arbitrator within the set term, Vilnius District Court shall appoint an arbitrator within 20 days following the expiration of the above term.

6. Where two or more respondents are involved in arbitration (procedural cooperation), the co-respondents shall present a written agreement regarding appointment of a joint arbitrator. The written agreement shall be presented to the arbitral tribunal within 20 days following the day of receipt of a request of the claimant or the co-claimants to appoint an arbitrator. Should the co-respondents fail to appoint an arbitrator within this term, the chairman of the permanent arbitral institution shall appoint an arbitrator within 20 days following the expiration of the above term. In case of *ad hoc* arbitration, should the co-respondents fail to appoint an arbitrator within the set term, Vilnius District Court shall appoint an arbitrator within 20 days following the expiration of the above term.

7. While appointing an arbitrator (arbitrators), the chairman of the permanent arbitral institution or Vilnius District Court shall take into consideration the essence of the dispute,

the requirements for the arbitrator as agreed by the parties, as well as the circumstances ensuring the independence and impartiality of the arbitrator (arbitrators).

8. Decisions made by the chairman of the permanent arbitral institution falling within his competence in the cases stipulated in this article, as well as rulings made by Vilnius District Court falling within its competence in the cases stipulated in this article, shall be final and not subject to appeal.

#### **Article 15. Grounds for challenging an arbitrator**

1. A person approached in connection with his/her possible appointment as an arbitrator shall, prior to giving his/her consent to act as an arbitrator and taking into consideration Article 6 of this Law, notify in writing the parties, the permanent arbitral institution, Vilnius District Court (or other entity when the parties' agreement or the arbitration rules chosen by the parties obligate to do so) on all circumstances likely to give rise to reasonable doubts as to his/her independence or impartiality. The arbitrator shall also notify the existence of such circumstances after his/her appointment or during the arbitral examination, if he/she has not done so before or the circumstances have occurred after his/her appointment or during the arbitral examination.

2. An arbitrator may be challenged only where there are reasonable doubts as to his independence or impartiality or when he has no qualification as agreed by the parties.

3. A party may inform the arbitrator appointed by it or together with the other party about the challenge only for circumstances of which the party becomes aware after the appointment has been made.

#### **Article 16. Procedure for challenging an arbitrator**

1. The parties may agree on challenging the arbitrator, appealing against the decision on challenging the arbitrator and other matters pertaining to the procedure for challenging the arbitrator.

2. In the absence of agreement regarding the procedure for challenging the arbitrator, a party intending to challenge the arbitrator shall notify the arbitral tribunal in writing on the reasons for challenging within 15 days after it has become aware of the composition of the arbitral tribunal or the circumstances indicated in Article 15.2 of this Law. Unless the arbitrator subject to challenge resigns from his office or the other party agrees to the challenge, the remaining arbitrators of the arbitral tribunal shall decide this issue of challenging the arbitrator. If the arbitral tribunal consists of one arbitrator or all arbitrators of the arbitral tribunal are challenged, the arbitrator himself/herself (the arbitrators themselves) shall decide on the issue of challenge.

3. If the challenge is rejected according to the procedure established in paragraph 2 of this article, the challenging party may, within 20 days after having received the notice on rejection of the challenge, request Vilnius District Court to make a ruling on challenging the arbitrator. The ruling made by Vilnius District Court on this matter shall be final and not subject to appeal. While the party's request regarding challenging the arbitrator is being considered by Vilnius District Court, the arbitral tribunal, including the arbitrator subject to challenge, may proceed with the arbitral examination and make an arbitral award.

#### **Article 17. Termination of the arbitrator's mandate**

1. If an arbitrator becomes *de jure* or *de facto* unable to perform his functions or delays performing his functions without any valid reasons, he shall resign his office. The arbitrator's mandate shall terminate if he resigns or the parties agree on his removal from the office. If the arbitrator fails to perform his duty to resign or the parties fail to agree on his removal from office, any of the parties may apply to the chairman of the permanent arbitral institution regarding resolution of the respective issue. In such case, the decision of the chairman of the permanent arbitral institution shall be final and not subject to appeal. In the

case of *ad hoc* arbitration the respective issue shall be resolved by Vilnius District Court; the ruling of this court shall be final and not subject to appeal.

2. Termination of the arbitrator's mandate shall not constitute recognition of any of the grounds stipulated in this article or Article 15.

**Article 18. Appointment of a substitute arbitrator**

1. Where the mandate of an arbitrator terminates according to Articles 15 or 17 of this Law or the arbitrator resigns from office due to other reasons or the arbitrator's mandate terminates on other grounds, a substitute arbitrator shall be appointed according to the same procedure that was applicable to the appointment of the arbitrator whose mandate terminated.

2. Upon appointment of a substitute arbitrator, the case shall be reheard, unless the parties agree otherwise.

**CHAPTER IV  
COMPETENCE OF THE ARBITRAL TRIBUNAL**

**Article 19. Right to make a decision on the competence to examine a dispute**

1. The arbitral tribunal shall have the right to make a decision on its competence to examine the dispute, including cases where doubts arise in respect of the existence of an arbitration agreement or its validity. To this end, the arbitration clause, which forms a part of the contract, shall be treated as an agreement not contingent on the other conditions of the contract. The decision of the arbitral tribunal regarding recognition of the contract as invalid, shall not entail *per se* recognition of the arbitration clause as invalid.

2. The party's plea that the arbitral tribunal is incompetent to arbitrate shall be made not later than submission of the statement of defence. The party's participation in appointing an arbitrator shall not preclude it from raising such a plea. The plea that the arbitral tribunal is incompetent to arbitrate shall be made as soon as the matter alleged by the party to be beyond the competence of the arbitral tribunal is raised during the arbitral examination. The arbitral tribunal may admit the plea stipulated in this paragraph later on, if it considers such delay justified.

3. The arbitral tribunal may rule on the plea indicated in paragraph 2 of this article by making a partial or final arbitral award.

**CHAPTER V  
INTERIM MEASURES AND PRELIMINARY RULINGS**

**Article 20. Interim measures**

1. Unless the parties have agreed otherwise, upon request of any of the parties the arbitral tribunal, having notified the other parties, may by its ruling apply interim measures aimed at ensuring the fulfilment of the party's claims and preserving the evidence.

2. Interim measures may include the following:

1) prohibiting the party from participating in certain transactions or performing certain actions;

2) obligating the party to protect the property relating to the arbitral examination, provide a deposit, bank or insurance guarantee;

3) obligating the party to preserve the evidence that may be relevant to the arbitral examination.

3. A party requesting the arbitral tribunal to apply the interim measures indicated in items 1 and 2 of paragraph 2 of this article shall prove that:

1) its claims in action are likely justified; determination of such likelihood shall not entail the right of the arbitral tribunal to make another award or ruling subsequently during the arbitration examination;

2) failure to take these measures may render enforcement of the arbitral award considerably more difficult or impossible;

3) interim measures are economic and proportional to the goal to be achieved by such measures.

4. A party requesting the arbitral tribunal to apply the interim measures indicated in item 3 of paragraph 2 of this article shall prove that:

1) the evidence requested to be preserved may be relevant to the case;

2) there is a real threat that upon failure to undertake the interim measures the evidence requested to be preserved will be destroyed or damaged by the other party thus making them unusable during the arbitral examination.

5. The arbitral tribunal may obligate the party to notify immediately on any material change of circumstances that were taken as a basis for resolving the issue regarding application of interim measures.

#### **Article 21. Preliminary rulings**

1. Unless the parties have agreed otherwise, a party may request the arbitral tribunal to apply interim measures without notice to the other party by submitting an application for a preliminary ruling obligating the respective party not to take any actions that may impede the applying of interim measures during the examination of the application for interim measures.

2. The party requesting the arbitral tribunal to make a preliminary ruling shall prove that:

1) the notice to the other party on the application for interim measures may significantly prevent the goals of such measures from being achieved;

2) the grounds indicated in items 1 and 3 of Article 20.3 of this Law are present.

3. The party requesting the arbitral tribunal to make a preliminary ruling shall reveal to the arbitral tribunal all the circumstances that may be relevant in examining this request. The party shall have this duty throughout the term of the preliminary ruling.

4. Upon making a preliminary ruling, the arbitral tribunal shall immediately deliver the application for interim measures, the application for a preliminary ruling, the preliminary ruling itself and any correspondence of the party applying for the preliminary ruling and the arbitral tribunal (if any) (including information about oral examination of the application for a preliminary ruling, if such examination was held) to all the parties according to the procedure established in Article 6 of this Law.

5. The arbitral tribunal shall provide the party in respect of which the preliminary ruling was made with the possibility to be heard and examine the points of defence of this party in respect of the preliminary ruling as expeditiously as possible.

6. The preliminary ruling shall be effective for 20 days following making of the ruling. During this period, the arbitral tribunal, having heard the party in respect of which the preliminary ruling is made and having examined the points of defence of this party, if any, may apply the respective interim measures.

7. The preliminary ruling shall be binding upon the parties, however, it shall not be a document subject to enforcement.

#### **Article 22. Revising and repealing rulings on interim measures and repealing of preliminary rulings**

Upon request of the party and in exclusive cases upon notifying all parties, the arbitral tribunal may on its own initiative revise, repeal the ruling on interim measures or repeal the preliminary ruling.

#### **Article 23. Securing compensation of losses that might possibly be incurred through the application of interim measures or making of a preliminary ruling**

1. The arbitral tribunal may obligate the party applying for interim measures to provide security for compensation of the other party's losses that might possibly be incurred through the application of interim measures.

2. The arbitral tribunal shall obligate the party applying for a preliminary ruling to provide security for compensation of the other party's losses that might possibly be incurred through making a preliminary ruling, unless it finds no grounds for requesting security for compensation of such losses.

**Article 24. Compensation of losses that might possibly be incurred through application of interim measures or making of a preliminary ruling**

1. Having applied for interim measures or a preliminary ruling, the party shall be liable for the losses incurred through application of these interim measures or making of the preliminary ruling, if it is subsequently found during the arbitral examination that the applied interim measures or the preliminary ruling are groundless.

2. Upon the party's request, the arbitral tribunal may by its final award obligate the party upon whose request the interim measures were applied to compensate the losses incurred through application of the interim measures.

**Article 25. Enforcement of rulings on interim measures and grounds for refusing to issue an enforcement order**

1. The ruling of the arbitral tribunal on interim measures shall be a document subject to enforcement.

2. Should the ruling of the arbitral tribunal on interim measures not be enforced, Vilnius District Court shall, upon the party's request and according to the procedure established in the Code of Civil Procedure of the Republic of Lithuania (hereinafter – the Code of Civil Procedure), issue an enforcement order. The application for an enforcement order shall be examined at a court hearing upon notice to the parties to the arbitral examination. Failure by the parties to appear at the hearing shall not prevent the court from deciding on the matter of issuing the enforcement order.

3. The party upon whose request Vilnius District Court issued the enforcement order for enforcing the ruling on interim measures shall immediately notify this court of any change or cancellation of the interim measures. The request for revising or cancelling the enforcement order shall be examined at a court sitting upon notifying the parties to the arbitral examination. Failure by the parties to appear at the hearing shall not prevent the court from deciding on the matter of revising or cancelling the enforcement order.

4. Vilnius District Court may refuse to issue an enforcement order only if:

1) insufficient data is presented for determination of the mandatory content of the enforcement order and such deficiency cannot be removed during the examination of the request for the enforcement order in the court;

2) the party in respect of which the enforcement order is requested proves that the arbitral tribunal has not notified it properly on the examination of the matter regarding application of the interim measures thus preventing the party from presenting its own explanations;

3) the arbitral tribunal obviously exceeded its competence in making the ruling on interim measures;

4) the ruling of the arbitral tribunal on securing compensation of losses that might possibly be incurred through application of the interim measures has not been enforced;

5) the arbitral tribunal has revised or cancelled the ruling on interim measures.

5. A separate complaint may be submitted against the ruling of Vilnius District Court on refusal to issue the enforcement order.

**Article 26. Recognition or enforcement of foreign arbitral awards or rulings on interim measures and grounds for refusal to recognise or enforce a foreign arbitral award or ruling**

1. An arbitral award or ruling on interim measures made in any other state may be recognised and enforced in the territory of the Republic of Lithuania.

2. A party's request to recognise and allow enforcement of the foreign arbitral award or ruling on interim measures shall be submitted to the Court of Appeals of Lithuania. The content of this request shall be subject *mutatis mutandis* to the provisions of Article 51.2 of this Law.

3. The Court of Appeals of Lithuania may by its ruling refuse to recognise or enforce a foreign arbitral award or ruling on interim measures, if:

1) enforcement of such award or ruling in the territory of the Republic of Lithuania is impossible;

2) there are the grounds stipulated in items 2, 3, 4 and 5 of Article 25.4 of this Law.

4. The appealing against the rulings of the Court of Appeals of Lithuania stipulated in this article shall be subject *mutatis mutandis* to the provisions of Article 51.3 of this Law.

**Article 27. Applying of interim measures and preserving of evidence by the court ruling**

1. A party shall have the right to apply to Vilnius District Court for interim measures or preservation of evidence before commencement of the arbitral examination or before the formation of the arbitral tribunal. Upon the party's request, the court may also apply the interim measures or preserve the evidence after the formation of the arbitral tribunal. Accordingly, the other party shall have the right according to the procedure established in the Code of Civil Procedure to request securing compensation of losses that might possibly be incurred through application of the interim measures or preserving the evidence.

2. Refusal by the court to apply the interim measures or preserve the evidence shall not prevent the party from requesting the arbitral tribunal during the arbitral examination to apply the interim measures or preserve the evidence.

**CHAPTER VI  
ARBITRAL EXAMINATION**

**Article 28. General provisions of arbitral examination**

1. The parties to the dispute shall have equal procedural rights in arbitration proceedings. Each of the parties shall be provided with equal possibilities to justify its claims or points of defence.

2. In compliance with the imperative provisions of this Law, the parties to the dispute may agree on the procedure according to which their disputes will be examined in arbitration.

3. Failing such agreement of the parties regarding the procedure for examination of disputes, the arbitral tribunal may, in compliance with the provisions of this Law, examine the dispute according to the procedure it deems appropriate.

**Article 29. Place of arbitral examination**

1. The parties may agree on the place of arbitral examination. Failing such agreement, the place of arbitral examination shall be established by the arbitral tribunal taking into consideration the circumstances of the case and convenience for the parties.

2. Notwithstanding the provisions of paragraph 1 of this article, the arbitral tribunal may, unless the parties agree otherwise, gather at any place they deem suitable for arbitrators' consultations where they can hear the witnesses, experts or parties, examine the documents, goods or other property.

**Article 30. Commencement of arbitral examination**

Unless the parties agree otherwise, the arbitral examination shall be deemed to have been commenced on the day on which the respondent received a request for arbitration or a claim. The request for arbitration or the claim shall contain the names or first and last names of the parties, the essence of the dispute, the reference to the arbitration agreement and the candidacy of the arbitrator. The claim shall comply with the requirements of Article 32 of this Law.

#### **Article 31. Arbitration language**

1. Unless the parties agree otherwise, the language or languages to be used during the arbitral examination shall be determined by the arbitral tribunal. Unless the parties have agreed on the arbitration language, until the arbitral tribunal determines the arbitration language, the arbitration language shall be deemed the language in which the arbitration agreement is concluded.

2. The arbitration language shall be used for submission to the arbitral tribunal and the permanent arbitral institution of all written documents of the parties, conducting the arbitral examination, drawing up of awards, rulings of the arbitral tribunal and the permanent arbitral institution or other documents adopted by the arbitral tribunal and the permanent arbitral institution, unless otherwise determined in the agreement of the parties or the ruling of the arbitral tribunal.

3. The arbitral tribunal may determine other arbitration language at any time during the arbitral examination, unless it may result in infringement of the right to be heard of the parties.

#### **Article 32. Claim and statement of defence**

1. Within the term agreed by the parties or determined by the arbitral tribunal, the claimant shall indicate the circumstances justifying his claim, issues in dispute, appoint an arbitrator (if no arbitrator has been appointed) and state claims in action, while the respondent shall submit its points of defence, unless the parties have agreed otherwise.

2. Unless the parties agree otherwise, during the arbitral examination, any of them may change or supplement their claims in action or statement of defence, except for cases where the arbitral tribunal recognises that it is not expedient to allow such changes or supplements to be made due to unreasonably delayed submission thereof.

#### **Article 33. Evidence and burden of proof**

1. Unless the parties have agreed otherwise or otherwise required under the law applicable to the dispute, each of the parties shall prove the circumstances justifying its claims or points of defence.

2. During the arbitral examination, the arbitral tribunal may request the parties to present documents or other evidence relating to the case being examined.

3. The arbitral tribunal shall have the right to refuse to admit the evidence which could have been presented earlier during the arbitral examination and the presentation of which will delay the arbitral examination.

4. Unless the parties agree otherwise, no evidence shall be binding on the arbitral tribunal.

5. Unless the parties agree on the rules of evidence applicable to the arbitral examination, such rules shall be determined by the arbitral tribunal. Until determination of the rules of evidence applicable to the arbitral examination, gathering of evidence and distribution of the burden of proof shall be subject to the provisions of this Law.

6. If a party fails to present evidence as requested by the arbitral tribunal, the arbitral tribunal may make an award based on the available evidence or in exceptional cases evaluate the fact of failure to present the evidence against the defaulting party.

7. The arbitral tribunal shall have the right to establish the admissibility, sufficiency and relevance of any evidence to the case.

**Article 34. Oral and written examination of the case**

1. Unless the parties have agreed on the form of arbitral examination, the arbitral tribunal shall decide on the form of arbitral examination. The arbitral examination may be held according to oral, written or other procedure. If the parties have agreed that the case will be examined without direct participation of the parties, the arbitral tribunal shall at any time during the arbitral examination switch to an oral examination, if so requested by any of the parties to the dispute.

2. The parties shall be notified on all hearings of the arbitral tribunal in advance, with reasonable notice of time required.

3. All evidence, documents or other information presented by a party to the arbitral tribunal shall be presented to the other party. Evidence, documents or other information received by the arbitral tribunal shall also be presented to the parties.

**Article 35. Absence of a party**

Unless the parties have agreed otherwise, where a party fails to present a mandatory procedural document or does not take part in the arbitral hearing without a valid reason, the arbitral tribunal shall have the right to proceed with the arbitral examination and make an arbitral award based on the evidence available in the case or make procedural decisions stipulated in Article 49 of this Law.

**Article 36. Witnesses and experts**

1. The arbitral tribunal shall determine the time, place and mode of examination of witnesses and experts.

2. If persons called as witnesses fail to appear or having appeared refuse to be witnesses, the arbitral tribunal may allow the party requesting examination of the witness to apply to Vilnius District Court within the term set by the arbitral tribunal requesting examination of the witnesses according to the procedure established in the Code of Civil Procedure and this Law. Examination of witnesses in Vilnius District Court shall be *mutatis mutandis* subject to the provisions of the ninth clause of Chapter XIII of Section II of the Code of Civil Procedure. During examination of witnesses in court, the arbitral tribunal may stay or postpone the arbitral examination.

3. Unless the parties agree otherwise, the arbitral tribunal may:

1) appoint one or several experts to present findings on particular questions given by the arbitral tribunal;

2) request a party to provide any information related to the case to the expert, present or make conditions for reviewing the evidence pertaining to the case.

4. Unless the parties have agreed otherwise, and any party requests or the arbitral tribunal so decides, the expert must participate at the hearing and present his findings and answer the questions put to him by the parties or the arbitral tribunal.

5. The parties shall have the right to request the arbitral tribunal to examine their witnesses.

**Article 37. Joining of arbitration cases**

Arbitration cases may be joined upon agreement of the parties.

**Article 38. Assistance of the court in gathering evidence**

The arbitral tribunal or a party, upon approval of the arbitral tribunal, shall have the right to apply to Vilnius District Court and request assistance in gathering evidence. Gathering of evidence in court shall be *mutatis mutandis* subject to the provisions of the ninth clause of Chapter XIII of Section II of the Code of Civil Procedure. The arbitrators and the parties shall have the right to take part in any hearing of Vilnius District Court held under

the request stipulated in this article and ask questions, present explanations orally or in writing and exercise other procedural rights required for gathering evidence.

## **CHAPTER VII**

### **MAKING OF AWARDS AND CLOSING OF THE ARBITRATION PROCEEDINGS WITHOUT MAKING AN AWARD ON THE MERITS**

#### **Article 39. Substantive law applicable to a dispute**

1. The arbitral tribunal shall resolve disputes in accordance with the law selected by the parties as applicable to the dispute. The reference to the applicable foreign law shall mean reference to the national substantive law of the respective state, rather than the international private law of that state.

2. If the parties have failed to agree on the applicable law, the arbitral tribunal shall apply the law, which in the justified opinion of the arbitral tribunal, is applicable in resolving a particular dispute, including trade customs (*lex mercatoria*).

3. The arbitral tribunal acts based on the principles *ex aequo et bono* (at equity) or *amiable compositeur* (amicable mediation) only in cases where the parties expressly authorise it to do so.

#### **Article 40. Making of an award by the arbitral tribunal consisting of several arbitrators**

1. Unless the parties have agreed otherwise, an arbitral award shall be made by a majority vote of the arbitrators. In there is no majority of votes for making the arbitral award or in case of a tie, the chairman of the arbitral tribunal shall have the casting vote.

2. Notwithstanding the provisions of paragraph 1 of this article, procedural issues of the arbitral examination may be solved unilaterally by the chairman of the arbitral tribunal, provided he is authorised by the parties or all other arbitrators of the arbitral tribunal for that purpose.

3. If an arbitrator refuses to participate in examining a dispute by the arbitral tribunal without any valid reason, this shall not preclude the remaining arbitrators of the arbitral tribunal from making a legitimate award.

#### **Article 41. Taking effect and enforcement of an arbitral award**

1. An arbitral award shall take effect from the moment it is made and shall be enforced by the parties.

2. An arbitral award shall be deemed made from the date indicated in the arbitral award.

3. After the arbitral award takes effect, the same parties to the dispute shall not have the right to state a further claim regarding the same subject and on the same grounds.

4. An arbitral award shall be a document subject to enforcement, to be enforced from the moment of taking effect according to the procedure established in the Code of Civil Procedure.

#### **Article 42. Types of arbitral awards**

1. The arbitral tribunal may make a final award on the merits, a partial award and an additional award.

2. The arbitral tribunal shall have the right to make rulings on procedural matters.

#### **Article 43. Final arbitral award**

The arbitral tribunal shall fully resolve the dispute by making its final award.

#### **Article 44. Partial arbitral award**

1. The arbitral tribunal shall resolve a part of the dispute by making a partial award.

2. The partial arbitral award shall be final only in respect of the part of the dispute that has been resolved in full.

3. A partial arbitral award may be made:

1) on the competence of the arbitral tribunal to examine the dispute (Article 19 of this Law);

2) on independent claims arising from substantive legal relationships;

3) in other cases stipulated by the parties or the arbitral tribunal.

#### **Article 45. Additional arbitral award. Revision and interpretation of an arbitral award**

1. An additional arbitral award shall be made to resolve the claims stated during the arbitral examination, however, not resolved by the arbitral award made. The additional award may also be made to revise or interpret the arbitral award where it is necessary:

1) to correct spelling, arithmetic or other similar mistakes in the arbitral award;

2) to elucidate the substantive provisions of the arbitral award or its item;

3) to resolve the issue of distribution of the arbitration costs.

2. The additional arbitral award may be made on the initiative of the arbitral tribunal or upon request of an interested party. The arbitral tribunal may on its initiative make an additional award within 30 days after the final arbitral award has been made. An interested party shall have the right to submit a request for an additional arbitral award not later than 30 days following the day of receipt of the arbitral award.

3. The additional arbitral award shall be made within 30 days after the request for this award of the interested party has been received. The additional award shall be a composite part of the arbitral award and shall be subject to the provisions of Article 46 of this Law.

4. The arbitral tribunal shall have the right to extend or renew the terms set in paragraphs 2 and 3 of this article.

5. The additional award may not alter the essence of the arbitral award.

#### **Article 46. Form and content of the award of the arbitral tribunal**

1. An award of the arbitral tribunal shall be in writing and signed by the arbitrators or the arbitrator. The arbitral award shall be legitimate if signed by a majority of arbitrators with the other arbitrators indicating their reasons for not signing. An arbitrator or arbitrators disagreeing with the opinion of the majority shall have the right to present their separate opinion in writing which shall be attached to the arbitral award. The parties may agree that the chairman of the arbitral tribunal may sign the award unilaterally.

2. The arbitral award shall contain the reasoning on which it is based, unless the parties have agreed that reasoning is not necessarily to be provided or the arbitral award is made on the agreed terms under item 1 of Article 47.1 of this Law.

3. The arbitral award shall state the date and place of making it. The arbitral award shall be deemed to have been made on the date and at the location as indicated in the arbitral award.

4. Each party shall be given a copy of the signed arbitral award. Delivery of the arbitral award may be postponed until the arbitration costs have been paid in full.

#### **Article 47. Settlement of a dispute**

1. The parties shall have the right to complete the arbitration case by a settlement agreement. Upon request by the parties, the arbitral tribunal shall have the right:

1) to approve the settlement agreement concluded by the parties by an arbitral award;

or

2) to make a ruling on termination of the arbitration proceedings.

2. The arbitral award approving the settlement agreement concluded by the parties shall be a final arbitral award.

**Article 48. Decision on arbitration costs**

1. Arbitration costs shall include:
  - 1) the arbitrators' fees and other reasonable expenses incurred by them;
  - 2) expenses incurred by the permanent arbitral institution or other reasonable expenses incurred under agreements of the parties;
  - 3) reasonable expenses incurred by the parties.
2. Fee rates applied by the permanent arbitral institution, procedure for calculation, payment and repayment of arbitration costs shall be established in the regulations of arbitral procedure and/or agreement of the parties not contradicting the regulations of arbitral procedure. In case of *ad hoc* arbitration the amount of arbitrators' fees, the procedure for calculation, payment and repayment of the arbitration costs shall be established by the parties' agreement and/or in the *ad hoc* arbitration rules.
3. Unless the parties have agreed otherwise, in view of the circumstances of the case, and the conduct of the parties, the arbitral tribunal shall distribute the arbitration costs for the parties in its arbitral award.
4. Whenever the case is closed on any of the grounds indicated in this law, the arbitral tribunal shall have the right to resolve the issue of distribution of the arbitration costs on its own initiative.

**Article 49. Closing of arbitral examination**

1. The arbitral examination is completed by a final arbitral award or a ruling made by the arbitral tribunal on the grounds stipulated in paragraphs 2 and 4 of this article.
2. The arbitral tribunal shall make a ruling to terminate the arbitral examination where:
  - 1) the case may not be examined in arbitration;
  - 2) the judgment of the court has taken effect in respect of the dispute between the same parties, regarding the same subject and on the same grounds;
  - 3) the arbitral award has taken effect in respect of the dispute between the same parties, regarding the same subject and on the same grounds;
  - 4) the claimant has withdrawn its claim, unless the respondent objects to such withdrawal of the claim and the arbitral tribunal recognises the legal interest of the respondent to finally resolve the dispute;
  - 5) the parties have concluded a settlement agreement or the arbitral tribunal has decided to close the arbitration proceedings by a ruling according to the procedure established in item 2 of Article 47.1 of this Law;
  - 6) the natural person who was one of the parties to the proceedings has died and succession of his/her rights is not possible;
  - 7) the legal body that was one of the parties to the proceedings has been liquidated and succession of its rights is not possible;
  - 8) it is impossible to examine the arbitration case and the claimant has no right to apply to arbitration in future regarding resolution of the same dispute.
3. Upon termination of the arbitral examination, the parties shall not be allowed to make a repeat application to arbitration regarding a dispute between the same parties, regarding the same subject and on the same grounds.
4. The arbitral tribunal shall have the right to make a ruling on not proceeding with a request for arbitration or the claim where:
  - 1) the request for arbitration or the claim was filed by a legally incapable natural person;
  - 2) the request for arbitration or the claim was filed on behalf of the claimant by a person not authorised to plead the arbitration case;
  - 3) the arbitral tribunal examines the dispute between the same parties, regarding the same subject and on the same grounds;

4) having not requested that the case be examined in their absence, both parties have failed to appear without valid reasons;

5) the person who has filed the request for arbitration or the claim has failed to pay the determined arbitration costs;

6) the claimant does not file a claim according to the requirements of Articles 30 or 32 of this Law;

7) the parties against which no bankruptcy proceedings have been brought request not to examine the dispute in arbitration based on paragraph 8 of this article;

8) the arbitral tribunal decides that the arbitration case is not subject to further examination or its examination is impossible.

5. A decision not to proceed with the request for arbitration or the claim shall not preclude the parties from repeat applications to arbitration regarding resolution of the dispute.

6. A ruling of the arbitral tribunal shall take effect from the moment it is made and must be enforced by the parties.

7. Instituting bankruptcy proceedings against a party to the arbitration agreement or application of other bankruptcy proceedings against a party to the arbitration agreement shall have no impact on the arbitration proceedings, validity and application of the arbitration agreement, the possibility to resolve the dispute in arbitration and the competence of the arbitration tribunal to resolve the dispute, except for the cases stipulated in paragraphs 8 and 9 of this article.

8. A company against which bankruptcy proceedings are instituted may not conclude a new arbitration agreement. Property claims against a party to the arbitration agreement against which bankruptcy proceedings are instituted shall be examined in the court instituting the bankruptcy proceedings, upon request of all parties to the arbitration agreement against which no bankruptcy proceedings are instituted.

9. If property claims against the party to the arbitration agreement against which bankruptcy proceedings are instituted are examined in arbitration, the arbitral tribunal shall provide a reasonable period of time to the bankruptcy administrator to become familiar with the arbitration proceedings and prepare for its examination, and the claimant shall notify the court examining the bankruptcy proceedings on the claims being examined in arbitration and present explanations justifying such claims and schedule of evidence. The arbitral tribunal shall in its award determine the amount of the mutual claims of the parties. Upon making the arbitral award, the court examining the bankruptcy proceedings shall approve the mutual claims of the parties determined in the arbitral award. The court examining the bankruptcy case may refuse to approve the creditor's claims examined in arbitration until the arbitral award approving the amount of those claims has been made; however, the court shall approve all undisputed claims (undisputed part thereof) according to the procedure established by the Enterprise Bankruptcy Law of the Republic of Lithuania.

10. The powers of the arbitral tribunal shall expire upon making the final arbitral award (except for the cases stipulated in Article 45 and Article 50.6 of this Law), termination of the arbitral proceedings or decision not to proceed with the request for arbitration or the claim.

## **CHAPTER VIII SETTING ASIDE THE ARBITRAL AWARD**

### **Article 50. Grounds and procedure for setting aside the arbitral award**

1. An arbitral award may be set aside upon submitting an appeal to the Court of Appeals of Lithuania on the grounds stipulated in this article.

2. Upon admitting the appeal regarding the arbitral award made, the Court of Appeals of Lithuania may, at the request of one of the parties, suspend enforcement of the arbitral award in exceptional cases.

3. The Court of Appeals of Lithuania may set aside an arbitral award when the party submitting the appeal presents evidence demonstrating that:

1) one of the parties to the arbitration agreement was legally incapable under the applicable laws or the arbitration agreement is not effective under the laws applicable by the parties' agreement, or if the parties have not agreed regarding the laws applicable to the arbitration agreement, according to the laws of the state in which the arbitral award was made; or

2) the party against which the arbitral award is intended to be invoked was not properly notified on the appointment of the arbitrator or the arbitral examination or otherwise was not provided with a possibility to present its own explanations; or

3) the arbitral award was made in respect of the dispute or the part of the dispute that was not referred to arbitration. If the part of the dispute referred to arbitration may be separated, that part of the arbitral award resolving the issues referred to arbitration may be recognised and enforced; or

4) the composition of the arbitral tribunal or the arbitration proceedings did not meet the agreement of the parties and/or the imperative provisions of this Law; or

5) the dispute may not be referred to arbitration according to the laws of the Republic of Lithuania; or

6) the arbitral award contradicts the public policy of the Republic of Lithuania.

4. The Court of Appeals of Lithuania verifies *ex officio* whether the arbitral award appealed against contradicts the grounds established in items 5 and 6 of paragraph 3 of this article.

5. The Court of Appeals of Lithuania refuses to admit the appeal which was filed after one month following the admitting of the arbitral award, and if the appeal was filed in respect of the additional award stipulated in Article 45 of the Law, following the day on which the arbitral tribunal made the additional award.

6. Upon receipt of an appeal regarding the arbitral award, the Court of Appeals of Lithuania may by its reasoned ruling, if so requested by a party to the dispute, suspend the proceedings regarding setting aside the arbitral award in order for the arbitral tribunal to be able to resume the examination or take other actions which, in the opinion of the Court of Appeals of Lithuania, would remove the basis for setting aside the arbitral award.

7. The ruling of the Court of Appeals of Lithuania stipulated in paragraph 6 of this article regarding staying of proceedings and the ruling regarding setting aside or refusal to set aside the arbitral award may be appealed against to the Supreme Court of Lithuania according to the procedure established by the Code of Civil Procedure.

## **CHAPTER IX**

### **RECOGNITION AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS**

#### **Article 51. Recognition and enforcement of foreign arbitral awards**

1. An arbitral award made in any state – a party to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards shall be recognised and enforced in the Republic of Lithuania according to the provisions of this article and the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

2. A party requesting to recognise or recognise and enforce a foreign arbitral award shall submit a request to the Court of Appeals of Lithuania. This request shall be accompanied by the originals of the foreign arbitral award requested to be recognised or recognised and enforced and the arbitration agreement or properly certified copies thereof. If the arbitral award or the arbitration agreement is not drawn up in the official language of the state, the applying party shall present properly certified translations of these documents into the official language of the state.

3. The Court of Appeals of Lithuania shall make a ruling in respect of a request for recognising or recognising and enforcing a foreign arbitral award. This ruling shall come into

effect from the moment it is made. The ruling of the Court of Appeals of Lithuania may be appealed against to the Supreme Court of Lithuania within 30 days following the day on which it was made. Filing of the appeal regarding the ruling of the Court of Appeals of Lithuania stipulated in this paragraph and the proceedings under this appeal shall be subject *mutatis mutandis* to the provisions of Chapter XVII of the Code of Civil Procedure.

4. Once the ruling regarding recognition or recognition and enforcement of foreign arbitral award takes effect, the foreign arbitral award shall be a document subject to enforcement according to the procedure established in the Code of Civil Procedure.

ALGIRDAS BRAZAUSKAS  
PRESIDENT OF THE REPUBLIC OF LITHUANIA

APPROVED  
By decree No. IX-743

Dated February 28, 2002

**CODE OF CIVIL PROCEDURE  
OF THE REPUBLIC  
OF LITHUANIA**

**PART I  
GENERAL PROVISIONS**

**CHAPTER I  
BASIC PROVISIONS**

**Article 1. Laws of civil procedure**

1. This Code shall govern the order of hearing civil, labour, family, intellectual property, bankruptcy and restructuring cases and other proceedings related to private legal relations and hearing of and passing judgements for cases of extraordinary legal proceedings as well as their enforcement, petitions regarding validation and enforcement of foreign court judgements and arbitration resolutions and verdicts in the Republic of Lithuania. Cases on labour, family, intellectual property, bankruptcy and restructuring as well as cases of extraordinary proceedings shall be heard following the regulations of this Code with the exceptions set forth by other laws of the Republic of Lithuania.

2. If there are any conflicts between this Code and other laws of the Republic of Lithuania, a court shall follow the provisions of this Code, except for the cases when this Code gives precedence to provisions of other laws.

3. If international treaties of the Republic of Lithuania include other provisions than those provided for by this Code and other laws of the Republic of Lithuania, then provisions of international treaties shall be applied.

**Article 2. Purposes of civil procedure**

The purposes of civil procedure are to defend the interests of those persons, whose material subject rights or interests protected by laws are violated or contestable, to properly apply laws upon court hearing of civil cases, passing and enforcing judgements, as well as to restore juridical peace between or among the parties of a dispute, to clarify and develop law.

**Article 3. Hearings under the effective law**

1. A court shall hear civil matters in accordance with the Constitution of the Republic of Lithuania (further – “the Constitution”), international treaties of the Republic of Lithuania, laws of the Republic of Lithuania, other legal acts. A court, upon interpreting and applying laws and other legal acts, shall follow the principles of good faith, reasonableness and justice.

2. In cases contemplated by international treaties of the Republic of Lithuania or laws, a court shall apply, interpret and set forth the contents of foreign laws on its own initiative (*ex officio*).

3. If grounds exist to deem the law or any other legal act or a part thereof, which should be applied in a specific case, to be in conflict with the Constitution or laws, a court shall suspend the hearing of a case and, considering the competence of the Constitutional Court of the Republic of

Lithuania (further – “the Constitutional Court”) shall apply to the Constitutional Court asking to resolve whether the said law or legal act agrees with the Constitution or laws. The court shall resume hearing of the matter after it has received a resolution by the Constitutional Court.

4. After determining that a legal normative act or a part thereof, which agreement with the Constitution or laws supervision is not within the competence of the Constitutional Court, is outside the law or Government statutory act, the court shall not follow the said legal act for passing a judgement. A general competency court has a right to terminate hearing of a matter and apply to the administrative court by its rule asking to verify whether a respective statutory act or a part thereof agrees with the law or Government statutory act. The court shall resume hearing of the matter after it has received effective judgement of the administrative court. Statutory administrative act (or a part thereof) shall be deemed cancelled and cannot usually be applied from the date when the effective judgement by the administrative court was officially announced regarding nullification of a respective statutory act (or a part thereof).

5. In absence of a law governing material or procedural relationship of a dispute, a court shall apply the law, which governs similar relationships (analogy of statute), and in absence of the said statute, the court shall follow general principles of law (analogy of law). Special norms, i.e. those establishing exceptions to general rules, shall not be applied by analogy.

6. When a law or agreement between or among the parties of the dispute provides for certain issues resolvable by a court at its own discretion, in doing so the court should follow the principles of good faith, reasonableness and justice.

7. Procedure of civil matters is held according to laws of hearing the matter, performance of separate procedural actions or civil procedure effective at the time of enforcing a court judgement.

#### **Article 4. Formation of consistent court practice**

In application of law, courts shall consider law application interpretations set forth in rulings announced in cassation in accordance with the Law on Courts.

## **CHAPTER II PRINCIPLES OF CIVIL PROCEDURE**

#### **Article 5. Right of relief**

1. Each and every person concerned shall have the right to appeal to court following the laws to defend their violated or contested right or interest protected by laws.

2. Waiver to appeal to court is not valid.

3. A court undertakes to hear a civil matter basing on an application of a person (or his representative), which applied for defence of his right or interest protected by laws . In cases provided for by laws, an application to a court for defence of a public interest on the State's behalf may be submitted by a prosecutor or by another institution authorised to do so by laws.

4. Claims shall be brought in cases of claimable proceedings, and applications and petitions - in cases of extraordinary legal proceedings and other cases.

#### **Article 6. Justice shall only be administered by courts following the principle of person's equality before the law and courts**

Justice in civil cases shall be administered by courts only following the principle of persons' equality before the law and courts, irrespective of persons' gender, race, nationality, language, ethnicity, background, social status, religion, beliefs or outlook, type and way of activities and other circumstances.

### **Article 7. Process concentration and economy**

1. A court takes efforts provided for hereof to prevent legal proceedings from delays and aspires the case to be heard during one court session, unless it prevents from proper hearing of a case, also so as effective court judgement is enforced in a reasonable time and as economically as possible.

2. Participants in a proceeding shall honestly use and not misapply their procedural rights, heed to prompt hearing, submit proofs and arguments to court to base their requirements and replications carefully and timely, considering the progress of procedure.

### **Article 8. Principle of cooperation**

A court takes actions to properly hear the matter by cooperating with participants in a proceeding in the procedure defined by the Code herein.

### **Article 9. Publicity of court hearing**

1. The hearings of matters are public in all courts. A court may pass a motivated ruling to hear a case *in camera*: to protect private or family life of a person, also when a publicly heard matter may disclose a state, professional or commercial secret.

2. At a court session held *in camera* the participants of the proceeding, and, if necessary, also witnesses, interpreters and translators and experts may be present.

3. Court hearing *in camera* shall be in accordance with all procedural regulations. Substantive provisions of a court judgement shall be announced publicly except for cases on adoption.

4. Persons under sixteen years of age shall not be present at court sessions, unless they are participants or witnesses of the matter.

5. A court may use any technical devices or appliances to record court proceedings and evidences and examine the same. Participants in the proceeding may perform sound recording in a public court session to record the court session in order to execute their procedural functions. Participants in the proceeding shall inform the chairman of the session about the recording. Participants in the proceeding, who failed to inform the court about the performed sound recording, shall be prosecuted under the laws of the Republic of Lithuania. Other persons are prohibited from film, take photographs, make sound or video recordings or use other technical devices and appliances during the court session. Persons, violating this prohibition during the court session, shall be prosecuted under the laws.

### **Article 10. Publicity of case matter**

1. All case matter of matter of enforcement proceedings, except for case matters heard during a session *in camera*, shall be public and available for persons absent in the proceeding. Such persons have the right to make copies and extracts of the case matter. The said persons are qualified for the right after coming into force of the judgement or final ruling on court proceedings, and if the case can be heard in cassation – after it has been heard in cassation or after the expiry of the term for appeal in cassation. The right to access the matter of enforcement proceedings is warranted when the judgement is enforced.

2. Upon passing a judgement or final ruling on court proceedings in a public court session, the court shall have the right, at the request of participants in a proceeding or on its own initiative, to define by a motivated ruling that case matter or a part thereof is not public, when it is necessary to protect a private, family life or property, keep information about a person's health confidential, also when there are grounds to deem that a state, office, professional, commercial or other secret protected by laws may be disclosed. A separate appeal against court ruling, which denied the request, may be submitted.

3. A person, wishing to access heard case matter, shall submit an application of the set form to the chairman of the respective court and indicate his/her name, surname, place of residence and identification number as well as the purpose of accessing the heard matter. The procedure of accessing heard matters is set forth by the Ministry of Justice after coordinating the issue with the Lithuanian Archive Department at the Government of the Republic of Lithuania.

4. Case matter constituting a state or office secret shall be made available for persons afforded such a right in compliance with laws.

#### **Article 11. Language of proceedings**

1. Court proceedings in the Republic of Lithuania shall be conducted in the official language.

2. Persons, who do not speak the official language, are guaranteed the right to enjoy translation/interpretation services.

3. Cost of interpretation/translation services during a court session shall be covered from the state budget.

#### **Article 12. Principle of competition**

In all courts, civil cases are heard based on the principle of competition. Each and every party shall prove such circumstances, which were used to base their claims and replications, except for the cases, when circumstances used do not have to be proved.

#### **Article 13. Principle of disposition**

Parties and other participants in a proceeding shall have the right to have full disposition of their procedural rights in accordance with the provisions of this Code. ,.

#### **Article 14. Principle of immediacy**

1. A court shall directly investigate all evidence in a proceeding, except for cases provided for in this Code.

2. A court may base its judgement on such proofs only, which were examined during a court session.

3. A court, upon passing a judgement, shall not have the right to decide issues on rights and liabilities of persons, not participating in the proceeding.

4. Participants in the proceeding may lean on or refer in their final speeches to those circumstances that were examined during hearing on the merits.

#### **Article 15. Principle of verballity**

Parties and other participants in a proceeding give their explanations and evidence, also submit their applications, requests verbally, except for cases provided for under this Code.

#### **Article 16. Continuity of case hearing and invariability of panel of judges**

1. During a civil hearing, a court shall not hear any other cases whatsoever, except for instances provided for herein.

2. Case hearing shall be postponed if during the hearing panel of judges shifts. After that, the case shall be heard from the very beginning, except when participants in a proceeding do not contradict that the hearing would be proceeded with from that procedural action, after which it had been postponed.

3. Alternate judge may be appointed if a civil hearing is time consuming. Alternate judge shall be present in a court session from the beginning of hearing and shall replace any judge leaving the panel of judges. After the alternate judge takes the place of the judge that left, case hearings are continued.

**Article 17. Procedural equality of the parties**

Procedural rights of the parties are equal.

**Article 18. Obligation of court judgement, ruling, order and decree**

Effective court judgements, rulings, orders or decrees are of obligation to government or municipal authorities, officers or officials, natural and legal entities and shall be enforced throughout the entire territory of the Republic of Lithuania.

**Article 19. Confidentiality of passing a judgement**

1. Only the judge (judges), who participated in a specific hearing may be present in a decision-making room where a judgement, ruling, order or decree is being passed.

2. Judges in a decision-making room are interdicted from consulting with other persons regarding issues related to case resolution while the judgement, ruling, order or decree is being passed.

**Article 20. Legal aid guaranteed by the state**

Natural entities shall have the right to receive legal aid in accordance with laws and other legal acts, which is remunerated by the state.

**Article 21. Independence and impartiality of judges and courts**

Judges and courts shall be independent and impartial while administering justice.

**CHAPTER III  
CASES TO BE HEARD IN COURTS**

**Article 22. Allocation of civil cases to courts**

1. Disputes in connection with or arising out of civil, family, labour, intellectual property, bankruptcy, restructuring and other private relationships are allocated to court hearings in the procedure set forth by this Code. In cases provided for by laws preliminary dispute resolving out of court may be established.

2. Courts also hear cases in accordance with extraordinary legal proceedings and applications regarding acceptance and enforcement of judgements by foreign courts and arbitration courts in the Republic of Lithuania..

**Article 23. Dispute transfer to be resolved by arbitration**

Parties, upon their agreement, may transfer any dispute regarding a right to be resolved by the arbitration, except for disputes that, pursuant to laws, cannot be resolved by arbitration.

**Article 24. Priority of case allocation to court**

1. If several interrelated claims are joined in a single case, and at least one of them is allocated to a court, then all claims shall be heard in a court.

2. In the eventuality when doubts arise or in a collision of effective laws regarding a specific dispute allocation to a court or other institution, the dispute shall be heard in a court.

## **CHAPTER IV JURISDICTION**

### **Article 25. Jurisdiction of civil cases**

Civil cases are heard by district and county courts as the first instance courts in accordance with the procedure stipulated by this Code.

### **Article 26. Specific jurisdiction of civil cases**

1. All civil cases shall be heard by district courts as the first instance courts, except for cases indicated in Articles 27, 28 below.

2. If one of the submitted claims of a case is related to administrative legal act of individual nature, which legitimacy is disputed in the said case, then a court of general competence shall also resolve the issue of legality of the same during the hearing of the case.

### **Article 27. Civil cases within jurisdiction of county courts**

County courts, as the first instance courts, shall hear the following civil cases:

- 1) where the amount of a claim exceeds one hundred thousand litas, except for family legal relationship cases regarding distribution of property;
- 2) regarding copyright non-property legal relationships;
- 3) regarding civil public tender legal relationships;
- 4) regarding bankruptcy and restructuring;
- 5) according to interim bank administrator application on reducing the authorised capital of the bank;
- 6) where one of the parties is a foreign country or state;
- 7) according to claims regarding compulsory selling of shares (dividends, interest);
- 8) according to the claims regarding investigation of a legal entity's activities;
- 9) other civil cases, which are heard by county courts as the first instance courts following the laws.

### **Article 28. Civil cases within the sole jurisdiction of Vilnius county court**

Only Vilnius county court, as the first instance court, shall hear the following civil cases:

- 1) regarding disputes provided for under the Law on Licensing of the Republic of Lithuania;
- 2) regarding disputes provided for under the Law on Trademarks of the Republic of Lithuania;
- 3) regarding adoption according to applications of foreign citizens to adopt a citizen of the Republic of Lithuania residing in the Republic of Lithuania or a foreign country;
- 4) other civil cases, which are heard solely by Vilnius county court as the first instance court following the effective laws.

### **Article 29. Claim filing according to the defendant's place of residence**

Claim is brought to a court according to the defendant's place of residence. A claim against a legal entity is brought according to the domicile of a legal entity, indicated in the register of legal entities. In cases when the defendant is a state or a municipality, the claim is brought according to the domicile of an institution representing the state or a municipality.

### **Article 30. Jurisdiction at the plaintiff's choice**

1. A claim against a defendant, whose place of residence is unknown, may be brought according to location of its property or his last known place of residence.

2. A claim against a defendant, who does not possess a place of residence in the Republic of Lithuania, may be brought according to location of his property or last known place of residence in the Republic of Lithuania.

3. A claim related to the activities of a branch of a legal entity may also be brought according to the location of the branch.

4. A claim for alimony award and affiliation may also be brought according to the plaintiff's place of residence.

5. A claim for damages suffered because of damaging natural person's health, taking away life, may be brought according to the plaintiff's place of residence or place where the damage was suffered.

6. A claim for damage done to persons' property may be brought according to the plaintiff's place of residence (domicile) or the place where the damage was done.

7. A claim for damage suffered because of imposing unlawful conviction, unlawful application of custody measures, unlawful detention, unlawful application of procedural means of constraint, unlawful administrative punishment – arrest, as well as because of damage suffered due to unlawful actions of a judge or a court upon hearing a civil case, may be brought according to the plaintiff's place of residence.

8. A claim for damages suffered after the collision of ships and for recompense for aid and rescue provided at sea as well as in all other cases when a dispute arises because of relations of shipping by sea, may be also brought according to the defendant's ship's location or ship registration port.

9. A claim on agreements and contracts that have venue of enforcement specified may be also brought according to the venue of agreement or contract enforcement.

10. A claim related to acting as a guardian or property administrator, may be brought also according to the residence place of a guardian, custodian or residence place or domicile of property administrator.

11. A claim on consumption agreements also may be brought according to the user's place of residence.

12. The right to choose one of several courts, which have the case under their jurisdiction, shall be vested upon the plaintiff.

### **Article 31. Extraordinary jurisdiction**

1. Claims for tangible rights to real property, regarding use of real property, except for applications regarding distribution of spouses' property in the cases of dissolving marriages, regarding recognising seizure on real property to be void shall be under the jurisdiction of a court in the same location as the real property or the main part thereof.

2. Debtor creditors' claims submitted before inheritors have accepted a heritage shall be under the jurisdiction of a court in the same location as the heritage or the main part thereof.

3. Extraordinary jurisdiction may be amended in the procedure cases set forth in Article 35 of this Code.

### **Article 32. Contractual jurisdiction**

1. Parties may change the territorial jurisdiction of a case after a written agreement between or among them.

2. Extraordinary and specific jurisdiction may not be changed by agreement between or among the parties.

**Article 33. Jurisdiction of several interrelated cases**

1. A claim against several defendants residing or located in different places shall be brought according to the place of residence or domicile of one of the defendants at the discretion of the plaintiff.

2. A counterclaim, irrespective of its jurisdiction, shall be submitted to the court where the initial claim had been heard. If submission of a counterclaim changes the specific jurisdiction of a case, the court, which is hearing the initial claim, shall transfer the entire case matter to be heard according to specific jurisdiction.

3. If one of the plaintiff's claims must be brought according to the regulations of extraordinary jurisdiction, then the claim shall be filed following the rules of extraordinary jurisdiction.

4. If one of the plaintiff's claims is under the jurisdiction of a county court, all claims shall be heard in a county court.

5. Unless being filed or resolved in a criminal hearing, a civil claim from the criminal case shall be brought for hearing in accordance with the civil procedure in compliance with the regulations of jurisdiction set forth in this Code.

**Article 34. Transfer of a case accepted by court to another court**

1. A court, keeping to the regulations of jurisdiction, should hear a case on the merits, even if it later turns to the jurisdiction of another court, except for instances provided for in Article 35 of this Code and after specific jurisdiction has changed.

2. A court transfers a case for hearing in another court after passing a ruling:

1) if it acknowledges that this specific case will be heard in another court more promptly and economically and specifically – according to location of most evidence, except for cases of extraordinary jurisdiction;

2) if the defendant, whose place of residence was not previously known, asks to transfer his case to a court of his place of residence;

3) if, after removing one or several judges or after judges opt out, they may not be replaced by other judges in that court;

4) if, upon starting legal proceedings in that court it appears that the case was admitted by violating the rules of jurisdiction;

5) upon terminating the case because the defendant is facing a bankruptcy or restructuring case. In such a case, it shall be transferred to the court hearing a bankruptcy or restructuring case.

3. A separate appeal may be filed against a court ruling to transfer a case to another court, except for cases specified in paragraphs 2, 3 and 5 of Article 2 of this Code. The case shall be transferred from one court to another after coming into force of the relevant court ruling.

**CHAPTER V  
PARTICIPANTS IN PROCEEDINGS**

**Article 37. Participants in a proceeding**

1. Participants in a proceeding shall be deemed those procedure participants, which have legal interest in the final outcome of the case.

2. Participants in a proceeding shall be deemed parties, third persons, persons, who brought a claim in the procedure set forth in Article 49 hereof, petitioners, concerned persons in cases indicated under Article 442 of this Code, creditors and debtors contemplated in Article 431 hereof as well as their representatives.

### **Article 38. Capacity to take civil proceedings**

1. Ability to implement one's rights in a court and authorise a representative to lead a case (capacity to take civil proceedings) is vested upon legal and natural persons of lawful age – eighteen years, minors, who have concluded marriage in accordance with laws, also minors declared fully capable (emancipated) in statutory procedure.

2. According to the law, legal representatives of minors from fourteen to eighteen years of age as well as natural persons, which civil capacity is restricted, shall respectively be their parents, foster-parents or guardians. In such cases, the court shall involve underage or natural persons, which civil capability is restricted, to participate in a hearing with their respective party or other participants in a proceeding.

3. Underage persons from fourteen years of age shall have the right to independently appeal to a court regarding defence of their rights or interests protected by laws, if a dispute arises out of or in connection with relationships where they have full civil capacity.

4. Rights and interests protected by laws of underage persons under fourteen years of age and disqualified natural persons shall be defended in a court by their representatives in accordance with law – respectively by their parents, foster-parents, guardians.

### **Article 39. Appointment of tutor**

1. For a party, which does not have capacity to take civil proceedings or a legal representative or a representing body, or whose place of residence or work is unknown, at the request of an opposite party, which pursues prompt procedural actions, the court may appoint a tutor to act as a legal representative in each separate case. Only a natural person may be appointed to act as a tutor and only with the latter's personal consent. A court ruling to appoint a tutor may be passed in accordance with the written procedure. Tutor's commission expires after circumstances, which served as the basis for appointing a tutor, disappear or upon appointment of a legal representative. The tutor shall have the procedural rights and liabilities of the represented party.

2. A court shall publicly announce in a court (a ruling on tutor's appointment shall be put on a notice board of the court) about appointment of a tutor, except for cases when a tutor is appointed to a party having no capacity to take civil proceedings and a legal representative, and shall also announce about the same at the concerned party's charge in one of the main daily newspaper of the Republic of Lithuania no later than fourteen days in advance of a court session.

3. A tutor shall have the right to receive remuneration for representation in accordance with tariffs and procedure set forth by the Government or its authorised institution. Representation costs shall be borne by the party, on which initiative a tutor is appointed. The party requesting to appoint a tutor shall pay tutor's representation costs in advance.

4. A person may not be appointed a tutor if he has legal interest in the final outcome of the case and such interest is contrary to the interests of the represented party.

### **Article 40. Elimination of defects**

1. A court shall establish a time-limit to eliminate defects of a procedural nature related to capacity to take civil proceedings by a party, if the said defects may be eliminated. A court applies to a relevant authority for appointment of a legal representative when legal representation is mandatory, but there is no such legal representative, and then appoints a tutor in the case contemplated in paragraph 1 of Article 39 of this Code.

2. A court shall have the right to allow a person without capacity to take civil proceedings (also a person with limited capacity to take civil proceedings) or a person without a representing body to perform certain procedural actions when within the set time-limit defects are eliminated, and the procedural actions performed are confirmed by the person authorised to take proceedings.

3. If it is impossible to eliminate defects specified in the Article above or if the same are not eliminated within the time-limit set forth by the court, then procedural actions, for the sake of performance whereof it was mandatory to eliminate the defects specified by the court, shall be acknowledged by the court as not performed. The said court ruling shall be passed in accordance with the written procedure.

#### **Article 41. Parties**

1. Natural and legal entities may be parties to a civil procedure: plaintiff or defendant.
2. In the eventuality when a claim is brought to protect a public interest, plaintiff will be deemed the claiming institution. The court informs about the initiated proceedings those persons, which rights are related to the claim.

#### **Article 42. Rights and liabilities of parties**

1. Parties shall have the right of access to case matter, to make copies and extracts, challenge, submit evidence, participate in examination of evidence, pose questions to other persons, witnesses and experts participating in a proceeding, submit applications and petitions, give explanations to court in writing and verbally, present their own arguments and reasoning on each issue arising during the hearing of a case, contradict requests, arguments and reasoning of other persons participating in a court hearing, receive copies of court judgement, rulings or decrees, which resolve the case, appeal against court judgements, rulings or decrees and apply other procedural rights provided for parties by this Code. The plaintiff shall also have the right to change the grounds or subject of the claim, increase or diminish claim requirements in the procedure set forth by this Code or waive the claim. The defendant shall have the right to accept the claim. The parties shall have the right to end the case with a peace treaty.
2. A court shall not accept plaintiff's waive of the claim, defendant's acceptance of the claim and shall not approve the peace treaty between the parties if the said actions violate imperative norms of laws or public interest.
3. Parties may insist on court judgement to be enforced under coercion.
4. Plaintiffs and parties concerned shall have rights and liabilities of parties pertinent to cases of extraordinary legal proceedings, except for cases provided for in the Code.
5. Parties shall honestly apply and use their procedural rights. Parties shall also have other liabilities provided for in this Code.

#### **Article 43. Procedural joinder**

1. Claim may be brought by several co-plaintiffs together or against several defendants if the subject of a claim is:
  - 1) rights or liabilities assumed by them together in accordance with laws (compulsory joinder);
  - 2) requests or liabilities of the same nature, based on the same matter on actual and legal issues, when each separate demand could be a subject of an independent claim (optional joinder).
2. A court, at the plaintiff's request, may ask other persons, who do not participate in the proceeding, to take part in the hearing as defendants if during the hearing it appears that claim demand may be addressed to them.

#### **Article 44. Relationships within joinder**

1. Each and every participator acts on his/her own behalf.
2. Participators may agree to have the case conducted by one of the participators.
3. If the nature of a contested relationship or laws determine that court resolutions shall be indivisibly related with rights and liabilities of all participators (compulsory joinder), then the outcome of all procedural actions performed by participators that participated in a hearing shall also

be applied for those participators that failed to appear in the hearing without a sound reason. Agreement of all participators (co-plaintiffs or co-defendants) is mandatory to conclude a peace treaty, waive a claim or accept the same, except for cases when the said actions are performed within the scope of requirements or liabilities.

4. Each and every participator shall have the right to independently conduct a case. All participators, for whom the case is not closed, shall be summoned to a court session.

#### **Article 45. Replacement of ineligible party with eligible**

1. A court, having established during a case hearing, that a claim is brought by another person than that possessing the right of claim, or against another person than that having to rejoin according to the claim, may at the motivated request of a party, replace the initial plaintiff or defendant with eligible plaintiff or defendant in an uninterrupted procedure.

2. If a plaintiff disagrees to be replaced with another person, then the latter may join the case as a third person and submit independent claims on the matter of a dispute. The court shall inform the said person about it.

3. If a plaintiff disagrees the defendant to be replaced with another person, the court shall have to hear the case on the merits.

4. After a court decision to replace an ineligible party with an eligible one or after a third person joins the case, the hearing of the case is postponed. After replacing ineligible party with eligible party or after another persons participating in a case join the procedure, the hearing shall be reassumed, except for cases when a newly-joined case participant requests the hearing of a case to be continued.

#### **Article 46. Third persons submitting independent claims**

1. Third persons, who submit independent claims on the subject matter of a dispute, may join the case before the beginning of final speeches.

2. Third persons, who submit independent claims, shall have all rights and liabilities of a plaintiff.

3. A court ruling to deny accepting a person as a third person, who submits independent claims, shall not be appealed against by a separate claim.

#### **Article 47. Third person without independent claim**

1. A third person that does not file an independent claim with regard to the subject of a dispute may join the proceeding in support of a plaintiff or a defendant before the beginning of final speeches, if the resolution of the case may have influence on their rights or liabilities. They also may be accepted as participants in the proceeding at the motivated request of the parties or on the court initiative.

2. A third person that does not file an independent claim shall have procedural rights and liabilities of a party, except for the right to change grounds and subject matter of the claim, increase or reduce the requirements of the claim, waive the claim, accept the claim or conclude a peace treaty. They neither have the right to request for a court judgement to be enforced under coercion.

3. The application to join the proceeding as a third person without an independent claim shall specify the grounds of joining the proceeding as well as the party in support of which the person pursues to join the proceeding.

4. A third person that does not file an independent claim shall not have the right to act against the interests of a party, in support of which the said person participates.

#### **Article 48. Procedural succession of rights**

1. In the eventuality when one of the parties of contested or established by decision legal relationship withdraws from the case (death of a natural person, wind-up or restructuring of a legal person, transfer of a request, debt transfer and in other instances provided for by laws), the court, if grounds exist, replaces the said party with its successor, except for cases when succession of tangible subject rights is impossible. Succession of rights is achievable at any stage of the proceeding.

2. All actions executed during the proceeding before the successor's entry are obligatory to the said successor to the extent to which they had been obligatory to the person in whose place the successor enters.

3. Procedural successor of rights shall motivate his participation in the proceeding.

#### **Article 49. Right of a prosecutor, state and municipal authorities as well as other persons to submit claim to protect a public interest and right of the said entities to deliver rider in a case**

1. In cases provided for by laws a prosecutor, state and municipal authority and other persons may submit a claim to protect a public interest.

2. State and municipal authorities in cases provided for by laws may be accepted by a court as participants in a proceeding or join the procedure on their own initiative to deliver a rider in a case in order to fulfil liabilities entrusted to them if the said is related to protecting a public interest.

3. If a claim submitted to protect a public interest is related to rights of natural or legal entities, the said entities at their own request or a person, who submitted the claim in accordance with the Article hereof or on the initiative of a court shall be accepted as third persons in a proceeding, who do not submit independent requests, or as co-plaintiffs.

4. Participation of authorities specified in paragraph 2 of the Article hereof in a legal procedure is obligatory if a court decides it to be necessary.

5. Group claim may be submitted to protect a public interest.

#### **Article 50. Procedural rights and liabilities of a prosecutor, state and municipal authorities and other persons**

1. Prosecutor, state and municipal authorities and other persons that submitted a claim to protect a public interest shall have all procedural rights and obligations of a plaintiff unless otherwise provided for by laws.

2. State and municipal authorities participating in legal proceedings to deliver a rider shall have the right to access the case matter, deliver explanations and interpretations, submit evidence, participate in investigation and examination of evidence, present applications and petitions.

#### **Article 51. Representation in court**

1. Persons can proceed with their cases in a court themselves or through their representatives. Participation in person in a hearing shall not deprive the said person of the right to have a representative in that matter.

2. Appearing of a representative before a court shall be deemed proper participation of a represented person in a court session, except for cases when a court acknowledges that participation of a represented person in legal proceedings is obligatory.

3. A person shall have an attorney in a case on the instances provided for under this Code and the Civil Code.

4. The state shall be represented in a court by the Government, in cases provided for under laws – by institutions authorised by the Government or another institutions. Representatives in commission may also represent the Government in a court.

**Article 52. Formalising rights and liabilities of natural persons' legal representatives**

1. Legal representatives of natural persons shall submit documents to a court verifying their rights and liabilities.

2. A natural person, who is to participate in a proceeding and his whereabouts are duly acknowledged unknown shall be represented by his property administrator (interim administrator), appointed to administer and keep the property of a natural person, whose whereabouts are unknown. The administrator shall submit a relevant documentary proof of the same.

**Article 53. Legal representative of an heir that did not yet accept the heritage**

Executor or heritage administrator appointed to keep and administer the property of heritage shall represent a late natural person's or declared passed away person's successor, who has to participate in a case, if the heritage had not been accepted by any other person. The former shall submit a document to a court about his appointment as an executor or a heritage administrator.

**Article 54. Rights of legal representatives**

1. Legal representative on the represented person's behalf shall execute all and any actions where the right to perform is vested upon the represented persons except for cases provided for by laws.

2. Legal representatives may choose and appoint another representative to proceed with the matter in court.

**Article 55. Representation of legal entities in court**

1. Cases of legal entities shall be proceeded with in a court by their bodies or participants acting in accordance with law and incorporation documents, rights and liabilities assigned to them. In such cases, it shall be deemed that the case is proceeded with by the legal entity itself.

2. Representatives of legal entities in court may be employees of respective legal entities (in the instance of appeal courts – persons with university degrees in law) or attorneys or their assistants holding a written consent of attorneys supervising the assistants' internship to represent in a specific case.

3. Other persons may represent a legal entity together with persons specified in paragraphs 1 and 2 of the Article hereof – experts of non-law professionals (auditors, accountants, taxation consultants, patent attorneys, etc.).

**Article 56. Persons eligible to act as per pro representatives in court**

1. Per pro representatives in court may be:

- 1) attorneys;
- 2) assistants of attorneys holding a written consent of attorneys supervising the assistants' internship to represent in a specific case;
- 3) one plaintiff after the authorisation of other plaintiffs;
- 4) persons with university degree in law if they represent their close relatives or a spouse (partner);
- 5) trade unions, if they represent members of trade unions in cases on legal relationships of labour.

2. Other persons may also act as per pro representatives alongside with persons indicated in paragraphs 1.1 and 1.2 of the Article hereof.

3. A court may rule to deny per pro representation only when a legal representative may not be a representative of the principal.

**Article 57. Formalising rights and liabilities of a per pro representative**

1. Rights of a per pro representative may be expressed in a letter of attorney issued and formalised in the statutory procedure.

2. Letters of attorney concluded by natural persons shall be notarised, except in cases provided for under the Civil Code, when verification of a letter of attorney is equated to the notarisation of the same. In the case specified in Article 55 of this Code, a body of a respective legal entity may verify letters of attorney in the procedure stipulated in the Civil Code.

3. Rights and liabilities of an attorney or an attorney's assistant and the scope of the same shall be confirmed by a written agreement with the client.

4. Representative's rights specified in paragraphs 1.3 and 1.4 of Article 56 hereof may be expressed by verbal statement of an authorised person, which has to be recorded in the minutes of a court session if such are taken. If minutes of a court session are not taken, the authorisation shall be confirmed in the procedure defined in paragraph 2 of this Article.

#### **Article 58. Authorisation to proceed with case matter**

Authorisation may be given for proceeding with a specific case of a principal, several or all of his cases or to perform certain procedural actions.

#### **Article 59. Rights of per pro representative**

1. Authorisation to represent in a court grants the right to a representative to perform all procedural actions on behalf of a principal with exceptions contemplated by the authorisation.

2. Authorisation to a representative to file a claim or counterclaim, waive the filed claim or accept the same, conclude a peace treaty, re-authorise, obtain a receiving order or submit it for execution, receive assets and submit an application to renew the proceedings shall be separately indicated in an authorisation.

#### **Article 60. Persons ineligible to act as representatives in court**

The following persons shall not act as representatives in court:

- 1) judges, except when they are legal representatives;
- 2) prosecutors, except when they are legal representatives or participate in a proceeding as authorised persons by the prosecutors' office;
- 3) persons, who are under guardianship or wardship;
- 4) persons restricted to do so by laws.

#### **Article 61. Other participants in proceedings**

1. Other participants in proceedings (witnesses, translators, interpreters and experts) are persons not legally interested in the final outcome of the case participating in the proceedings in the statutory procedure.

2. Other participants in proceedings shall have procedural rights and liabilities provided for by this Code.

## **CHAPTER VI JUDICIAL BENCH. REMOVALS**

#### **Article 62. Judicial bench**

1. One judge shall hear civil cases in district courts. Upon hearing civil cases, the judge acts on behalf of the district court. Chairman of the district court, considering the complexity of a case, shall have the right to form a juridical board of three judges to hear the case.

2. One judge shall hear cases in county courts, where cases are heard in the first instance. Chairman of the county court or chairman of the department of civil cases thereof, considering the complexity of a case, shall have the right to form a juridical board of three judges to hear the case in the first instance. A juridical board of three judges shall hear cases in county courts, when they are

heard in appeal, except for cases provided for by this Code, when certain procedural actions shall be performed by one judge.

3. A juridical board of three judges shall hear civil cases in the Lithuanian Court of Appeals.

4. Civil cases in the Supreme Court of Lithuania shall be heard by a juridical board of three or an enlarged board of seven judges or by a plenary session of the Department of Civil cases of the Court.

5. A juridical board shall be formed and its chairman shall be appointed by the chairman of a relevant court or the department of civil cases thereof.

6. A plenary session of the Department of Civil Cases of the Supreme Court of Lithuania shall be presided by the Chairman of the Supreme Court of Lithuania, and in his absence in the plenary session – by the Chairman of the Department of Civil Cases thereof. Plenary session of the Department of the Civil Cases of the Supreme Court of Lithuania shall be deemed valid if no less than two thirds of the department judges are present. A judgement is passed by a majority vote of judges present in the plenary session. If votes cast equally, the vote of the chairman is decisive.

7. Cases are distributed in courts according to the set forth procedure of case distribution.

### **Article 63. Court procedure of resolving issues**

1. Judges shall resolve any issue that arises during a hearing by a majority vote. None of the judges shall have the right to refuse to cast the vote on any issue. The chairman of the session speaks and votes the last. A judge with the shortest work experience of a judge speaks and votes the first.

2. A judge, who is against the opinion of majority, may present a separate opinion in writing.

### **Article 64. Removal of judges and other participants of proceedings**

A judge, a secretary of a court session, an expert, a translator and an interpreter shall not have the right to participate in a hearing and be removed, if they are personally directly or indirectly interested in the final outcome of the case or other circumstances exist that raise doubts as to their impartiality.

### **Article 65. Bases for judge removal**

1. A judge shall opt out from a hearing or a judge may be removed:

1) from proceedings where he is a participant or related to a participant by such legal relations, due to which the outcome of the case may have influence on the judge's rights or liabilities;

2) if he is related to parties or other participants in the proceeding by kindred (relatives of a direct higher or a direct lower relation, blood or sworn brothers and sisters, stepparents and stepchildren) or in-law relationships;

3) if a judge is related to one of the parties or other participants in the proceeding by marriage, wardship or guardianship relations;

4) from a case where a judge is or was a representative of one of the parties or other participants in the proceeding;

5) if a judge personally, his spouse (partner) or close relatives are directly or indirectly concerned with the final outcome of the case;

6) if a judge participated in passing a judgement in the case in a court of lower or superior instance or participated in the same as a witness, expert, prosecutor, a representative of a government or municipal authority.

2. Bases for judge removal related to marriage, wardship or guardianship hold good also in such cases when marriage, wardship or guardianship is over.

#### **Article 66. Other bases for judge removal**

Apart from bases for removal provided for by Article 65 hereof, a judge shall opt out from a hearing or he can be removed when there are circumstances raising doubts as to impartiality of the judge impartiality.

#### **Article 67. Bases for removal of expert, interpreter, translator, court clerk**

1. Bases specified in paragraph 1, §§ 1-5, of Article 65 of this Code shall also apply for an expert, a translator, an interpreter and a clerk.

2. In addition, experts shall not take part in a hearing:

1) expert is due to service or otherwise related to at least one of the parties or other participants in the proceeding;

2) expert performed a check-up, an audit or any other inspection, the matter whereof was the base to start civil proceedings.

3. If an expert, a translator, an interpreter or a clerk previously participated in hearings as an expert, a translator, an interpreter, a clerk, this shall not be deemed a basis for their removal.

#### **Article 68. Request for removal**

1. If circumstances specified in Articles 65, 66 and 67 of this Code are present, then a judge, an expert, a translator, an interpreter, a clerk shall request for their own removal. Other participants in the proceedings may initiate removal on the same grounds.

2. Removal shall be motivated and requested (verbally or in writing) before the beginning of hearing on the merits. Later removal request may only be submitted in cases when the submitter learns about the base for removal afterwards. Removal shall be requested in writing in a written procedure.

3. Until an issue of removal of a judge is not resolved, only immediate procedural actions shall be conducted in the case.

#### **Article 69. Resolving of requested removal**

1. Issue of removing a judge (judges) shall be resolved by the chairman of a respective court, deputy chairman of a respective court, chairman of the department of civil cases or a judge appointed by the same, immediately, but no later than within three days after request for removal was submitted. If the chairman of a court is requested to be removed, the judge of a respective court with a longest judge work record shall resolve the issue. In cases when number of judges in court is insufficient, a respective superior court shall resolve the issue of removal.

2. Issue of judge removal shall be resolved following written procedure, after hearing a judge under removal.

3. Issue of expert, interpreter, translator and clerk removal shall be resolved by the court that hears the case.

4. If the case is heard by a juridical board and removal is not applied to all members of the juridical board, then the issue of removal shall be resolved by a judge (judges), which are not under removal. If votes for and against removal cast equally, the judge shall be deemed removed.

#### **Article 70. Consequences of satisfaction of request for removal**

1. When a district court judge is removed or opts out at his discretion, the case shall be heard by another judge of the same court. If replacing the removed judge is impossible, the case shall be sent to the county court so it can be submitted for hearing by another district court.

2. When a judge of a county court, the Lithuanian Court of Appeals or the Supreme Court of Lithuania is removed or opts out at his discretion, the removed judge shall be replaced with another

judge. When the entire judicial board is removed or opts out at its discretion, the case shall be heard by other judges of the same respective court.

**Article 71. Prohibition against repeated participation of a judge in case hearing**

1. A judge, who participated in a civil hearing in a court of the first instance, shall not participate in hearing of the case in a court of appeal instance or in a court of cassation, or during hearing of the case in the first instance court, if a judgement that was passed in the judge's presence is nullified.

2. A judge, who participated in a civil hearing in a court of appeal instance, shall not participate in hearing of the case in court of cassation nor the first instance court, nor in a court of appeal instance, if a judgement or ruling on the merits of the case that was passed in the judge's presence in the court of appeal instance, is nullified.

3. A judge, who participated in a civil hearing in a court of cassation, shall not participate in hearing of the case in court of appeal instance or the first instance court.

4. Judge participation in hearing of an appeal or cassation claim shall not hinder the judge to repeatedly hear the same case in appeal or cassation, except for cases provided for in paragraph 2 of this Article.

**CHAPTER VII  
TERMS IN PROCEEDINGS**

**Article 72. Terms of civil hearings**

1. A court shall heed that a civil case is heard in a court as promptly as possible, case hearing is not delayed, shall pursue that a civil case is heard during a single court session.

2. Specific term of hearing may be established by law for certain categories of civil cases.

**Article 73. Calculation of procedural terms**

1. A procedural action shall be performed within a term specified by law. If law does not specify a term of a proceeding, it shall be specified by the court.

2. A term to perform procedural actions shall be defined in particular calendar dates or by specifying an event, which must occur, or a period of time. In the latter case, the action may be performed throughout the entire period of time.

3. A term calculated in years, months, weeks or days of legal proceedings begins to run on the next day from 00:00 following the calendar date or an event defining the beginning of the term unless otherwise provided for by law.

**Article 74. Expiry of procedural term**

1. A term specified in years shall expire on the respective last day of the year, month and day of the term at 24:00.

2. A term specified in months shall expire on the respective last day of the month of the term at 24:00.

3. If expiry of a term specified in months or years falls to a month that does not have a respective day, then the term expires on the last day of that month.

4. A term specified in weeks shall expire on a respective last day of the week of the term at 24:00.

5. If the last day of the term falls on a day off or legal holiday, the term shall expire on the following working day.

6. Procedural action with a set term of performance shall be carried out until 24:00 of the last day of the term. Yet, if the action must be carried out in a court, the end of the working day of the court is deemed to be the end of the term. .

7. If a claim, documents or money are submitted to the post office or telegraph office before 24:00 of the last day of the term, the term shall not be deemed overlooked.

**Article 75. Consequences of overlooking procedural term**

1. The right to perform procedural actions shall disappear after expiration of the term to perform them specified by law or established by court. Procedural documents, which are submitted after the said term, shall be returned to the submitters.

2. Overlooking the term specified to perform a certain procedural liability shall not release from the obligation to carry out the duty.

**Article 76. Suspension of term**

All unfinished procedural terms shall be discontinued when hearing of a case is terminated. Discontinuance of a term begins from the moment when circumstances arise, which gave grounds to terminate the case. Procedural terms shall be resumed after the day of renewing the case.

**Article 77. Extension of procedural term**

1. A court may extend unexpired procedural terms established by a court. A court, upon discussing issue of extending a term, may require a bail of up to one thousand litas and it shall have to be paid by a person, who requests to extend the procedural term. Unless the required bail is paid, the issue of extending the term shall not be discussed further.

2. The bail shall pass to the state, when a person, who asks to extend the term, fails to perform actions, for which procedural term was extended.

**Article 78. Restoration of procedural term**

1. Overlooked term may be extended for persons, who overlooked the term established by law or by court because of reasons, which are acknowledged important by court.

2. Request for extending an overlooked term shall be submitted to a court where a procedural action had to be carried out and shall be heard in a written procedure.

3. Procedural action (filing a claim, submitting documents or performing other actions) for performance of which the term was overlooked shall be carried out simultaneously with the submission of a request to restore the term.

4. A request to restore the term shall be motivated. Proofs to justify the necessity of restoring the overlooked term shall accompany the request.

5. Court ruling, which resolves the issue of restoring the procedural term, shall be motivated.

6. The separate claim may be filed regarding a court ruling that disallowed the request to restore the overlooked procedural term.

## **CHAPTER VIII LITIGATION EXPENSES**

### **Article 79. Litigation expenses**

Litigation expenses shall consist of the official fee and any expenses connected with hearing the case.

### **Article 80. Size of the official fee**

1. Each statement of claim (original or counter), application concerning a precontractual relationship, application by a third party, who filed an independent claim concerning the subject of a dispute, application in a pending case, and application in cases with non-contentious proceedings shall require the payment of an official fee of the following size:

1) in property disputes - on the amount of the statement of claim: on amounts of up to one hundred thousand litas, 3 per cent but no less than fifty litas; on amounts greater than one hundred thousand litas and less than three hundred thousand litas, three thousand litas plus 2 per cent of the amount of the statement of claim exceeding one hundred thousand litas; on amounts greater than three hundred thousand litas, seven thousand litas plus one per cent of the amount of the statement of claim exceeding three hundred thousand litas. The total size of the official fee in property disputes may not exceed thirty thousand litas;

2) in any other disputes - one hundred litas;

3) in cases concerning a court order - a fourth of the amount payable for the statement of claim but no less than ten litas;

4) in cases being heard by means of summary proceedings - half the amount payable for the statement of claim but no less than twenty litas;

5) in non-contentious proceedings cases - one hundred litas except in the cases provided in this Code.

2. For separate appeals, no official fee shall be paid.

3. For a petition for review of a default judgment, an official fee of fifty litas shall be payable.

4. For appeals of judgments and cassation appeals, an official fee of the same size as that to be paid in filing the statement of claim (application in cases with non-contentious proceedings) shall be paid. For appeal and cassation appeals in property disputes, the official fee sizes referred to in paragraph 1, subparagraph 1 of this article shall be calculated on the amount of the dispute.

5. For petitions for reopening the proceedings, an official fee of one hundred litas shall be payable.

### **Article 81. Fee for issuing court documents**

Participants in a proceeding shall pay ten litas for a repeat issuance of a copy of a court document and a one litas fee for the preparation of each page of the copy. Other parties shall also pay the size fee referred in this article for the first issuance of a copy of a court document issued by a court except for the cases prescribed in this Code. The fee prescribed in this article shall be paid into the court's special account.

### **Article 82. Indexation of the official fee, judgment enforcement expenses, and court fines**

1. The courts shall adjust the size of the official fee, judgment enforcement expenses, and court fines, except those calculated as a per cent, by taking into consideration the quarter's consumer price index if this is greater than 110.

2. The applicable index shall be calculated for the period from the month the law, in which the official fee and court fines were established, came into force until the beginning of each quarter.

3. The institution authorised by the Government shall publish the indexes to be applied by the courts in the "*Valstybės žinios*" ("*Official Gazette*") once each quarter.

4. The published index shall be applicable from the first day of the second month of the appropriate quarter.

**Article 83. Release from the payment of the official fee and other litigation expenses**

1. The following shall be released from the payment of the official fee in cases, which are heard by a court:

1) plaintiffs (employees) in cases concerning all claims arising from the legal relationships of employment;

2) plaintiffs in cases concerning the adjudgment of support;

3) plaintiffs in cases concerning compensation of damages connected with harm to a person's health or the loss of his life including cases concerning damages connected with an incidence of harm to a person's health, the loss of his life in an accident at work, or a professional illness;

4) plaintiffs in cases concerning compensation of property or non-property damages created by criminal activity;

5) a prosecutor, state and municipal institutions, and other parties when filing a statement of claim or application in order to defend public, state, and/or municipal interests in that part of a case, in which it is sought to defend a public, state, and/or municipal interest;

6) parties in cases concerning damages, which have arisen due to false conviction, false arrest through the use of custodial measures, wrongful detention, wrongful use of judicial coercion, or wrongful imposition of an administrative penalty and/or arrest as well as due to damages, which have arisen due to the wrongful actions of a judge or court in hearing a civil case;

7) parties in cases concerning property lost in connection with political repression;

8) an enterprise (institution), against which a bankruptcy or restructuring case has been filed or in which an extrajudicial bankruptcy procedure is being executed, and any other party to the proceeding when filing appeals of judgments and cassation appeals in these cases;

9) plaintiffs and parties filing property claims in bankruptcy or restructuring cases;

10) state and municipal institutions (establishments) when filing statements of claim concerning the collection of funds;

11) the Bank of Lithuania, the joint stock company Turto Bankas, and the State Property Fund;

12) spouses when filing petitions to dissolve a marriage by mutual consent (article 3.51 of the Civil Code) and at the request of one spouse (article 3.55 of the Civil Code);

13) applicants when filing applications by the procedure established in Part V, Chapter XXXIX of this Code;

14) parties – in the other cases provided in this Code or other laws.

2. The parties referred to in paragraph 1 of this article shall be released from the official fee for statements of claim, counterclaims, applications, appeals of judgments, cassation appeals and petitions for reopening the proceedings.

3. At the request of the person, the court, while taking into consideration the person's material situation, shall be entitled by means of summary proceedings to release him in part from the payment of the official fee. A petition to release a person in part from the payment of the official fee must be reasoned. Proof confirming the grounds of the request must be annexed to the petition. The court ruling concerning this petition must be reasoned.

4. Natural persons who have been recognised by the procedure established by Government as entitled to receive social assistance, shall be released from the payment of the litigation expenses except those expenses referred to in article 88, paragraph 1, subparagraphs 5-7.

**Article 84. Deferment of the payment of the official fee**

The court, by means of summary proceedings, while taking into consideration the person's material situation, prior to making a judgment (ruling) shall be entitled to defer payment of the

official fee. A petition to defer payment of the official fee must be reasoned. Proof proving the necessity of deferring the official fee must be annexed to the petition.

**Article 85. Amount of a statement of claim**

1. The amount of a statement of claim shall be established in the following manner:
  - 1) in cases concerning the collection of money – according to the amount sought;
  - 2) in cases concerning the recovery of property – according to market value of the property to be recovered;
  - 3) in cases concerning the collection of an award of support to be made in periodic payments – according to the total amount of the payments for one year;
  - 4) in cases concerning a terminable annuity or allowance – according to the total amount of all the payments or allowances but no more than for three years;
  - 5) in cases concerning a perpetual or life annuity or allowance – according to the total amount of the annuity or allowance for three years;
  - 6) in cases concerning an increase or decrease of an annuity or allowance – according to the amount, by which the annuity or allowance is to be decreased or increased but no more than for one year;
  - 7) in cases concerning the termination of an annuity or allowance – according to total amount of the remaining annuity or allowance but no more than for one year;
  - 8) in cases concerning reimbursement of non-pecuniary damage – according to the amount demanded to be awarded;
  - 9) in cases concerning right in rem to property – according to the market value of the property;
  - 10) if a statement of claim consists of several independent claims – according to total amount of all the claims.
2. The plaintiff shall indicate the amount of the statement of claim. If the amount indicated clearly does not correspond to the true value of the property being demanded, the court shall establish the amount of the statement of claim by means of summary proceedings.

**Article 86. Additional payment of the official fee**

1. If it is difficult to establish the amount of a statement of claim during the filing of the statement of claim, the court shall preliminarily establish the size of the official fee by means of summary proceedings and any additional payment of the official fee shall be made later according to amount of the statement of claim, which the court shall establish.
2. If the claims of the statement of claim are increased, the difference in the official fee shall be paid additionally according to the increased amount of the statement of claim.
3. If a party fails to pay the additional amount of the official fee, the entire statement of claim or that part of the claims, for which the official fee has not been paid, can be left unheard.

**Article 87. Refund of the official fee**

1. The official fee paid or a part thereof shall be refunded on the application of the interested person in the following cases:
  - 1) when a larger official fee has been paid than the laws provide for;
  - 2) when the statement of claim is withdrawn;
  - 3) when the statement of claim, petition, or appeal is disallowed or when these are returned without a decision;
  - 4) when the case is discontinued if it should not be heard in court or when the plaintiff fails to comply with the prior extra-judicial adjudication of the dispute established for cases of this category and this procedure can no longer be applied;
  - 5) if the action is not proceeded with when the plaintiff fails to comply with the prior extra-judicial adjudication of the dispute established for cases of this category and this procedure can be

applied, when an incompetent person has filed the statement of claim, and when a party fails to make an additional payment for the official fee;

6) after the hearing of the case is suspended when there is an effective ruling to initiate a bankruptcy or restructuring case against the defendant;

7) after a judgment has been rescinded on the absolute grounds of its invalidity. In this case, the official fee paid for the appropriate appeal of the judgment or cassation appeal shall be refunded.

2. If the plaintiff waives a filed statement of claim or the parties conclude a settlement, 75 per cent of the amount of the official fee paid in shall be refunded. The size of the official fee referred to in this paragraph shall be refunded even if the plaintiff waives the filed statement of claim because, after filing the statement of claim, the defendant satisfied the plaintiff's claims prior to the conclusion of hearing the case on the merits.

3. The State Tax Inspectorate shall refund the official fee on the basis of a court ruling.

4. An application concerning the refund of the official fee can be presented to the court no later than within two years of the day, on which was performed the corresponding procedural action, on the basis of which the refund of the official fee is requested. If an overpaid official fee is being refunded, this term shall be calculated from the day the court judgment, ruling, or decision became effective. The court shall decide the question of refunding the official fee by a ruling by means of summary proceedings.

#### **Article 88. Expenses connected with hearing the case**

1. The following shall be ascribed to the expenses connected with hearing the case:

1) the amounts paid to witnesses, experts, expert institutions, and translators as well as expenses connected with the inspection of a location;

2) expenses for a defendant search;

3) expenses connected with delivering the court documents;

4) expenses connected with satisfying the court judgment;

5) reimbursement for the expenses of the curator's work;

6) expenses to pay for the assistance of a lawyer or apprentice;

7) expenses connected with the appointment of public legal assistance;

8) other necessary and reasonable expenses.

2. The Government or an institution authorised by it shall establish the maximum sizes of the expenses referred to in this article, except those in paragraph 1, subparagraphs 6 and 8 of this article.

#### **Article 89. Amounts payable to witnesses, experts, and translators**

1. The court shall pay witnesses, experts, and translators for their absence from their direct work or usually occupation for each day spent due to the court's invitation.

2. Experts shall be paid for the performance of their examination and translators for their translation.

3. In cases concerning the forced sale of shares and the investigation of the activities of legal persons, the work of the experts shall be paid by the procedure established by the Civil Code.

4. Witnesses, experts, and translators shall be reimbursed for any expenses they incur due to appearing in court, travelling, and accommodation and be paid a daily allowance.

#### **Article 90. Assumption from the parties of the amounts payable to witnesses, experts, and expert institutions as well as the expenses for the inspection of a location and translations**

1. A party, who files a petition to call witnesses or experts, perform an examination, and/or inspect the scene of an event as well as whose submitted court documents must be translated into a foreign language, shall pay in advance a surety of the size established by the court to cover the

litigation expenses. If, in the cases provided by this Code or other laws, the court on its own initiative shall call witnesses or experts, order an examination, or perform an inspection of the scene of the event, the expenses for performing these actions shall be paid from the state budget.

2. If both parties submit the above petitions, then both parties shall pay the surety in equal parts.

3. The surety shall be paid into court's special account. In establishing the size of the surety, the sizes of the future expenses shall be taken into consideration.

4. The expenses, which are incurred by a party, for calling on the party's initiative a witness, who gave evidence, which had no significance for the case, shall not be adjudged from the other party.

#### **Article 91. Payment of amounts due witnesses, translators, experts, and expert institutions**

1. The court shall pay the amounts due witnesses, experts, and translators when they have performed their duties.

2. The court shall pay the amounts due expert institutions for the performance of an examination in accordance with the invoice presented after the examination has been performed.

3. The amounts shall be paid from the court's special account opened in a bank according to the court's location.

4. The court shall pay the amounts due translators for a translation from the state budget funds allocated for this except the amounts paid to translators for the translation into a foreign language of court documents submitted by the parties.

5. Those amounts paid to witnesses, experts, and expert institutions as well as location inspection expenses, when no surety was collected, shall be adjudged to the court's special account from the party, against whom the judgment was made, or from the parties in proportion to the size of the claims satisfied and dismissed.

#### **Article 92. Payment of expenses connected with the delivery of court documents**

1. The party, whose court documents must be sent, shall pay the expenses connected with the delivery of the court documents.

2. The Minister of Justice and the Minister of Finance shall establish the size and payment procedure for expenses connected with the delivery of the court documents.

#### **Article 93. Assignment of litigation expenses**

1. The litigation expenses, incurred by the party, in whose favour the judgment was made, shall be awarded by the court to this party from the second party even though the latter is released from the payment of litigation expenses into the state budget.

2. If the statement of claim is satisfied in part, the expenses referred to in this article shall be awarded to the plaintiff in proportion to the part of the claims satisfied by the court and to the defendant in proportion to the part of the claims of the statement of claim that were refused by the court.

3. The rules set out in this article shall be applicable as well for the official fee, which the parties shall pay when filing appeals of judgments and cassation appeals as well as petitions for reopening the proceedings.

4. If the court of appeal instance or the cassation court, without sending the case back to be reheard, amends the court judgment or renders a new judgment, it shall be appropriately amend the division of the litigation expenses. If the court of appeal instance or the cassation court fails to divide the litigation expenses, the court of first instance shall settle this question.

**Article 94. Division of the litigation expenses when the statement of claim is waived or a settlement is concluded**

1. If the plaintiff waives the statement of claim, the defendant should not reimburse the expenses incurred by the former. However, if the plaintiff waives the filed statement of claim because the defendant satisfies the plaintiff's claims after the statement of claim was filed, then at the request of the plaintiff the court shall award the litigation expenses incurred by the plaintiff to him from the defendant.

2. If the parties, in concluding a settlement, fail to provide a procedure for the division of the litigation expenses, the court shall settle this question in accordance with the provisions of this chapter.

**Article 95. Consequences of the abuse of the procedural rights**

1. A party, who dishonestly files a groundless statement of claim (appeal of a judgment, cassation appeal) or deliberately acts against the just and expeditious hearing and resolution of the case, may be obligated by the court to reimburse the other party for the losses incurred by the latter. A reasoned petition for the reimbursement of losses may be submitted prior to the conclusion of the hearing of the case on the merits.

2. A court, after establishing the cases of the abuse provided in paragraph 1 of this article, may impose a fine of up to twenty thousand litas on the person.

**Article 96. Reimbursement of litigation expenses to the state**

1. Those litigation expenses, from the payment of which the plaintiff was released, shall be collected from the defendant into the state budget in proportion to the part of the claims of the statement of claim that were satisfied.

2. If the statement of claim is refused, the litigation expenses shall be collected into the state budget from the plaintiff who shall not be released from payment of the litigation expenses.

3. If the statement of claim is satisfied in part and the defendant is released from payment of the litigation expenses, then the litigation expenses shall be collected into the state budget from the plaintiff, who shall not be released from payment of the litigation expenses, in proportion to the part of the claims of his statement of claim that were refused.

4. If both parties are released from the payment of the litigation expenses, the litigation expenses shall be paid from the state budget funds.

**Article 97. Defendant search and judgment enforcement expenses**

1. The defendant search expenses shall consist of the search related expenses of the person who requested publishing a search and the expenses of the public authorities for searching for the person.

2. The court that published the search shall resolve the question of the expenses for the search for the person. The search expenses shall be collected by a court ruling.

3. The expenses for enforcing the judgment shall be reimbursed in the size established by the legal acts and by the procedure established by these acts.

**Article 98. Reimbursement of the expenses to pay for the assistance of a lawyer or apprentice**

1. The party, in whose favour the judgment was made shall be awarded by the court from the second party the expenses for the assistance of the lawyer or apprentice who participated in hearing the case as well as for help in preparing the court documents and providing consultation. These expenses cannot be awarded if the petition to award them and the proof confirming the size of the expenses is not submitted by the end of the hearing of the case on the merits.

2. A party's expenses connected with the assistance of a lawyer or apprentice, taking into consideration the specific complexity of the case and the expenditures of labour and time of the lawyer or apprentice, shall be awarded in an amount no greater than that established in the payment size recommendations approved by the Minister of Justice together with the Chairman of the Council of the Lithuanian Bar Association.

3. The provisions of this article shall be applicable when awarding expenses to pay for the assistance of the lawyer or apprentice who acted as an attorney in the court of each instance.

**Article 99. Assignment of public legal assistance and the procedure for reimbursing expenses**

1. For persons who are entitled to receive public legal assistance, this assistance shall be assigned by court ruling in the cases and by the procedure established by the law regulating public legal assistance.

2. Public legal assistance may be assigned during any stage of the procedure.

3. The ruling made by the court to assign public legal assistance shall be valid as well when hearing the same dispute in a court of another instance; however the person to whom public legal assistance was assigned must submit to the court of other instance any evidence required so that the court can verify whether the assistance to the person must not be discontinued and whether there are not grounds provided by the laws for ending the public legal assistance.

4. Public legal assistance shall be terminated or ended by court ruling in the cases and by the procedure established by the law regulating public legal assistance.

5. A person, to whom the assignment of public legal assistance has been refused by court ruling or to whom it has been terminated, may submit a separate appeal.

6. The expenses for public legal assistance shall be reimbursed to the state in accordance with the rules established in article 96 of this Code.

**Article 100. Appeal of rulings made concerning litigation expenses**

1. A separate appeal may be submitted concerning a court ruling made concerning litigation expenses.

2. Only parties, concerning whom these court rulings have been made, may submit a separate appeal concerning court rulings to pay the official fee or defer payment.

3. The submission of a separate appeal shall suspend the enforcement of the rulings.

**CHAPTER IX  
SURETY**

**Article 101. Surety**

1. In the cases provided in this code, the court, in order to ensure the performance of procedural actions or the covering of possible losses, by reasoned ruling may obligate a party to the proceeding or another party, requesting a certain procedural action be performed, to pay the court a monetary surety of an established size.

2. The surety can be paid in coin into the court deposit account. If the procedural actions fail to be performed, to ensure which a surety has been assigned, the surety shall fall to the state.

3. If the surety fails to be paid in, the court may refuse to perform the procedural actions, the assurance of which the surety had to guarantee.

**Article 102. Surety size**

1. The court shall decide a question of the assignment of a surety at the request of the party to the proceeding or another party or on its own initiative.

2. The court shall decide the size of the surety by taking into consideration the material situation of the party who is obligated to pay the surety.

3. The court cannot assign a term shorter than three days for the payment of the surety. The size of the surety must correspond to the nature of the procedural action to be performed and cannot exceed one hundred thousand litas.

4. A ruling to assign a surety can be appealed against by a separate appeal.

## **CHAPTER X COURT PENALTIES**

### **Article 103. Types of court penalties**

1. Court penalties are as follows:

- 1) warning;
- 2) removal from the courtroom;
- 3) fine;
- 4) arrest;

2. Court penalties shall be imposed by court ruling.

3. Court penalties can be imposed on parties to the proceeding, other participants in the proceeding (witnesses, experts, and translators), and other parties in the cases provided in this Code.

### **Article 104. Warning**

1. A warning shall be given to parties who violate the procedure of the court session during the hearing of the case.

2. A ruling to give out a warning shall be recorded in the minutes of the court session and if no minutes of the court session are made, the warning shall be given by written court ruling. A ruling to give a warning shall not be subject to appeal.

### **Article 105. Removal from the courtroom**

1. Removal from the courtroom shall be imposed on a person who violates the procedure of the court session during the hearing of the case if he has been given a warning prior to that.

2. A ruling to remove a person from the courtroom shall be recorded in the minutes of the court session and if no minutes of the court session are made, the person shall be removed from the courtroom by written court ruling. A ruling to remove a person from the courtroom shall not be subject to appeal.

3. The ruling shall be enforced immediately upon its being made.

### **Article 106. Imposition of court fines**

1. A court fine shall be imposed in the cases provided in this Code and of the size established in it.

2. A copy of the ruling to impose a fine shall be sent, no later than the next day after the ruling is made, to the person, on whom the fine is imposed if the person did not participate in the court session.

3. Fines imposed on the heads of legal persons or the representatives of legal persons shall be collected from their personal funds.

### **Article 107. Annulment or reduction of a fine**

1. A person, on whom a fine is imposed, within fourteen days of the ruling being made may petition the court, which imposed the fine, to annul or reduce it. The court shall investigate said application by means of summary proceedings.

2. A second appeal may be filed concerning a court ruling, by which was rejected a petition to annul or reduce a fine.

3. The filing of an appeal shall suspend enforcement of the ruling.

### **Article 108. Arrest**

1. The court shall order arrest in the cases provided in this Code and of the duration provided in those cases. Arrest cannot be ordered for pregnant women, children, persons who are raising a child under the age of twelve, persons over the age of sixty five years, or disabled persons.

2. A person for whom arrest is ordered can be arrested by the police in the courtroom. A copy of the ruling shall be immediately served to the person who has been ordered to be arrested.

### **Article 109. Cancellation of arrest, reduction of its duration, and penalty conversion**

1. A person for whom arrest has been ordered can petition the court that ordered the arrest to cancel the arrest, reduce its duration, or convert the arrest to a fine. Said petition, no later than the next day, shall be heard in a court session, which time shall be announced to the person for whom arrest has been ordered. The absence of this person shall not impede the hearing of his request. The arrested person shall be conducted to the courtroom at the order of the court.

2. A person, for whom arrest has been ordered, may submit a separate appeal concerning the court ruling, by which his petition was rejected in full or in part.

3. The submission of the petition shall suspend enforcement of the ruling to order arrest.

## **CHAPTER XI PROCEDURE**

### **SECTION ONE COURT DOCUMENTS**

### **Article 110. Concept of the court documents of the parties to the proceeding**

The court documents of the parties to the proceeding shall mean these persons' statements of claim, counterclaims, answers to the statements of claim, replies to the counterclaims, duplicatio (plaintiff's reply to the response submitted by the defendant), triplicatio (defendant's answer to the duplicatio), separate appeals, appeals to judgments, cassation appeals, and responses to these, and other documents, in which their petitions, claims, replications, and explanations are submitted during the written procedure.

### **Article 111. Form and content of the court documents of the parties to the proceeding**

1. Court documents shall be submitted to the court in writing.

2. Each court document of a party to the proceeding must include:

1) the name of the court, to which the court document is being submitted;

2) the procedural situation, full name, personal number (if known), and place of residence of the parties to the proceeding and in those cases when the parties to the proceeding or one of them is a legal person, its name, registered office, code, settlement account number, credit institution information. If the person wishes the court documents to be delivered via a telecommunications terminal, the address of said telecommunications terminal shall be shown;

3) nature and subject of the court document;

4) circumstances confirming the subject of the court document and the evidence confirming these circumstances;

5) any annexes shall be annexed to the court document being submitted;

6) the signature of the person submitting the court document and the date it was drawn up.

3. A court document, by which a submitted statement of claim, separate appeal, appeal to a judgment, or cassation appeal is waived, must indicate that the procedural consequences of said waiver are known to the applicant.

4. If a representative submits the court document to the court, the information provided in paragraph 2, subparagraph 2 of this article shall be indicated about the representative in the court document and a document proving the representative's rights and duties shall be annexed if there is not yet any such document in the case or if term of validity of the one included in the case has expired.

5. A person authorised by the party to the proceeding, who is unable to sign the court document, shall sign it on behalf of the latter, indicating the reason, due to which the party to the proceeding cannot himself sign the document being submitted.

#### **Article 112. Preliminary documents**

Court documents, by which it is sought to prepare for the oral hearing of the case, must additionally contain:

- 1) suggestions, petitions, or claims, which will be stated during the oral hearing;
- 2) an evaluation of the evidence and claims submitted by the opposing party;
- 3) evidence, on which the party shall base his claims and replications. If a party is unable to submit the evidence himself, it is essential to show the reason for the inability to submit it and to formulate a petition to the court to demand it, showing its location and the circumstances, which this evidence can confirm.

#### **Article 113. Number and language of court documents being submitted**

1. The parties to the proceeding shall submit the originals of the court documents to the court. In addition, sufficient copies of the court documents shall be submitted to the court for the opposing party (in case of co-parties, all the co-parties) and any third parties except in the cases provided in this Code to have one each. In lieu of attested copies of the court documents, several unattested copies of the court documents can be submitted.

2. The same number of annexes to the court documents shall be submitted as the number of court documents except in the cases where, due to the large volume, the court shall allow the delivery of the annexes to the parties to the proceeding to be omitted.

3. All the court documents and their annexes shall be submitted to the court in the state language except for the exceptions provided in this Code and other legal acts.

#### **Article 114. Form for the submission of annexes to court documents**

1. A party to the proceeding who has grounded the contents of a court document on written evidence, shall annex the originals of them or copies thereof certified by the court, a notary, a lawyer participating in the case, or the person who issued (received) the document.

2. The court on its own initiative or at the request of a party to the proceeding may demand the originals of the documents be submitted. The petition of a party to the proceeding to submit the originals of the documents must be submitted in the statement of claim, counterclaim, answer, or the other court documents of the parties to the proceeding. Parties to the proceeding may submit such a petition later if the court recognises reason, due to which the petition was not submitted before, as important or if the satisfaction of such a petition will not protract the hearing of the case.

3. In those cases where only part of the document is connected with the content of the court documents, the appropriate parts (extracts, excerpts) of the documents can be submitted to the court.

#### **Article 115. Acceptance of court documents and their annexes and correction of deficiencies**

1. The court, after establishing that the form and content of the court documents submitted meets the requirements raised, may resolve the question of the acceptance of the court document by a resolution except for the cases provided in this Code.

2. If the court documents fail to meet the requirements raised for their form and content or the official fee has not been paid, the court shall issue a ruling and establish a sufficient term, but no

shorter than seven days, for eliminating the deficiency. The ruling shall be sent out no later than the next day after it has been made.

3. If a party to the proceeding, after submitting a court document, eliminates the deficiencies in accordance with the court's instructions and the deadline established, the court document shall be considered to have been submitted on the original day of its submission to the court. Otherwise the court document shall be considered to not have been submitted and returned by a ruling of the judge to the party who submitted it.

4. An erroneous reference to the name of the court document or other obvious inaccuracies shall not be a impediment to performing the procedural actions, which are requested in the court document submitted.

5. A court ruling to eliminate the deficiencies of a court document shall be delivered only to the party who submitted this document. This ruling shall not be subject to appeal by separate appeal. A court ruling, by which a court document is returned because its deficiencies were not eliminated, may be appealed by a separate appeal.

6. The court rulings enumerated in this article shall be made by means of summary proceedings.

#### **Article 116. Court documents of the court**

1. Court documents of the court (judgments, orders, rulings, decisions, resolutions, minutes of court sessions, summons, and notices) shall mean any documents issued by the court during the procedure.

2. All court documents of the court shall be drawn up, issued, and delivered by the procedure established by this Code.

### **SECTION TWO DELIVERY**

#### **Article 117. Means of delivery**

1. A court shall deliver court documents by registered post, through bailiffs, couriers, or other means referred to in this Code and, in the cases established by laws and other legal acts, via a telecommunications terminal. It is possible to deliver court documents via a telecommunications terminal at the consent of a party to the proceeding.

2. If a party to the proceeding consents, the court may issue him a court document for him to deliver to the addressee.

#### **Article 118. Delivery to a representative**

1. In those cases where a party or third party is conducting the case through a representative, the court documents connected with the case shall be delivered only to the representative.

2. A representative, after receiving the appropriate documents, must immediately inform the person he is representing about this and create a possibility for him to become familiar with the court documents received.

#### **Article 119. Delivery to lawyers**

If lawyers represent both the parties to a dispute, the lawyer of one party shall directly forward a court document connected with the case to the lawyer of the other party. A note shall be made about this forwarding in the copy of this court document that is intended for the court. The means of delivery referred to in this article shall not be valid if the calculation of a destruction procedure deadline shall begin from the delivery of the document.

### **Article 120. Document delivery in case of co-parties**

1. In case of co-parties when no one single representative has been appointed by the co-parties, the court shall be entitled at the request of the opposing party or on its own initiative to recommend to the co-parties that they appoint one of their number or another entity as the authorised representative to receive the court documents connected with the case.

2. If the co-parties fail to appoint the authorised representative referred to in paragraph 1 of this article, the court shall be entitled, at the request of the other party or on its own initiative, to appoint by a ruling an authorised representative at the expense and risk of the co-parties if in this way the course of the procedure will be expedited and streamlined. The ruling referred to in this article may be amended or annulled by the court if the co-parties state that they have a legal interest to not be represented by one person.

3. The authorised representative appointed by the procedure established by this article to receive the court documents, if it is not established otherwise by an agreement, must immediately inform the parties who he represents about any court documents received, and create a possibility for them to become familiar with the court documents received. Delivery of court documents to the authorised representative of co-parties shall be equated with their delivery to all the parties who he represents.

### **Article 121. Duty to inform**

1. Parties to the proceeding must immediately inform the court and the other parties to the proceeding about each change to the place where court documents are to be delivered.

2. If the parties to the proceeding fail to comply with the duty referred to in paragraph 1 of this article, court documents shall be sent to the last address known to the court and shall be considered to have been delivered.

3. For a failure to perform the duty referred to in paragraph 1 of this article, the court shall be entitled to impose a fine of up to one thousand litas on the parties to the proceeding.

### **Article 122. Place of delivery**

1. Court documents shall be delivered to a natural person's place of residence, work place, or any another place where he is located.

2. All court documents shall be delivered to legal persons to the address of the registered office shown in the register of legal persons except for cases where the legal person indicates another address.

### **Article 123. Delivery procedure**

1. If a party to the proceeding is a natural person, court documents shall be delivered to him in person and if he does not have civil procedural competency, then to his representative in accordance with law.

2. Court documents addressed to legal persons shall be delivered to the head of this legal person, its management bodies, or an employee of its secretarial office.

3. If the person delivering the court document fails to find the addressee at his place of residence or work place, the document shall be delivered some adult family member residing together with him except in the cases where the family members in the case have an opposing legal interest in the end of the case and if there are none, to the house administration (homeowner's association), flat maintenance organisation, neighbourhood elder, or the administration of his workplace.

4. If the person delivering the court document fails to find the addressee at the location of the legal person's registered office or another location indicated by the legal person, the court document shall be delivered to any employee of the legal person who is at the place of delivery. If there is no

possibility of delivering the court document by the procedure established by in this section to the location of the legal person's registered office indicated in the register of legal persons, delivery to the head of administration shown in the register of legal persons or to the management body members, as natural persons, or to the adult members of their families in the case provided in paragraph 3 of this article shall be considered the proper delivery of the court document.

5. The day a court document is delivered shall be considered the day of its delivery to the persons referred to in paragraphs 1-4 of this article. If the court document is not delivered to the addressee himself, the person accepting the document must give it to the addressee at the first possibility.

6. Copies of court documents except summons and notices shall be delivered parties to the proceeding.

#### **Article 124. Confirmation of the service of a summons, notice, or another court document**

1. A summons and copy of a statement of claim (application, appeal, answer to a submitted statement of claim, or duplicatio) shall be served to the addressee with signature confirmation of receipt. When the post, court courier, or bailiff serves a summons or a copy of a statement of claim, the addressee shall sign a receipt of the form established by the Minister of Justice, one part of which the addressee shall retain and the other half with the signature and service date indicated shall be returned to the court. When a summons or a copy of the statement of claim is not served to the addressee himself, the person accepting it must enter his full name on the receipt as well as his relationship with the addressee or current job position. If the summons or copy of the statement of claim is served via a telecommunications terminal, service shall be confirmed by the procedure established by the laws or other legal acts.

2. A refusal to accept a summons or copy of a statement of claim or to sign the receipt for its receipt shall be equated with its service except in cases when it is served in the manner provided in article 117, paragraph 2 of this Code. The person serving it shall make a notation about the refusal to accept the summons or copy of the statement of claim and the reason for the refusal. When summons and copies of statements of claim are served via a telecommunications terminal, it shall be considered that the person refused to accept the above court documents if within three days of the day of service he fails to sign by electronic signature the receipt of the established form or fails to confirm in another form that the documents had been served to him. These provisions shall also be applicable when a person refuses to accept other court documents.

3. When there is no possibility of serving a summons or copy of a statement of claim to the addressee personally with signature confirmation of receipt, these court documents shall be served with signature confirmation of receipt by the procedure established by article 123<sup>(1)</sup>, paragraphs 3 and 4 or articles 129 and 130 of this Code.

4. Notices and other court documents shall be delivered to the addressee by the means and procedure established by this Code without a return receipt to be returned to the court. Postal workers, bailiffs, or couriers shall record the delivery of a notice or other court document to the addressee in appropriate books, indicating the addressee, delivery date of the court document, person accepting the court document and his relationship to the addressee or current job position, if it is not delivered to the addressee himself.

5. The provisions of paragraph 1 of this article concerning the filling in and return of a receipt of the form established by the Minister of Justice must be followed whenever a party to the proceeding delivers a court document (article 117, paragraph 2).

#### **Article 125. Delivery of court documents to paramilitary organisations**

Court documents shall be delivered to paramilitary organisations by the procedure established by this Code to the commander or officer on duty of the appropriate organisation or its unit.

**Article 126. Delivery of court documents to incarcerated persons**

Court documents shall be delivered to incarcerated persons through administration of the appropriate custodial institution.

**Article 127. Delivery of court documents in court**

Court documents may be delivered to an addressee in court with signature confirmation of receipt.

**Article 128. Multiple deliveries**

If the same court document is delivered the addressee several times, it shall be considered delivered on the original delivery date.

**Article 129. Delivery of court documents to a curator**

1. If a copy of a statement of claim or other court documents, which raise the necessity to defend the rights of a party, must be delivered to this party, whose place of residence and work place are unknown or who does not have a body representing him, the aforementioned documents may be delivered, until the discovery of his place of residence or work place or the entry of his representative in the procedure, to a curator, who shall be appointed by the court hearing the case at the request of an interested party.

2. A court shall appoint a curator if an interested person proves that the place of residence or work place of the addressee is unknown or if a party has no body representing him. In cases concerning the awarding of support or the establishment of paternity as well as in cases connected with these cases, the court may appoint a curator only after performing the defendant search procedure.

3. Court documents shall be considered delivered to a party from the day of their delivery to the curator.

**Article 130. Delivery of court documents by means of public announcements**

1. If the place of residence and work place of the addressee are unknown and if it is impossible by the procedure established by this Code to appoint a curator or when there are more than 10 co-parties to the proceeding and there is no possibility of delivering the court documents by the procedure established by article 120 of this Code, the court may deliver court documents by means of a public announcement in the press. In this way, a copy of a statement of claim may be served to the defendant and summons and notices or other court documents served to the parties to the proceeding.

2. In the manner provided in paragraph 1 of this article, court documents may be delivered to a legal person if it was impossible to deliver them by the procedure established in this section.

3. Court documents shall be delivered by means of a public announcement in the press at the expense of the party requesting it.

4. Court documents shall be delivered in the manner referred to in paragraph 1 of this article by publishing a notice in a local newspaper (if there is one) and in one of the principle daily newspapers of the Republic of Lithuania, in which notice shall be indicated:

- 1) the court;
- 2) the nature of the court document;
- 3) the addressee;
- 4) the date of the court session (if one has been assigned);

5. The notice referred to in paragraph 4 of this article must be published no later than fourteen days prior to the day of the court session. The court document shall be considered delivered on the day the notice is published in the press.

**Article 113. Invalid appointment of a curator or public announcement**

1. If it is revealed that a request to appoint a curator or deliver court documents by making a public announcement was without grounds, the court by a ruling shall establish an ordinary means of delivering the court document and, if necessary, by a ruling reopen the proceedings from the moment of the appointment of the curator or the delivery of the documents by making a public announcement.

2. The court hearing the case may impose a fine of up to one thousand litas on a party, who in supplying false information influenced the invalid appointment of a curator or the public announcement of court documents.

**Article 132. Publishing a defendant search**

In exceptional cases, taking into consideration the circumstances of the case, if the location of the defendant is unknown, a court may publish a search for the defendant through the police if the plaintiff proves that he has undertaken every measure to establish the place of residence of the defendant.

**SECTION THREE  
SUMMONS AND NOTICES**

**Article 133. Summons and notices**

1. Parties to the proceeding shall be notified by Summons or notices about the time and place of the court session or the individual procedural actions. After a party to the proceeding has been properly served with a summons, he shall be notified about other court sessions by notices. The witnesses, translators, and experts shall also be called by summonses.

2. A summons or notice must be served to parties to the proceeding by the procedure established in articles 117-132 of this Code and by such dates that they have sufficient time by the established time to appear in court and prepare themselves for the case.

3. By means of summary proceedings, the court shall inform the parties to the proceeding by notices about the time and place of the acceptance of the court documents except in cases when this Code does not provide for providing such information.

**Article 134. Contents of a summons or notice**

The following must be indicated in a summons or notice:

- 1) the name of the addressee;
- 2) the name, composition, and precise address of the court;
- 3) the place and time of the court session or the performance of an individual procedural action;
- 4) the name of the case, about which the addressee is being informed or to which he is being summoned;
- 5) procedural situation of the person summoned or informed;
- 6) a recommendation to the parties to the proceeding that they submit all the evidence they possess, on which their claims or replications are based;
- 7) that the person who accepts the summons in the absence of the addressee must deliver it to the addressee at the first possibility;
- 8) consequences of not appearing.

## **SECTION FOUR STATEMENT OF CLAIM**

### **Article 135. Content of a statement of claim**

1. A statement of claim submitted to a court must meet the general requirements raised for the content of court documents. In the statement of claim, in addition, must be indicated:

- 1) the amount of the statement of claim if the statement of claim must be valued;
- 2) the circumstances, on which the plaintiff bases his claim (factual grounds of the statement of claim);
- 3) evidence confirming the circumstances set out by the plaintiff, the places of residence of the witnesses, and the location of other evidence;
- 4) the claim of the plaintiff (subject of the statement of claim);
- 5) opinion of the plaintiff concerning rendering a default judgment if no answer to the submitted statement of claim or no preliminary court document is submitted in the case;
- 6) information on whether the case will be conducted through a lawyer.

2. To the statement of claim must be annexed any documents or other evidence, on which the plaintiff is basing his claims as well as any information that the official fee has been paid and petitions concerning a request for evidence, which the plaintiff is unable to submit, indicating the reason why it is impossible to submit this evidence.

### **Article 136. Joinder and severance of several claims of a statement of claim**

1. The plaintiff shall be entitled to join several mutually related claims into a single statement of claim.

2. The court, in accepting a statement of claim, in which several claims are joined, shall be entitled to sever one or several of them into a separate case if it is recognised that it is more expedient to hear them separately.

3. When several plaintiffs file joined claims or if they are filed against several defendants, the court accepting the statement of claim shall be entitled to sever one or several of the claims into a separate case if it is recognised that it is more expedient to hear them separately.

4. A court, after establishing that several cases of a single type, in which the same parties are participating, have been filed in the court(s) or that several cases according to the statements of claim of a single plaintiff against different defendants or according to the statements of claim of different plaintiffs against the same defendant have been filed in the court(s), can join these cases into a single case so that they are heard at the same time if after thus joining them the disputes would be heard justly and more expeditiously as well as in those cases where the claims being heard in them are interrelated and due to this it is impossible to hear the cases separately.

### **Article 137. Acceptance of a statement of claim**

1. A court shall resolve a question of the acceptance of a statement of claim by making a resolution. This procedural action shall be considered the initiation of a civil case.

2. A court shall refuse to accept a statement of claim if:

- 1) the action should not be heard in court;
- 2) the action is outside the jurisdiction of that court;
- 3) the interested person, after petitioning the court, failed to comply with the procedure established by the laws for the prior extra-judicial adjudication for that category of cases;

4. there is an effective court or arbitration court judgment made concerning a dispute between the same parties concerning the same subject and on the same grounds or a court ruling to accept the plaintiff's waiver of the statement of claim or to approve the settlement of the parties;

5) there is a case filed with the court concerning a dispute between the same parties concerning the same subject, and on the same grounds;

6) the parties concluded an agreement to hand the dispute over to an arbitration court to resolve and the defendant objects to hearing the dispute in the court and demands the arbitration court agreement be complied with;

7) an incompetent natural person has filed the statement of claim;

8) a party not authorised to conduct the case has filed the application in the name of the interested party.

3. The court, in refusing to accept an application, shall make a reasoned ruling concerning it. In the ruling the court must indicate to which institution or court the applicant needs to petition if the case should not be heard in the court or is not within the jurisdiction of that court or how to eliminate the circumstances preventing the acceptance of the statement of claim. The court ruling concerning the acceptance of a statement of claim must be made no later than within ten days of the day the corresponding statement of claim was registered with the court. If it is requested in the statement of claim to employ temporary safeguarding measures, the question of accepting the statement of claim must be decided without delay but no later than within three days. A copy of the court ruling, by which the court refuses to accept the statement of claim, as well as the statement of claim and its annexes, no later than within three days of the ruling being made to refuse to accept the statement of claim, shall be served or sent to the applicant.

4. The refusal of a court to accept a statement of claim on the grounds provided in paragraph 2, subparagraphs 2-8 of this article shall not prevent the petitioning of the court again with the same statement of claim if the circumstances preventing the acceptance of the statement of claim are eliminated or disappear.

5. A separate appeal may be filed concerning a court ruling, by which a court refuses to accept a statement of claim.

6. A judge, after accepting an application about the fact of the initiation of a civil case concerning the legal status of an object that can be registered or the material rights to it, no later than the next business day shall notify the manager of the public register, at which the object or the material rights to it are registered.

#### **Article 138. Elimination of the deficiencies of a statement of claim**

If a statement of claim does not meet the requirements of article 135 of this Code, the deficiencies of the statement of claim shall be eliminated by the procedure established by this Code for the elimination of the deficiencies of court documents.

#### **Article 139. Withdrawal of a statement of claim**

1. The plaintiff, while the court has not sent a copy of the statement of claim to the defendant, shall be entitled to withdraw the statement of claim submitted. It is possible to withdraw the statement of claim later only with the consent of the defendant.

2. The court shall record the withdrawal of a statement of claim with a ruling, by which it shall leave the action unheard. This ruling shall not be subject to appeal by a separate appeal.

#### **Article 140. Waiving a statement of claim, admission by the defendant of a statement of claim, and conclusion of a settlement by the parties**

1. At any stage of the procedure, the plaintiff, after petitioning the court, shall be entitled in writing or orally to state to the court that he is waiving the statement of claim. When a statement of claim is waived orally, the court shall explain to the plaintiff the procedural consequences of the waiver. A written application by the plaintiff concerning the waiver of a statement of claim shall be annexed to the case and an oral application shall be recorded in the minutes of the court session and signed by the plaintiff. The court shall make a ruling to accept the waiver of the statement of claim

and discontinue the case. In the written application for the waiver of the statement of claim, it must be indicated that the procedural consequences of waiving the statement of claim are known to the plaintiff. The court shall decide such an application by means of summary proceedings. If it is not indicated in the written application that the procedural consequences of waiving the statement of claim are known to the plaintiff, the court shall send him a notice, in which the procedural consequences of waiving the statement of claim are shown. If no cancellation of said waiver is received within seven days of the day the court notice is sent out, it shall be considered that the plaintiff has not waived the statement of claim.

2. At any stage of the procedure, the defendant shall be entitled in writing or orally to state that he admits the statement of claim. A written application by the defendant, by which the statement of claim is admitted, shall be annexed to the case and an oral application shall be recorded in the minutes of the court session and signed by the defendant. When the defendant admits the statement of claim, if the circumstances provided in article 42, paragraph 2 of this Code do not exist, the court, while taking into consideration the opinion of the parties to the proceeding, may decide to end the hearing of the case on the merits.

3. At any stage of the procedure, the parties may settle the case. The text of the written settlement of the parties shall be annexed to the case and an oral application shall be recorded in the minutes of the court session and signed by the parties. Prior to approving the settlement of the parties, the court shall explain to the parties the consequences of these procedural actions and in approving the settlement, shall make a ruling, by which the case shall be discontinued. The ruling must indicate the conditions of the settlement of the parties, which is being approved.

4. If the court does not accept the waiver of a statement of claim of the interested person, who petitioned the court, does not accept the admission of the statement of claim by the defendant, or does not approve the settlement of the parties, it shall make a reasoned ruling concerning it.

#### **Article 141. Amending the subject of a statement of claim or grounds of a statement of claim**

1. Until a ruling to assign a case to be heard in a court session is made, the plaintiff shall be entitled to amend the subject of a statement of claim or the grounds of a statement of claim. A written application, which must meet the general requirements raised for the content of court documents, shall be submitted to the court concerning the amendment in the subject of the statement of claim or the grounds of the statement of claim. An amendment in the subject of a statement of claim or the grounds of a statement of claim is possible later only if the necessity of said amendment arises later, if the consent of the opposing party is obtained, or if the court thinks that this will not protract the hearing of the case.

2. After amending the subject of a statement of claim or the grounds of a statement of claim, the norms establishing the preparation for hearing the case shall not be applicable but the court shall establish a term of no less than fourteen days from the day the court document was delivered in order to prepare for the hearing of the case.

3. The court may refuse to satisfy an application concerning an amendment in the subject of a statement of claim or the grounds of a statement of claim if that would protract the hearing of the case and the plaintiff had been given a deadline, by which to completely formulate the subject of the statement of claim and the grounds of the statement of claim and he was able to use the circumstances indicated in the application.

4. A court ruling to refuse to satisfy an application concerning an amendment in the subject of a statement of claim or the grounds of a statement of claim shall not be subject to appeal by separate appeal.

5. A copy of the court document concerning an amendment in the subject of a statement of claim or the grounds of a statement of claim shall be delivered to the parties to the proceeding by the procedure established in this Code.

#### **Article 142. Answer to a statement of claim**

1. Together with a copy of the statement of claim, the court shall send a notice to the defendant and any third parties concerning the submission to the court of answers to the submitted statement of claim. In the notice, the court shall establish a term of no less than fourteen but no more than thirty days to submit the answers, indicate the consequences of not submitting any answers, and the duty of the defendant to submit an answer to the statement of claim. In exceptional cases, the court, by taking into consideration the petition of the defendant or a third party and the complexity of the case, may extend this term up to sixty days. The terms referred to in this paragraph shall be calculated from the day of the appropriate delivery of the notice.

2. Answers to a filed statement of claim must meet the requirements raised for the content of court documents. Answers to a filed statement of claim must additionally show:

- 1) agreement or disagreement with the filed statement of claim;
- 2) reasons for disagreement;
- 3) evidence, on which the reasons for disagreement are based;
- 4) the opinion of the defendant concerning making of a default judgment if the plaintiff fails to submit preliminary court documents;
- 5) information about whether the case will be conducted through a lawyer.

3. The court shall be entitled to refuse to accept evidence and reasons, which could be submitted in the answer to the statement of claim if it thinks that their later submission would protract making a judgment in the case.

4) If the defendant without justifiable cause fails by the established deadline to submit an answer to the statement of claim, the court shall be entitled, if there is a petition by the plaintiff, to make a default judgment.

#### **Article 143. Counterclaim**

1. The defendant shall be entitled, until a ruling is made to assign the case to be heard in court, to submit a counterclaim against the plaintiff that shall be heard together with the original statement of claim. Later acceptance of a counterclaim is possible only if the necessity of said acceptance arises later, if the consent of the opposing party is obtained, or if the court thinks that this will not protract the hearing of the case.

2. A court shall accept a counterclaim if:

- 1) it is sought by a set-off to include a claim of the original statement of claim;
- 2) satisfaction of the counterclaim wholly or partially precludes satisfaction of the original statement of claim;
- 3) the counterclaim and original statement of claim are mutually related and a joint hearing would allow the disputes to be decided justly and more expeditiously.

3. A counterclaim shall be submitted in accordance with the rules for filing a statement of claim established by this Code. A court ruling to refuse to accept a counterclaim shall not be subject to appeal by a separate appeal.

4. A court shall refuse to accept a counterclaim if none of the grounds provided in paragraph 2 of this article exist.

## **SECTION FIVE PROVISIONAL SAFEGUARDS**

### **Article 144. Basis for provisional safeguards**

1. At the request of participants in a proceeding or other persons concerned, a court may assume provisional safeguards when omission thereof can impede enforcement of a court judgement or make it impossible.
2. A court may initiate application of provisional safeguards exclusively in cases when it is necessary for protection of a public interest.
3. Provisional safeguards may be applied before filing of a claim or at any stage of the civil proceedings in accordance with the procedure established in this Section.

### **Article 145. Provisional safeguards**

1. Provisional safeguards may be as follows:
  - 1) seizure of an immovable thing of the defendant;
  - 2) entry in the Public Register on prohibition to transfer the title;
  - 3) seizure of movable things, money or property rights owned by the defendant and possessed by the defendant or third persons;
  - 4) detention of a thing owned by the defendant;
  - 5) appointment of an administrator of defendant's property;
  - 6) prohibition for the defendant to take part in certain transactions or take other particular actions;
  - 7) prohibition for other persons to convey property to the defendant or fulfil other obligations;
  - 8) exceptional prohibition for the defendant to leave the permanent residence;
  - 9) suspension of realisation of assets when a claim has been filed for cancellation of seizure of such assets;
  - 10) suspension of recovery enforcement;
  - 11) adjudication of provisional maintenance or imposition of provisional constraints;
  - 12) order to assume measures for prevention of the occurrence or enlargement of damage;
  - 13) other statutory measures when omission thereof can impede enforcement of a court judgement or make it impossible.
2. A court may apply several provisional safeguards, but the total amount thereof may not substantially exceed the amount of the claim. Provisional safeguards shall be chosen basing on the principle of cost-effectiveness.
3. Laws may define application of particular provisional safeguards in civil proceedings falling under certain categories.
4. A court shall pass a motivated ruling as to application of provisional safeguards. The ruling must specify the provisional safeguard, its scope, procedure and ways of enforcement. In case of seizure of assets, the court's ruling must contain provisions as to safekeeping, management and usage of such assets.
5. In cases when provisional limitation of the right of ownership is applied in respect of a co-owned thing, only a part of assets owned by a person subjected to provisional safeguards may be seized. If shares of co-ownership are not defined, the entire assets may be temporary seized until the share of the mentioned person in the co-ownership is established.
6. In case of seizure of funds held with banking institutions or lending agencies, such funds will be available exclusively for the operations indicated in the court's ruling.
7. In cases when marketed goods, raw materials, semi-manufactures, ready made products are subject to seizure, the property holder may change the composition and form of such property only if the total value thereof will not drop down and unless the court rules otherwise.

8. A person whose property is seized shall be liable for infringement of the established restraints from the moment of adjudication of property seizure, and when declaration of such ruling is impossible, including adoption of a ruling on provisional safeguards in absentia of such person, from the moment of registering the ruling with the register of property seizures.

**Article 146. Substitution of one provisional safeguard for another**

1. At the reasonable request of participants in a proceeding or other persons concerned, a court may substitute one provisional safeguard for another. The court must communicate the request to the participants in the proceeding or other persons concerned, which may take exception to such request.
2. A court may abstain from application of provisional safeguards, if the defendant pays in the requested amount to a special account of the court or the defendant is offered bail. The defendant may as well give his property in pledge.
3. When the actions specified in paragraph 2 above are taken after application of a provisional safeguard, a court may pass a ruling to replace or revoke the imposed provisional safeguard.
4. Prohibition for the defendant to leave the permanent residence may be revoked after payment of the requested amount to a special account of the court or offering bail in respect of the defendant.
5. A court may initiate substitution of one provisional safeguard for another in order to protect a public interest.
6. A court shall hear the request in accordance with the written procedure.

**Article 147. Indemnification for damages likely to be sustained by defendant in relation to application of provisional safeguards**

1. When applying provisional safeguards, a court may claim for provision of a security to indemnify for damages likely to be sustained by the defendant in relation to application of provisional safeguards. Such security should be provided by the plaintiff or other claimant for application of provisional safeguards. A bank guarantee may also stand for the mentioned security.
2. If a person who has to pay in money or furnish a bank guarantee fails to do so before the time limit set by a court, provisional safeguards shall be cancelled.
3. In case of effective judgement the claim for which has been disallowed, the defendant shall be entitled to claim damages from the plaintiff as caused to the defendant by provisional safeguards imposed at the plaintiff's request.

**Article 148. Hearing of request to impose provisional safeguards**

1. A request to impose provisional safeguards shall be heard by a court latest in three days after the receipt thereof. Hearing of the request shall be communicated to the defendant. Provisional safeguards may be imposed without defendant's knowledge in exceptional instances when there is a real threat that such communication shall impede application of provisional safeguards or make it impossible.
2. A court may impose provisional safeguards basing on a reasonable request of the interested person filed in writing before the date of a claim lodging to the court. When filing the request, the interested person shall pay a half of the official fee set forth in Article 80 of the Code above. This payment shall not be refundable unless the claim is lodged, except in cases when the claim is not lodged without interested party's fault. In the latter case, the court shall impose provisional safeguards and set a time-limit by which the claim should be filed. The aforementioned time-limit may not exceed fourteen days. If the claim is not lodged by the fixed time-limit, the provisional safeguards shall be cancelled. The mentioned request should be filed to a court having the established jurisdiction to hear the claim.

3. A person requesting for imposition of provisional safeguards must before the date of filing of a claim inform a court on the reasons of failure to file the claim without delay and provide the court with proofs of certain danger to claimant's property interests.
4. A ruling on imposition of provisional safeguards shall specify the following:
  - 1) time and venue of ruling passing;
  - 2) name and bench of the court that passed a ruling;
  - 3) motives of ruling and basis for application of provisional safeguards;
  - 4) full name, personal identification number (if available) and place of residence of a natural person subject to provisional safeguards; name, legal address, company number of a legal person subject to provisional safeguards;
  - 5) full name, personal identification number, place of residence of a natural person to ensure requirements of which provisional safeguards are applied; name, legal address, company number of a legal person to ensure requirements of which provisional safeguards are applied;
  - 6) description of the imposed provisional safeguards (if property-related provisional safeguards are applied, the name, code in the register of property (if any), brief description, location and other identification details of the property should be indicated);
  - 7) in case of application of property-related provisional safeguards, full name, personal identification number, place of residence of the individual owner (co-owners) or legal name, legal address and company number of the corporate owner (co-owners) should be specified;
  - 8) extent and ways of application of provisional safeguards; duration of application of provisional safeguards, if fixed, expressed in a calendar date;
  - 9) other limitations of rights, if any, related to the applied provisional safeguard;
  - 10) in case of application of property-related provisional safeguards, full name, personal identification number, place of residence of an individual trustee or property administrator or legal name, legal address and company number of a trustee or property administration company should be specified, if such trustee or administrator is appointed by the court;
  - 11) procedure to enforce the ruling;
  - 12) procedure to appeal against the ruling.
5. In case of application of property-related provisional safeguard, detail information of the property may be omitted in a ruling when a movable thing not registered with the register of property is seized, or on the date of passing the ruling the court is not aware of the amount and type of property held by the defendant. In this case, identification and description of defendant's property shall be vested upon a bailiff.
6. A ruling on application of provisional safeguards shall come into force from the moment of its passing, but it may be appealed against separately in seven days. Adoption of the ruling shall be commuted to a person subject to provisional safeguards in the procedure defined by this Code, concurrently with explanation of liability for infringement of the imposed restraints.
7. A court may adjudicate that the defendant would give a written promise not to leave the permanent residence without permission of the court.

**Article 149. Liability for infringement of provisional safeguards**

If the restraints specified in Article 145, paragraph 1, §§ 6, 7, 8 and 12, are infringed, guilty persons may be adjudicated a fine up to one thousand litas. Moreover, the plaintiff shall be entitled to recover from the mentioned persons damages caused by non-enforcement of the court's ruling on imposition of provisional safeguards.

**Article 150. Validity and cancellation of provisional safeguards**

1. At the request of participants in a proceeding or other persons concerned, provisional safeguards may be cancelled by the court having the jurisdiction over the case.

2. A court may initiate cancellation of provisional safeguards *ex officio*:
  - 1) when this is required for public interests;
  - 2) if a person who applied for imposition of provisional safeguards fails to file a claim by the fixed time-limit;
  - 3) if a person who had to pay in money to a special bank account of the court, as set in Article 147 of the Code, fails to do so before the fixed time-limit;
3. A court shall settle the issue on cancellation of provisional safeguards in accordance with the written procedure.
4. If a claim is disallowed, the imposed provisional safeguards shall stay valid until coming of the court judgement into effect. Cancellation of provisional safeguards shall be adjudicated by the court in a ruling.
5. If a claim is satisfied, the imposed provisional safeguards shall be applied until enforcement of the ruling.

**Article 151. Appeal against rulings on provisional safeguards**

1. All rulings of courts of first instances on provisional safeguards may be appealed against by filing a separate appeal. Filing of the appeal shall not suspend hearing of the case.
2. If a ruling on provisional safeguards had been adopted but not communicated to the appellant, a term for filing an appeal shall start running on the date of producing a copy of the ruling to the mentioned person.
3. Filing of a separate appeal against a ruling to apply provisional safeguards shall not suspend enforcement of the ruling.
4. Filing of a separate appeal against a ruling to cancel or replace provisional safeguards shall suspend enforcement of the ruling.
5. Rulings of courts of appeal on provisional safeguards shall not be subject to appeals.

**Article 152. Enforcement of rulings on provisional safeguards**

1. A court ruling on application of provisional safeguards shall be enforced with immediate effect.
2. A ruling to substitute one provisional safeguard for another or to cancel provisional safeguards shall be enforced after coming of the ruling into effect.
3. A ruling indicated in this Article shall be forthwith sent to a bailiff, registrar of the public register or other officer or person given powers to enforce rulings.
4. A bailiff shall enforce rulings described in this Article above in accordance with the procedure set for enforcement of court judgements.

**CHAPTER XII  
COURT SESSIONS**

**SECTION ONE  
CONDUCT OF PROCEEDINGS**

**Article 153. Forms of court sessions**

1. Court sessions shall be conducted in accordance with verbal procedure, i.e., inviting participants in a proceeding to appear, except in cases when the Code provides for otherwise.
2. Written procedure shall apply in cases defined by the Code. In such cases, participants in a proceeding are not invited to appear and present at the hearings. Participants in a proceeding shall be given notices on the written procedure of hearing unless the Code sets forth that notification should be given on the performance of procedural actions.

**Article 154. Assignment and venue of court sessions**

1. Sessions shall be assigned by a court unless otherwise set by laws.
2. Court sessions shall be held in the court hearing the case.
3. Verbal procedure may take place outside the court hearing the case, if the proceedings are easier or more economic to conduct in other place compared to the proceedings in the court hearing the case.

**Article 155. Absence from court session**

1. A participant in a proceeding shall be considered absent from a court session, if he failed to appear before the court despite being duly informed on the session.
2. A participant in a proceeding shall be considered absent from a court session, if he had appeared before the court but left the session without court's permission.
3. A participant in a proceeding shall be considered absent from some procedural actions, if such actions should have been taken by a lawyer but the principal performed them in person.

**Article 156. Adjournment of proceedings**

1. A court shall be entitled to adjourn proceedings in cases set forth by the Code as well as in cases when the court session is impossible because of non-appearance of a translator/interpreter or a counterclaim has been filed, or new evidence should be sued out, or for other important reasons (sick absence, vacation, business trips, other business, participation of party's representative in other cases and other similar excuses are normally not considered important reasons).
2. Upon adjournment of proceedings, a court shall appoint new time for the hearing and communicate this to all persons present against their signature. Persons absent from the proceedings or newly involved therein shall be notified on a new time of the hearing in accordance with the procedure defined by the Code.
3. Upon adjournment of proceedings, a court may interview present witnesses if participants in a proceeding are present in the hearing or absent without satisfactory excuses. The interviewed witnesses are not normally repeatedly invited to appear, but in exceptional cases the court may pass a ruling to invite them repeatedly to a new court session.
4. In case of adjournment, hearing shall be started from the beginning. Unless objected by the participants in the proceeding, new hearing may be started from the procedural action after which the case was adjourned.

**Article 157. Reopening of hearing on the merits**

1. If during the closing speech or in the decision-making room a court admits to necessity to identify new circumstances important for the case or examine new evidences, the court passes a ruling on reopening of hearing on the merits. When the resumed hearing on the merits is over, the court listens to the closing speech in the general procedure.
2. Reopening of hearing on the merits may be assigned in other cases set by this Code.

**Article 158. Chairman of a court session**

1. Sessions of a district court shall be presided by the chairman, deputy chairman or a judge of this court. Sessions of a county court, the Lithuanian Court of Appeals and the Supreme Court of the Republic of Lithuania shall be presided by the chairman of a county court, the Lithuanian Court of Appeals and the Supreme Court of the Republic of Lithuania respectively or other judge appointed by them.
2. The chairman of a court session shall open, conduct and close the hearing, give a word to participants in the proceeding or revoke this right in respect of persons failing to adhere to chairman's directions.

3. The chairman of a court session shall take care of proper, undisturbed and non-delayed case hearing, explanations of rights and obligations of parties, third persons and their legal representatives, except in cases when the proceedings are maintained through the representative, remove from trial everything what is unrelated to the pending case. The rights referred to in this Article shall be also exercised by other judges if the case is heard by a juridical board.

**Article 159. Duty of the chairman of a court session to ensure proper hearing**

1. The chairman of a session shall heed to establishing consistent essential circumstances of the case, take conciliation measures. In case of verbal hearing on the merits, the chairman of the session may interview participants in the proceeding, request for their explanations, point out circumstances that must be identified for fair hearing, request for evidences to ground the circumstances or collect evidences *ex officio* in accordance with the procedure defined in this Code.
2. If during verbal hearing on the merits a participant in the proceeding deviates from preliminary court documents, the chairman of the court session shall pay attention of such participant to the mentioned deviation. Court documents of the case, as submitted in the procedure defined by the Code, shall not be read during the hearing, except in cases when the participants in the proceeding are not aware of the contents thereof or literal citing of the documents is necessary.

**Article 160. Rights of the chairman of court session**

1. In order to implement functions specified in Articles 158 and 159 of the Code, the chairman of a court session shall have the following rights in courts of first instance:
  - 1) admit to obligatory participation of a party at a court session;
  - 2) recover evidence that may not be obtained by other participants in a proceeding;
  - 3) interview participants in a proceeding, appoint experts or invite necessary witnesses to appear before a court;
  - 4) obligate participants in a proceeding to submit the court evidences held by the participants and used as a basis by any of them;
  - 5) collect evidence *ex officio* in cases defined by this Code and other laws.
2. The rights referred to in this Article shall be also exercised by other judges if the case is heard by a juridical board.

**Article 161. Offer to take care of representation**

1. In instances when the chairman of a court session thinks that a party or third person is (will be) incapable of adequate defence of his rights, the chairman may offer to look to it that such persons would be represented in the proceedings and adjourn the hearing for this reason. When the hearing is in progress, the proceedings may be adjourned only once for the aforementioned reason.
2. In case of failure by a party or third person to exercise the offer of taking care of representation, the hearing will be proceeded with.

**Article 162. Measures taken against disturbers of the order of hearings**

1. A disturber of the order of hearing at a session shall be warned by the chairman of a court session in the name of a court.
2. If a participant in a proceeding neglects provisions of the chairman, the participant may be removed from the courtroom by a court ruling for a period of particular judicial acts or the court shall adjourn the proceedings. Upon coming back to the courtroom of the person who was removed for a period of particular judicial acts, the chairman shall familiarise him with the judicial acts taken in his absence.

3. If provisions of the chairman are neglected by a witness, expert or interpreter/translator, they may be removed from the courtroom by a ruling. In case of removal of an interpreter/translator or expert from the courtroom, another interpreter/translator or expert shall be invited.
4. If the order of hearing is disturbed and provisions of the chairman of a court session are neglected by other persons, they may be removed from the courtroom at the decision of the chairman.
5. A ruling on warning or elimination from a courtroom shall be entered in the trial records.
6. For malicious neglect of provisions of the chairman or disturbance of the order of hearing by persons indicated in paragraphs 2, 3 and 4 above, a fine up to one thousand litas or up to fifteen days in jail shall be adjudicated.
7. If the order of hearing is disturbed and provisions of the chairman are neglected by a lawyer, the court may as well inform the Bar Council.

## **SECTION TWO SUSPENSION OF PROCEEDINGS**

### **Article 163. Obligatory suspension of proceedings**

A court must suspend proceedings in the following instances:

- 1) when an individual party dies or corporate party is dissolved, if legal relations of the dispute allow the transfer of rights;
- 2) when a party becomes incapacitated;
- 3) when hearing of a particular case is impossible before another case is decided in the civil, criminal or administrative procedure;
- 4) when a case is heard whereby property claims are raised against the defendant, and it turns out that satisfaction of the same property claims is related to proceeding with a criminal case;
- 5) when a case is heard whereby property claims are raised against the defendant, and it turns out that bankruptcy or restructuring proceedings have been instituted against the defendant;
- 6) when a case is heard whereby property claims are raised against the a commercial bank, and it turns out that the bank has an interim receiver appointed by the Lithuanian Bank;
- 7) when a court applies to the Constitutional Court in the procedure and on the bases defined in Article 3, paragraph 3 of the Code;
- 8) when a court applies to the Administrative Court in the procedure and on the bases defined in Article 3, paragraph 4 of the Code;
- 9) in other instances set forth by laws.

### **Article 164. Right of court to suspend a case**

At the application of participants in a proceeding or *ex officio*, a court may suspend a case in the following instances:

- 1) the defendant is declared wanted;
- 2) a court assigns expertise;
- 3) when a party is serving in a formation of national defence of the Republic of Lithuania and such formation is declared to be in the state of war;
- 4) in other instances when a court admits to a necessity to suspend a case.

### **Article 165. Appeals against rulings to suspend proceedings**

Court rulings to suspend proceedings may be appealed against by filing separate appeals except for a ruling to suspend a case on applying to the Constitutional Court or Administrative Court.

### **Article 166. Period and consequences of suspensions**

1. Proceedings shall be suspended:
  - 1) in cases set forth in Article 163, paragraphs 1 and 2 – until discovery of a successor of a deceased individual party or dissolved corporate party, or until discovery of circumstances preventing from earlier succession, or until appointment of a legal representative to an incapable natural person;
  - 2) in the case set forth in Article 163, paragraph 3 – until coming into effect of a judgement, ruling, resolution or decree, or until passing of a ruling in administrative proceedings;
  - 3) in cases set forth in Article 163, paragraph 4 – until deciding on criminal proceedings or revocation of temporary restriction of ownership;
  - 4) in cases set forth in Article 163, paragraph 6 – until expiration of powers given to an interim receiver of a commercial bank;
  - 5) in other instances set forth in Article 163 and Article 164 – until elimination of circumstances serving as a basis to suspend the proceedings.
2. In the case set forth in Article 163, paragraph 5, of the Code, the suspended case shall be referred to a court, which instituted bankruptcy or reorganisation proceedings for reopening of the proceedings and attachment to the bankruptcy or reorganisation proceedings.
3. Once proceedings are suspended, no procedural actions shall be taken except for deciding on issues related to provisional safeguards.

### **Article 167. Reopening of proceedings**

1. Proceedings shall be reopened after disappearance of circumstances that served as a basis to suspend the proceedings by the application of parties or court *ex officio* (on its own initiative).
2. Reopening of the proceedings shall be formalised in a ruling.
3. Reopened proceedings shall be heard in accordance with general rules stipulated by this Code.

## **SECTION THREE MINUTES OF COURT SESSION**

### **Article 168. Obligation to keep minutes**

Minutes of a court session shall be kept at every hearing of a court of the first instance except in cases specified in this Code.

### **Article 169. Contents of minutes of a court session**

1. Minutes of a court session or minutes of a procedural action made at a separate session should reflect all essential moments of the hearing or individual procedural action made.
2. Minutes of a court session shall specify the following:
  - 1) date and place of hearing or procedural action;
  - 2) opening and closing time of hearing or procedural action;
  - 3) name, bench, clerk of the court that proceeds with the case or makes individual procedural action; full names of parties, their representatives and other persons participating in the proceeding, witnesses, experts and interpreters/translators;
  - 4) question at issue (subject matter of the proceedings);
  - 5) details on appearance before the court of participants in the proceeding, witnesses, experts, interpreters/translators or reasons of their non-appearance;
  - 6) court explanation of procedural rights and obligations of participants in the proceeding;
  - 7) essence of statements and petitions of participants in the proceeding;
  - 8) provisions of the chairman of the court session and rulings passed without leaving for the decision-making room; motives of such rulings;

- 9) summary of statements, questions of participants in the proceeding, witness evidence, expert report, comments on inspection of real and written evidences, details on inspection of photo pictures, watching of video records or listening to audio records;
- 10) summarised reports of the Government or municipalities;
- 11) essence of closing arguments;
- 12) information on announcement of rulings, decisions and judgements.

**Article 170. Keeping and signing of minutes**

1. Minutes shall be taken by a clerk of the court during the hearing. The chairman of the court session shall be entitled to dictate the contents of the minutes.
2. Each hearing or individual off-hearing procedural action shall be documented in separate minutes.
3. Every hearing may be stenographed or audio-recorded. Decoded stenographs are equal to minutes of the court session. Audio recordings shall be enclosed to the minutes of the court session. Making of audio recordings shall be entered in the minutes of the court session (stenograph).
4. A participant in a proceeding is entitled to ask for insertion into the minutes of the court session of circumstances found by the participant essential for the case matter. This request shall be satisfied at the consent of the chairman of the hearing or judiciary board if the case is heard collegially. The chairman of the court session shall be entitled to suggest that parties would sign their statements recorded in the minutes of the court session.
5. Taking or typing and signing of minutes of a court session shall be completed latest the next day after closing of the hearing or accomplishment of an individual procedural action.
6. Minutes of a court session shall be undersigned and dated by the chairman of the court session or the speaker and the clerk. Any amendments, corrections and supplements should be agreed in the records.

**Article 171. Comment on minutes of court session**

Participants in a proceeding shall be entitled to read minutes, stenographs of a court session, audio records, and may present written comments on the minutes in three days after signing thereof. The comments should specify wrong entries in the minutes and re-entering recommendations.

**Article 172. Review of comments on minutes**

1. Comments on minutes or stenographs shall be reviewed by the chairman of a court session in accordance with the written procedure. If the chairman agrees to the comments, he shall endorse a resolution indicating that the comments are correct.
2. If the chairman of the court session disagrees to the presented comments:
  - 1) the comments shall be reviewed by judges of the judiciary board, which heard the case or individual procedural action or, in exceptional cases, by two judges of the mentioned board after giving a notice to the commentators and hearing their opinion if they are present;
  - 2) The sole judge who heard the case or individual procedural action shall invite the commentators and hear their opinion if they are present.
3. If the court disallows the comments, such disallowance should be documented in a motivated judgement.
4. All comments on the minutes of the court session shall be enclosed to the case.
5. Comments on the minutes of the court session should be reviewed in three days after presentation thereof.

## **SECTION FOUR COMMISSIONS**

### **Article 173. Commission**

When it is necessary to collect evidence in other cities/towns or regions, the court hearing the case shall commission a relevant court to conduct certain procedural acts (interview parties, third persons and witnesses, inspect the site, etc.).

### **Article 174. Ruling on commission**

1. A ruling on a commission may be taken both during preliminary judicial proceedings and during court hearing.
2. A ruling on a commission shall briefly specify the matter of substance, circumstances to be detected, evidence to be collected by the commissioned court. The ruling may also list the questions to be given to witnesses. This ruling shall be binding to the addressee court and shall be enforced latest in thirty days after receipt of the commission.

### **Article 175. Procedure of executing commissions**

1. A commission shall be enforced at a court session in accordance with the rules of the Code. Participants in a proceeding shall be notified on the place and time of the session but non-appearance of the participants shall not prevent from enforcement of the commission.
2. Records and all material collected in the process of executing the commission shall be forthwith delivered to the court hearing the case.
3. If witnesses who gave testimonies to the commissioned court appear before the court hearing the case, they may be interviewed in the general procedure.

## **PART II PROCEDURE IN COURTS OF THE FIRST INSTANCE**

### **CHAPTER XIII EVIDENCE**

#### **SECTION ONE GENERAL PROVISIONS**

### **Article 176. Averment**

1. The aim of averment is reasonable belief of a court on existence or non-existence of certain circumstances related to the question at issue (subject matter of the proceedings) based on examination and evaluation of case evidences.
2. The process of averment shall be in accordance with the rules of this Code.

### **Article 177. Evidence**

1. Evidence in civil proceedings means any actual data serving as a basis for a court to state in the statutory procedure existence or non-existence of circumstances substantiating claims and replications of parties as well as other circumstances important for fair deciding on the case.
2. The mentioned data shall be found out basing on: statements of parties or third persons (in person or by representative), testimonies of witnesses, written evidence, real evidence, inspection protocols and expert reports.
3. Legally obtained photo pictures, audio and video recordings may also serve as tools of averment.

4. Circumstances of the case that are required by laws to be proved by means of particular tools of averment may not be proved using any other measures of averment.
5. Actual data comprising state or official secrets may not serve as evidences in civil proceedings until and unless they are made public in the statutory procedure.

#### **Article 178. Burden of proof**

Parties must prove the circumstances used as a basis to substantiate their claims and replications except for circumstances that are considered indemonstrable in accordance with the procedure defined by the Code.

#### **Article 179. Judicial acts in averment procedure**

1. Evidence shall be presented by parties and other participants in a proceeding. If the obtained evidence is not enough, the court may offer the parties and other participants in the proceeding to provide the court with corroborative evidence and fix a time-limit for presentation thereof.
2. The court is entitled to collect evidence on its own initiative (*ex officio*) exclusively in cases stipulated by the Code and other laws.

#### **Article 180. Relevancy**

A court shall accept for hearing only such evidence that confirms or denies circumstances relevant to the case.

#### **Article 181. Refusal to accept evidence**

1. Refusal to accept evidence provided by a participants in a proceeding in the established procedure should be motivated.
2. A court is entitled to disallow acceptance of evidence if it could have been presented earlier and later presentation thereof will delay the proceedings.

#### **Article 182. Release from averment**

The following circumstances shall be considered indemonstrable:

- 1) judicial notices;
- 2) established in effective judgements in other civil or administrative proceedings where participants were the same persons except in cases when the judgement causes legal consequences for other persons not involved in the proceedings (prejudicial facts);
- 3) consequences of personal acts constituting an offence, if such consequences have been adjudged in an effective judgement in criminal proceedings (prejudicial facts);
- 4) presumable in accordance with valid laws and unchallenged in the general procedure;
- 5) substantiated on facts admitted by parties (Article 187 of the Code below).

#### **Article 183. Examination of evidence**

1. Examination of evidences during the hearing shall be conducted by the court that hears the case in the procedure defined by this Code. The procedure for examination of evidence shall be defined by the court hearing the case, taking into consideration opinion of participants in the proceeding.
2. All proposals concerning the procedure for examination of evidence shall be presented by participants in a proceeding in writing or orally before the court hearing the case. In instances set forth by laws, evidence may be examined *in absentia* of the participants in the proceeding.
3. Evidence shall be examined in accordance with the principles of immediacy, literalism and concentration of hearing. Exclusions are allowed only if defined by the Code.

#### **Article 184. Statement on falsification of evidence**

1. If evidence is stated to be false, a person who proves this allegation may ask the court to disregard the evidence and decide on the case basing on other tools of averment. In the absence of the mentioned request, the court may obligate the person stating the falsification to provide with proofs thereof.
2. If the court finds the evidence to be falsified, it shall declare it inadmissible and, when necessary, notify the fact of falsification to a public prosecutor.

#### **Article 185. Evaluation of evidence**

1. A court shall judge on the case evidence in accordance with its self-belief based on comprehensive and unbiased examination of the evidences averred during the trial.
2. No evidence shall have any pre-stipulated power over a court except for cases provided for in this Code.

### **SECTION TWO SUBMISSIONS OF PARTIES AND THIRD PERSONS**

#### **Article 186. Submissions of parties and third persons**

1. A court shall conduct examination to find out circumstances known to parties or third persons and relevant to a case.
2. Sworn parties and third persons are entitled to file submission about relevant circumstances in writing.
3. If a party or third person is unable to appear due to important reasons, a court may request for his written statement or take submissions of such person at his whereabouts in exceptional cases.
4. Submissions of parties or third persons about relevant circumstances known to them shall be examined and evaluated by a court. At the request of present persons, submissions of parties or third persons obtained in the procedure of executing commission and safeguarding evidences shall be read aloud in a hearing.
5. Examination of a representative, one of joint tortfeasors (in case of procedural complicity), a member of general partnership or the owner of individual (personal) enterprise, when a party to the proceeding is a partnership or individual (personal) enterprise, shall be equal to examination of a party. Examination of a member of general partnership or the owner of individual (personal) enterprise, when a third person in the proceeding is a partnership or individual (personal) enterprise, shall be equal to examination of a third person.
6. Before undergoing examination, a party or third person shall take an oath by putting a hand on the Constitution of the Republic of Lithuania and saying: "I, (full name), honestly and decently swear to tell the truth". The sworn party or third person shall undersign the wording of the oath. A court shall be entitled to impose a fine within one thousand litas on the party or third person for oath breaking.

#### **Article 187. Admission of facts**

1. A party is entitled to admit to the facts used as a basis by another party to substantiate the latter's claim or replication.
2. A court may consider the admitted fact established, if it believes the admission is in compliance with circumstances of the case and is not stated for deception, violence, threat, by mistake or in order to suppress the truth.

### **Article 188. Right to withdraw from examination**

A party or third person is entitled to withdraw from examination or from answering particular questions if they would constitute witnessing against oneself, family members or close relatives.

## **SECTION THREE WITNESS EVIDENCE**

### **Article 189. Witnesses**

1. A witness may be every person, irrespective of his age or relationship to participants in a proceeding, who may be aware of any circumstances relevant to the case.
2. The following persons may not be interviewed as witnesses:
  - 1) representatives in civil proceedings or defence counsel in criminal proceedings about circumstances obtained by them in performance of their duties of the representative or defence counsel;
  - 2) persons, which are unable to understand relevant circumstances or give fair evidence due to physical or mental defects;
  - 3) clergy about circumstances obtained by them in the confessional;
  - 4) the medical profession about circumstances constituting their professional secrets;
  - 5) other persons defined by laws.

### **Article 190. Request to summon a witness**

A participant in a proceeding requesting to summon a witness must indicate the full name, address or employer of the witness as well as relevant circumstances likely to be confirmed by the witness. The participant in the proceeding requesting for summoning a witness shall compensate all expenses sustained by the witness in the procedure defined by this Code.

### **Article 191. Rights and duties of a witness**

1. A person summoned to witness must appear before a court and give fair evidence. A person summoned to witness shall be liable under the law for non-fulfilment of witness's duties.
2. Evidentiary privilege may be exercised in cases when witness evidence would constitute evidence against oneself, family members or close relatives.

### **Article 192. Witness examination**

1. Each witness shall be summoned to a courtroom and examined individually. Unexamined witnesses may not stay in a courtroom during the hearing. Examined witnesses shall stay in a courtroom until closing of the hearing. At the request of the examined witnesses, the court may let him leave the courtroom after hearing the opinion of participants in the proceeding.
2. A witness may be examined *in situ* if he may not appear upon summoning to a court due to illness, old age, disability or other legal substantial reasons and a participant in a proceeding who initiated calling of the witness may not ensure appearance of such witness to the court.
3. A court shall identify personality of a witness, explain witness rights and duties as well as liability for oath breaking and non-fulfilment or improper fulfilment of other duties of witnesses.
4. Before undergoing examination, a witness shall take an oath by putting a hand on the Constitution of the Republic of Lithuania and saying: "I, (full name), honestly and decently swear to tell the truth, without any suppression (*suppressio veri*), addition to or change of evidence". The sworn witness shall undersign the wording of the oath. The signed oath shall be enclosed to the minutes of the court session.

5. Having found out witness's relations with parties, third persons and other circumstances important for witness evidence (education, field of activities of the witness, etc.), a court shall invite the witness to tell the court all he knows in relation to the case, but to avoid information which sources cannot be referred to by the witness.
6. After taking witness evidence, the witness may be asked questions. The witness shall be first examined by a person who requested summoning the witness and by a representative of such person. Then the witness shall be examined by other participants in the proceeding. A judge shall eliminate leading questions and questions irrelevant to the case. A judge shall be entitled to give questions at any moment of witness examination.
7. If necessary, at the request of a participant in a proceeding or on its own initiative (*ex officio*) the court may re-examine a witness at the same session, call the examined witness to another session of the same court or confront witnesses.

**Article 193. Witness's notes**

A witness may use notes, when his evidence is related to figures or other data difficult to memorise. At the request of the judge, such notes shall be presented for the court and participants in the proceedings. The court may enclose the notes to the case.

**Article 194. Examination of minor witnesses**

1. For examination of a minor witness under 16 or – at a court's discretion - under 18, witness's legal representative shall be summoned to appear. Teachers or representatives from authorities for defence of children rights may be also summoned to appear. If permitted by the court, such persons may also give questions to the witness.
2. A court shall explain a minor witness under 16 his duty to tell fairly everything he knows in relation to the case, but such witness shall not take an oath in the procedure specified in Article 192, paragraph 4, of the Code.
3. In exceptional cases, when it is required for establishment of the truth or not hurting the interests of a minor, a court may adjudge to remove any participant in a proceeding from the court session for a period of examination of the minor witness. When the removed person comes back to the courtroom, he shall be informed on the contents of the minor witness's evidence and given an opportunity to ask the witness questions.
4. After examination, a witness under 16 shall leave the courtroom except in cases when the court acknowledges it is necessary for the witness to stay in the courtroom.

**Article 195. Witnesses examined in the procedure of conducting commissions or safeguarding evidences**

Evidences of witnesses examined in the procedure of conducting commissions or safeguarding evidences shall be read at a court session at the request of a participant in a proceeding. If the mentioned witnesses appear before a court, the court may examine him in accordance with the general procedure.

#### **Article 196. Release from examination**

If factual background for establishment of which witnesses were summoned is sufficiently identified, at the consent of participants in a proceeding a court may adjudge to release all or any present witnesses from examination.

### **SECTION FOUR WRITTEN EVIDENCE**

#### **Article 197. Written evidence**

1. Written evidence encompasses documents, business or personal correspondence, other letters containing data on circumstances relevant to the case. Written evidence is divided into official and private.
2. Documents issued by state and municipal authorities, approved by public officials within the limits of their competence and in accordance with requirements applied to the form of particular documents shall be considered official written evidence and shall have bigger evidential value. Circumstances indicated in official written evidences shall be considered fully proved until and unless they are denied by other relevant proofs except for witness evidence. A ban to employ witness evidences shall not apply if this contradicts the principles of fairness, justice and reasonability. Evidential value of official written evidence may be statutory conferred upon other documents as well.

#### **Article 198. Submission of written evidence**

1. Written evidence may be submitted by participants in a proceeding or recovered by a court in accordance with the procedure stipulated by the Code.
2. Written evidence shall be submitted in the form defined by Article 114. Documents signed by participants in a proceeding and transmitted via telecommunication terminals in accordance with laws and other regulations shall be equal to a written form of a document. If written evidence is made in a language other than the official language, translation of the evidence certified in the established procedure shall be enclosed thereto.
3. Original case documents may be delivered back at the request of submitters. In this instance, copies of the returnable documents certified in the procedure stipulated by the Code shall be retained.

#### **Article 199. Recovery of written evidence**

1. A person who asks a court to recover one or another written evidence from participants in a proceeding or from other persons should indicate the following:
  - 1) requested written evidence;
  - 2) grounds on the basis of which a particular person is assumed to possess written evidence;
  - 3) circumstances to be proved by written evidence;
2. Written evidences required by a court from legal or natural persons shall be sent directly to the court within fixed time-limits.
3. Persons indicated in Article 189, paragraph 2, of the Code may abstain from submission of written evidence if submission thereof would disclose circumstances preventing them from being examined as witnesses. If the previously mentioned circumstances constitute a part of written evidence, a court shall be provided with a duly certified transcript from the written evidence where parts describing the mentioned circumstances will be omitted. In addition, a person shall not be obligated to submit written evidences in cases described by Article 188 and 191, paragraph 2, of the Code.

4. A court may issue a person requesting to recover written evidence a certificate entitling to obtain the evidence for submission to the court.
5. If natural or legal persons are unable to submit the requested written evidence at all or are unable to do this by the fixed time-limit, they must advise the court and indicate the reasons of non-submission.
6. In cases when the court's request to submit written evidence is not satisfied and notice is not given about inability to submit for substantial reasons, or the court declared the indicated reasons poor, culprit persons may be imposed a fine within one thousand litas. Imposition of the fine shall not release relevant persons from their duty to submit written evidence required by the court.
7. If submission of documents to a court is problematic for being too voluminous or not fully relevant to the case, the court may request to submit duly certified transcripts of written evidence or inspect and examine the written evidence *in situ*.

**Article 200. Examination of written evidence**

1. Written evidence shall be loudly read at a court session and presented for familiarisation by participants in a proceeding, except in cases when they reviewed the evidence before the opening of the court session. If necessary, the mentioned evidence shall be made available for experts and witnesses.
2. If necessary, contents of the written evidence reviewed at the court session shall be included in the minutes of the court session. Subject to opinion of participants in a proceeding, the mentioned written evidence may be afterwards delivered back to the submitters. If this is a case, copies of the written evidence certified by the judge shall be retained.
3. When the written evidence is read aloud and reviewed, participants in a proceeding may submit their explanations.

**Article 201. Publication of private correspondence and other communication details**

Private correspondence and other details of private communication may be published in an open court session exclusively if agreed by all persons being the parties to such communications. Otherwise, details of private communications relevant to the case shall be published and examined in a session *in camera*.

**Article 202. Evidential value of written evidence with defects**

If written evidence submitted to a court contain corrections or other external defects as well as in cases when only copies of missing originals of written evidence is submitted, evidential value of such evidence shall be judged upon by the court hearing the case.

**Article 203. Court's challenging of authenticity of official written evidence**

If the court hearing the case challenges authenticity of the submitted official written evidence, it shall be entitled at the request of a participant in a proceeding or on its own initiative (*ex officio*) to insist on explanation of the issuer and to compare the submitted documents with other documents issued or made and authenticated by the issuer.

**SECTION FIVE  
REAL EVIDENCE**

**Article 204. Real evidence**

Real evidence means such things that by specific characteristics or mere existence may serve as a measure to establish circumstances relevant to the case.

**Article 205. Duties of a person requesting for recovery of real evidence**

A person requesting a court to recover any thing as an evidence shall describe such thing, specify the grounds on the basis of which the things is assumed held by a certain person, reasons preventing the requesting person from submission of the mentioned thing and circumstances that may be established with the help of the aforesaid real evidence.

**Article 206. Procedure of recovery and submission of real evidence**

1. Real evidence required by a court from a legal or natural person shall be submitted directly to the court within fixed time-limits.
2. A court may issue a person requesting to recover real evidence a certificate entitling to obtain the evidence for submission to the court.
3. If natural or legal persons are unable to submit the requested real evidence at all or are unable to do this by the fixed time-limit, they must advise the court and indicate the reasons of non-submission.

**Article 207. Circumstance of non-submission of real evidence**

In cases when the court's request to submit real evidence is not satisfied by the fixed time-limit and notice is not given about inability to submit, or the court declares the indicated reasons poor, culprit persons may be imposed a fine within one thousand litas. Imposition of the fine shall not release relevant persons from their duty to submit real evidence required by the court.

**Article 208. Procedure of keeping real evidence**

1. Real evidence shall be enclosed to the case or kept in a court's office for real evidence.
2. In individual cases, after inspection and examination of real evidence by the court, the real evidence may be given back to the person from whom such evidence was obtained until closing of the proceeding, provided that the mentioned persons request for giving back of the real evidence and the request may be satisfied without any damage to hearing of the case.
3. Real evidence that may not be brought to a court shall be kept *in situ*. If this is the case, inspection shall be made in the procedure specified in Article 210 of the Code.
4. The court shall take efforts to keep real evidence unchanged. Costs related to safe-keeping of real evidence shall be borne by a person interested in safe-keeping of real evidence.

**Article 209. Examination of real evidence**

1. Real evidence shall be examined by a court. Real evidence shall be also demonstrated for participants in a proceeding and, if required, for experts and witnesses.
2. Persons who were demonstrated real evidence may pay court's attention to any circumstances related to the inspection. Statements of such persons shall be entered in the court records.

**SECTION SIX  
PROTOCOL OF EXAMINATION**

**Article 210. Protocol of examination**

1. When it is necessary for examination of case circumstances, a court on its own initiative or at the request of participants in a proceeding may assign examination of real or written evidence *in situ* or examination of the site. Performance of examination shall be formalised in a ruling.
2. Examination shall be performed by a court in its full composition. Participants in a proceeding shall be notified on the time and place of the examination (except in cases when examination is performed during the court session convocation whereof has been informed to the participants in the hearing). If necessary, witnesses and experts shall be also called. Absence of a person who was notified on the examination shall not prevent from performance thereof.

3. Participants in a proceeding, witnesses or experts present at the examination may be asked questions. The mentioned persons are entitled to pay court's attention to anything what they believe is helpful for establishment of case circumstances.
4. Actions taken and findings of the examination shall be documented in a protocol, which is signed by full court and other participating persons. All plans, drawings, pictures and other documents made and checked during the examination shall be enclosed together with their inventory to the protocol.
5. If necessary, examination may be performed by other commissioned court instead of the trial court.

**Article 211. Examination of short-lived articles**

Perishables and other short-lived articles shall be examined by a court without delay. After examination, the perishables and other short-lived articles are delivered back to the persons the mentioned articles have been obtained from.

**SECTION SEVEN  
EXPERT OPINION**

**Article 212. Expertise and appointment of experts**

1. To find out issues rising during the hearing that require special knowledge in science, medicine, arts, engineering or craft, the court may appoint an expertise to be conducted by an expert or competent expertise authority subject to opinion of participants in the proceeding. If necessary, several experts or expert commission may be appointed.
2. A person may be appointed to conduct an expertise if he has necessary qualifications to produce expert opinion.
3. In cases set forth by the Civil Code, different procedure may be defined to appoint experts and conduct expertise.

**Article 213. Questions to an expert**

Every participant in a proceeding shall be entitled to give the court questions where expert opinion is requested. Questions for which expert opinion is required shall be ultimately decided in a court ruling. The court shall justify the overruling of a question of a participant in the proceeding.

**Article 214. Obligations and rights of experts**

1. A person appointed to act as an expert shall appear in a court when summoned and provide with unbiased expert opinion with regard to the questions submitted to him.
2. An expert shall be entitled to examine the case matter, participate in the hearing, give questions to parties, third persons or witnesses, apply to the court for supplementation of the material required for presentation of the expert opinion.
3. An expert may refuse to produce expert opinion if the material presented to the expert is insufficient to produce the expert opinion or if the question given is beyond his qualifications or competence.

**Article 215. Expert liability**

1. If an expert fails to appear in court upon a summon or refuses to conduct expertise for the reasons found by the court non-substantial, the court may impose a fine on the expert up to one thousand litas.
2. An expert shall be liable under the Criminal Code for misstatement of the expert opinion.

3. An expert shall be liable under the law for oath breaking or unreasoned refusal to conduct expertise.

**Article 216. Expert opinion**

1. An expert shall provide expert opinion in writing, in the form of expertise report. The expertise report shall include detail description of examinations, conclusions made basing on such examinations and reasoned answers to the questions given by the court.
2. If expertise reveals circumstances relevant to the case but not being posted, the expert shall be entitled to express his opinion with regard to such circumstances.
3. If a court appoints several experts and they reach a common opinion, they shall prepare a joint expert opinion. In the case of divergent opinions, each expert shall prepare a separate expert opinion.

**Article 217. Examination of experts**

1. Expert opinion shall be loudly read in a court session. Before expert opinion is read, the expert (experts) in charge for the expertise and participating at the court session shall take an oath by putting a hand on the Constitution of the Republic of Lithuania and saying: “I, (full name), swear to perform the duties of an expert with honesty and to produce the impartial and reasoned expert opinion according to the best of my knowledge”. If expertise is conducted outside the court session, the wording of the oath undersigned by the expert shall constitute an integral part of the expertise report.
2. A court is entitled to offer an expert to explain his opinion orally. Oral explanation of the expert opinion shall be included in the minutes of the court session.
3. Experts may be asked questions to explain or supplement the expert opinion. A person requesting for appointment of expertise shall be the first to ask the expert questions. Then the expert may be questioned by other participants in the proceeding. If an expert is appointed by a court *ex officio* (on its own initiative), the plaintiff shall be the first one to ask the expert questions.
4. Judges shall be entitled to ask an expert questions at any time of his examination.

**Article 218. Assessment of expert opinion**

Expert opinion shall not be binding to a court and assessed at judge’s discretion based on thorough, extensive and impartial examination of evidences of the case. However, disagreement of the court with expert opinion should be reasoned in a court judgment or ruling.

**Article 219. Additional or repeated expertise**

1. If expert opinion is ambiguous or insufficient, a court may appoint additional expertise.
2. When reasonability of expert opinion is doubtful or opinions of several experts are contradictory, a court may appoint repeated expertise to be conducted by other expert or experts.

**SECTION EIGHT  
OTHER EVIDENCE**

**Article 220. Pictures, video and audio records**

1. Pictures, video and audio recordings are submitted to a court as evidence and examined at a court session. Participants to the proceeding, witnesses or experts who were demonstrated or disclosed the mentioned evidence may give explanations, make statements, pay court’s attention to any circumstances noticed or heard. All this shall be recorded in the minutes of the court session.

2. Pictures, video or audio recordings containing episodes of private life of a person may be demonstrated or disclosed in an open court session exclusively subject to such person's consent. In other cases, the mentioned evidence may be demonstrated or disclosed in court sessions *in camera* only.

## **SECTION NINE SAFEGUARDING OF EVIDENCE**

### **Article 221. Safeguarding of evidence**

Persons who may be reasonably afraid of later inability or difficulty to present required evidence are entitled to apply to a court, whether before filing of a claim or afterwards, for safeguarding of the aforementioned evidence.

### **Article 222. Application for evidence safeguarding**

In addition to elements that are mandatory for court documents, applications to safeguard evidence shall contain the following:

- 1) evidence to be safeguarded;
- 2) circumstances to be proved by the evidence;
- 3) reasons of applying for evidence safeguarding.

### **Article 223. Procedure of evidence safeguarding**

1. In accordance with the written procedure, a court shall pass a ruling on safeguarding of evidence. The ruling shall specify the procedure and methods of enforcement thereof. The ruling on safeguarding of evidence should be passed latest in three days after filing relevant application to the court.
2. When a person requests for evidence safeguarding before a claim is filed, a court may concurrently fix a period not exceeding fourteen days to file the claim. In case of failure to file the claim by the fixed time-limit, the court shall pass a ruling to cancel measures of evidence safeguarding. When safeguarding evidences, the court may ask for a bail to be provided by a person requesting to safeguard evidence. If the claim is not filed by the fixed time-limit and a person who sustained loss for safeguarding of evidence fails to lodge a claim for damages in thirty days, the bail shall be refunded.
3. A person requesting for safeguarding of evidence or participating in the proceeding shall be notified on the place and time of the evidence safeguarding, but non-appearance of such persons in a court session shall not prevent from safeguarding of evidence. In exceptional cases, when the existing circumstances so require, evidence may be safeguarded with immediate effect without giving a notice on safeguarding of evidence to relevant persons.
4. All material collected in the procedure of safeguarding of evidence shall be forwarded to the court hearing the case.

### **Article 224. Appeal against court ruling disallowing safeguarding of evidence**

A person requesting for safeguarding of evidence may separately appeal against a court ruling disallowing such evidence safeguarding.

**CHAPTER XIV  
CONTENTIOUS PROCEEDINGS**

**SECTION ONE  
PREPARATION FOR CIVIL HEARING IN COURT**

**Article 225. Court's action after admission of claim**

After admission of a claim, a court shall:

- 1) if necessary, check averment duty of the parties;
- 2) deliver copies of the claim and its annexes to the defendant and third persons;
- 3) define a term for replications, concurrently indicating consequences of non-submission thereof;
- 4) if necessary, make a decision on appointment of an attorney or attorney's assistant to render the plaintiff or defendant legal aid that is guaranteed by the state, if a request for such aid has been received from the plaintiff or defendant;
- 5) carry out other actions found by the court necessary for proper hearing of the case in a court sitting;
- 6) after receipt of defendant's and third persons' replications or after expiration of time limits for submission of replications, the court shall define the venue, date and time of a preliminary session and notify participants in the proceeding, concurrently indicating the consequences of non-appearing in the preliminary session, or shall set that preparation for a court hearing will be proceeded with in the form of preliminary documents.

**Article 226. Obligations of parties and third persons during preparation for court hearing**

During preparation for a court hearing, parties and third persons shall submit the court all available evidence and explanations relevant to the case as well as indicate evidence that may not be submitted to the court, concurrently indicating the circumstances of such non-submission, as well as finally formulate their claims and replications to the originating claims.

**Article 227. Preparation for court hearing in the form of preliminary documents**

1. The court hearing the case must decide on the method of preparation for court hearing in the form of preliminary documents, if both parties are represented in the procedure set forth in Articles 55 and 56, paragraph 1, §§ 1,2, of the Code, except for instances specified in Article 228, paragraph 1, of the Code.
2. In the process of preparation for court hearing, maximally two preliminary documents may be submitted (claim and counterclaim excluding). The plaintiff must submit a *duplicatio* (plaintiff's replication to the plea submitted by the defendant) and the defendant must submit a *triplicatio* (defendant's replication to the *duplicatio*). In exceptional instances, the court hearing the case may pass a motivated ruling to define the number of preliminary documents to exceed two. A term not exceeding fourteen days may be fixed for submission of preliminary documents that starts running from the day of handing the preliminary documents. The court is entitled to disallow acceptance of evidence and motives that could have been submitted in the court documents specified in this part, if the court believes later submission thereof would delay passing of a judgement in the case.
3. During preparation for a court hearing, a judge shall also carry out other procedural actions necessary for proper preparation of the case for the court hearing (recover evidence that may not be obtained by the participants in the proceedings, collect evidence *ex officio* when such a right is afforded to the court in this Code, etc.).

4. When the court believes the case is ready for court hearing, it shall pass a ruling to hear the case in a court session and notify the participants in the proceeding on the venue and time of the hearing in the procedure stipulated in this Code.

**Article 228. Preparation for court hearing in a preliminary court session**

1. A preliminary court session shall be assigned when the court believes the case may be closed in a peaceful settlement or when the law obligates the court to take measures to conciliate the parties, or when this is a way for better and more comprehensive preparation for the hearing in the court.
2. Issue on assignment of a preliminary court session shall be decided on by the court latest in fourteen days after receipt of replications of the defendant or third persons or after expiration of the time limit to submit replications. Preliminary session shall take place latest in thirty days after the date of passing of the ruling to assign the preliminary court session.

**Article 229. Number of preliminary court sessions**

Normally, one preliminary court session is enough to prepare for the case hearing in court, but in exceptional instances or believing that the case may be ended in a peaceful settlement, the court is entitled to assign the date of the second preliminary court session that may not be later than thirty days afterwards.

**Article 230. Course of preliminary court session**

1. The chairman shall call parties to a preliminary court session and question them in order to find out the essence of the dispute, to make final formulation of the contents of claims and pleas of the parties and proofs used for substantiation of the claims and replications, persons to be participating in the proceedings, and shall carry out other actions found by the court necessary for proper court hearing of the case.
2. With regard to a party failing to appear in the preliminary court session after being duly summoned and at the request of the present party, the court that hears the case shall pass a judgement *in absentia* in the procedure defined by this Code.
3. If both parties fail to appear in a preliminary court session without sound reasons despite being duly summoned, the court may leave the claim unheard.
4. Preliminary court session shall be held in accordance with the general rules of the first instance procedure. Preliminary court sessions shall be formalised in the minutes of the court session.
5. Taking into consideration the nature of the case, the court may decide that parties and third persons should appear in the preliminary court session in person.

**Article 231. Conciliatory proceedings**

1. After the essence of the dispute is identified in a preliminary session, the court shall offer both parties to come to a mutually acceptable compromise agreement and to close the case in a peaceful settlement.
2. Conciliation proceedings may be applied to the entire dispute or any part thereof (individuals claims).
3. A peaceful settlement of the case in the preliminary session shall be approved by a ruling in the procedure set forth in Article 140, paragraph 3, of the Code.
4. Should the parties fail to settle the case, the court considers opinions of the participants in the proceedings, prepares the case for court hearing and appoints the venue and time of the hearing that shall be notified to the participants in the proceeding.
5. In cases when during the preliminary hearing it turns out that additional actions of preparation for court hearing are not necessary, at the consent of the parties the court is entitled to start oral hearing and resolve the case on the merits right after the preliminary court session without

passing a ruling specified in Article 232 below. If this is the case, the hearing shall be continued from the stage of court hearing.

**Article 232. Ruling to hear a case in court session**

Considering the case prepared for court hearing, the court shall pass a ruling to hear the case in a court session. In addition to other requirements raised for court documents, the ruling shall specify the following:

- 1) the essence of plaintiff’s claims and proofs used to ground such claims;
- 2) the essence of defendant’s plea and proofs used to ground the plea;
- 3) evidence required by the court on its own initiative (*ex officio*), when this right of the court is provided for in the Code;
- 4) venue and time of the court hearing;
- 5) commission to send summons for participants in the proceeding;
- 6) commission to call to the session witnesses, experts, translators/interpreters and other persons listed in the ruling;
- 7) if necessary, a ruling to involve state or municipal authorities in the proceeding for ride giving;
- 8) other commissions safeguarding proper hearing of the case.

**Article 233. Appeal against court rulings passed in preliminary hearing**

Court rulings passed in preliminary hearings shall not be appealed against in separate appeals, except for such rulings that are subject to appealing in accordance with Article 334, paragraph 1, of the Code.

**SECTION TWO  
COURT HEARING OF A CASE**

**Article 234. Hearing**

A civil case shall be adjudicated at the court hearing after participants in the proceeding have been summoned.

**Article 235. Impartiality, verballity and uninterruptibility of court hearing**

1. When hearing a case, the court must directly examine the evidence in the case, question the participants in the proceedings, hear the testimony of the witnesses, examine the opinion of the experts, the written evidence, exhibits and other evidence.

2. A case shall be heard at an oral hearing by the same composition of the court. If one of the judges is replaced during the proceedings, the hearing of the case in the court shall be resumed from the beginning, with the exception of the instances provided for in Article 16 hereof.

3. The hearing of the case shall be uninterrupted, except when a break is announced, the duration whereof shall not exceed five days. Until the disposition of the case, the court shall have no right to hear other cases, unless the case hearing is adjourned, the case is suspended or a break is made, the adoption or pronouncement of the decision is deferred.

4. Upon a written consent or a consent recorded in the minutes of the court session and signed by the parties, which may be revoked only if the procedural situation substantially changes, the court shall, by virtue of an order, have the right to hold written proceedings. Written proceedings shall not be allowed, if more than three months have elapsed after the consent of the parties.

5. Having found that the case circumstances will be more thoroughly investigated during oral proceedings, the court shall have the right to cancel the orders referred to in paragraph 4 hereof and order an oral hearing of the case.

#### **Article 236. Procedure of the court hearing**

1. When the court enters and leaves the courtroom, the court usher or the recording clerk of the court hearing shall announce: "All rise for the Court." After the court enters the courtroom, all persons present in the courtroom shall rise, then take their seats upon the invitation of the presiding judge.

2. All participants in the proceedings and other participating persons shall address the court and give their testimony and explanations standing. If any of the persons participating in the proceedings or of other participating persons are diseased or there are any other serious reasons, the testimony and explanations may be given sitting.

#### **Article 237. Obligatory character of directions of the presiding judge**

1. All persons participating in the case as well as any other persons present in the courtroom shall unquestioningly follow the directions of the presiding judge regarding the procedure of the hearing.

2. Court fines provided for in Article 162 hereof may be imposed for failure to comply with the directions of the presiding judge.

#### **Article 238. Opening of the court hearing**

The presiding judge shall open a hearing at a specific time and announce which case is under adjudication.

#### **Article 239. Verifying presence of persons summoned to participate in the proceedings**

1. The recording clerk of the court hearing shall announce to the court who of the persons summoned to participate in the case have appeared, whether the summons have been served on those not attending and what are reasons of their non-appearance.

2. The court shall establish the identity of those present, ascertain whether the officers and representatives have appropriate authorisations.

#### **Article 240. Explaining of duties to the interpreter**

1. The presiding judge shall explain to the interpreter his duty to translate the explanations, testimony, statements of the persons who do not know the state language of the proceedings and the contents of the explanations, testimony, statements, documents read out and also the directions of the presiding judge, court orders and the decision to the persons who do not know the official language of the proceedings.

2. Before carrying out his duties, the interpreter shall hold his hand on the Constitution of the Republic of Lithuania and swear as follows: "I, (name), swear to perform the duties of the interpreter in good faith, by using all my competencies". After swearing the oath, the interpreter shall sign the text of the oath and it shall be attached to the minutes of the court hearing.

3. The interpreter shall be warned that for breaking the oath he shall be liable under the procedure prescribed by the Criminal Code.

4. If the interpreter refuses to perform his duties without any lawful ground, he may be imposed a fine in the amount up to 1000 litas by a ruling of the court hearing the case.

#### **Article 241. Duty of the witness to stay outside the courtroom**

Upon the direction of the presiding judge, the attending witnesses must leave the courtroom. The presiding judge shall take measures to prevent the questioned witnesses from communicating with the witnesses who have not yet been questioned, in the premises of the court.

**Article 242. Announcement of the composition of the court and explaining of right of challenge**

The presiding judge shall announce the composition of the court, notify who will take part as an expert, interpreter, clerk of the court hearing and explain to the participants in the proceedings their right of challenge.

**Article 243. Explaining to participants in the proceeding their rights and duties**

The presiding judge shall, according to the procedure prescribed by this Code, explain to the parties, third persons and their legal representatives who attend the court hearing their procedural rights and duties, except in the cases when the parties or third persons conduct the proceedings not in person but through their attorneys.

**Article 244. Warning the expert**

The presiding judge shall explain the expert his rights and duties and warn him that he shall be liable under the procedure prescribed by the Criminal Code for giving knowingly false opinion.

**Article 245. Dealing with requests of persons participating in the proceedings**

1. The presiding judge shall ask whether the persons participating in the proceedings have any requests.

2. Requests of the persons participating in the proceedings shall be resolved by a ruling of the court after hearing the opinion of other persons participating in the case. If the requests made by the parties could have been entered earlier, the court may reject them, if satisfying of such requests delays the adoption of the judgement in the case.

3. If the court rejects a request, this shall not restrict the right of the person who had his request rejected to submit it at a later date depending on the course of the judicial hearing.

**Article 246. Consequences of failure to appear at the court hearing by the parties and their representatives**

1. In case of failure to appear at the hearing by the plaintiff who has not been duly notified of the hearing time and place and in case he does not have a representative, the court shall adjourn the hearing. The hearing shall also be adjourned in case the plaintiff conducts the case through his representative, however the plaintiff and the representative fail to appear and the representative has not been duly notified of the time and place of the hearing. The case hearing may also be deferred at the request of the plaintiff or his representative, if they present the documents justifying their absence prior to the beginning of the hearing and the court accepts such reasons for non-appearance as important (sick absence, vacation, business trips, other business, participation of party's representative in other cases and other similar excuses are normally not considered important reasons). In any other cases the court shall, at the request of the defendant, pass a judgement *in absentia*. When the defendant does not request to pass the judgement *in absentia*, the court shall leave the claim unheard.

2. In case of failure to appear at the hearing by the defendant who has not been duly notified of the hearing time and place and in case he does not have a representative, the court shall adjourn the hearing. The hearing shall also be adjourned in case the defendant conducts the case through his representative, however the defendant and the representative fail to appear and the representative has not been duly notified of the time and place of the hearing. The case hearing may also be deferred at the request of the defendant or his representative, if they present the documents justifying their absence prior to the beginning of the hearing and the court accepts such reasons for non-appearance as important (sick absence, vacation, business trips, other business, participation of party's representative in other cases and other similar excuses are normally not considered important reasons). In any other cases the court shall, at the request of the plaintiff, pass a

judgement *in absentia*. When the plaintiff does not request to pass the judgement *in absentia*, the court shall have the right either to leave the claim unheard or to decide on the merits according to the general rules of contentious proceedings.

3. By deferring the case hearing, the court shall have the right to impose a fine of up to one thousand litas to the party who failed to appear, if the law set an obligation to such party to participate in the hearing or if the court finds the appearance of the party necessary and it is not possible to pass a judgement *in absentia*. When the representative of the party fails to appear at the hearing without any valid reasons and the court defers the case hearing, the court shall have the right to impose upon him as well as upon the head of the legal entity due to whom the representative has failed to appear a fine in the amount of up to one thousand litas.

4. If there is no information on the reasons of non-appearance of the parties or they fail to appear at the court hearing without any serious reasons and there is no request made by any of them to consider the case in their absence, the court shall leave the claim unheard.

5. Participation of the representative of the party who fails to appear at the hearing shall be considered a proper participation of the party, unless the court declares a personal participation of the party at the hearing necessary. If the court declares the participation of the party necessary and it fails to appear at the hearing, the court shall pass a judgement *in absentia*.

**Article 247. Consequences of failure to appear at the court hearing by third persons who do not file independent claims or representatives thereof**

1. In case of failure to appear at the hearing by any third person who files no independent claims and who has not been duly notified of the hearing time and place and in case he does not have a representative, the court shall adjourn the hearing. The hearing shall also be adjourned in case the third person conducts the case through his representative, however the third person and the representative fail to appear and the representative has not been duly notified of the time and place of the hearing.

2. The case hearing may also be deferred at the request of a third person who files no independent claims or its representative, if it presents the documents justifying its absence prior to the beginning of the hearing and the court accepts such reasons for non-appearance as relevant (non-appearance due to illness, holiday, business trip, engagement of the representative of the party in other cases, other engagement and other similar instances shall normally not be considered as relevant reasons). If there is no information on the reasons of non-appearance or the court finds such reasons irrelevant, the case may be heard in the absence of the person who failed to appear.

3. When third persons who file no independent claims or their representatives fail to appear at the hearing without any good reasons, the court shall have the right to impose upon them as well as upon the head of the legal entity due to whom the representative has failed to appear a fine in the amount of up to one thousand litas.

**Article 248. Consequences of failure to appear at the court hearing by witnesses, experts or interpreters/translators**

1. In case of failure by witnesses, experts or interpreters/translators to appear at the hearing, the court shall ask for the opinion of the persons participating in the proceeding as to possibility to consider the case in the absence of the witnesses, experts or interpreters/translators and pass a ruling to continue or defer the case hearing.

2. If a summoned witness, expert or interpreter/translator fails to appear in the court without a relevant reason, he may be ordered a fine in the amount of one thousand litas and the witness may also be brought to the court on the basis of a court ruling.

#### **Article 249. Hearing of the case on the merits**

1. A case hearing on the merits shall be commenced with the statement about the case made by the presiding judge. Subsequently, the presiding judge shall ask if the plaintiff sustains his claims, whether the defendant admits the claim filed and whether all possibilities to enter into a peaceful settlement have been exhausted.

2. The plaintiff and the third person participating in his support shall be the first to give explanations, then – the defendant and the third person participating on his side, as well as other persons participating in the proceeding. The persons participating in the proceeding shall have the right to put questions to each other. Each participant in the proceeding shall be given a possibility to express his opinion regarding each statement and request made by any other participant in the proceedings. In cases specified in this Code, the presiding judge shall read out written the explanations made by the participants in the proceeding as well as the explanations received by the court in the procedure of executing a judicial request or safeguarding the evidence.

#### **Article 250. Examination of evidence**

Having heard the explanations of the persons participating in the proceedings, the court shall examine all evidence in the case according to the procedure prescribed by Articles 176–220 of this Code.

#### **Article 251. End of case hearing on the merits**

1. Having examined all the evidence, the presiding judge shall ask participants in the proceeding if they wish to supplement the case matter.

2. If there are requests to supplement the case matter, the court shall consider them and pass a ruling regarding satisfaction or disallowance of the requests. If persons participating in the proceedings submit supplementary material to the court or request to compel further evidence, the court may reject the request made if its satisfaction delays the adoption of the decision in the case and/or if such request could have been made earlier.

3. After settling the requests and taking additional actions, if necessary, and also when there are no requests, the opinion of the state and municipal authorities, if any, shall be heard.

#### **Article 252. Opinion of the state and municipal authorities**

1. Representatives for state and municipal authorities involved in the proceeding by the court or who joined the proceeding on their own initiative shall give their opinion in the hearing after examination of the evidence. Afterwards the court and the persons participating in the proceeding may put questions to the representatives of such authorities in order to clarify or supplement the opinion.

2. These persons shall not take part in closing speeches.

#### **Article 253. Summations**

1. Having solved the issues indicated in Article 251 paragraph 3 of this Code, the presiding judge shall announce that hearing of the case on the merits is completed and the court shall start hearing closing arguments.

2. The plaintiff and his representative shall be the first to make their closing arguments; thereafter the defendant and his representative shall speak.

3. The third person, which has filed independent claims on the dispute matter, and his representative shall speak after the parties. The third person, which has filed no independent claims on the dispute matter, and his representative shall speak after the plaintiff or the defendant on the side whereof he participates in the proceedings.

4. Participants in the summations shall have no right to rely in their arguments on the circumstances not investigated by the court as well as on evidence that has not been examined in the hearing.

**Article 254. Replications**

After all participants of the summations have spoken out, they may shortly speak for the second time on what was said in the closing arguments. The defendant and/or his representative shall have the right of the last replication.

**Article 255. Impermissibility to restrict duration of addresses**

The court shall have no right to restrict the duration of the addresses of the persons taking part in the closing speeches; however, the presiding judge shall have the right to interrupt the speaker if he does not speak on the merits of the case. In such cases, the presiding judge shall set the duration of the addresses and stop the speaker, if the duration is exceeded.

**Article 256. Renewal of case hearing on the merits**

If the court recognises, during the closing speeches or after withdrawing to the decision-making room, that new circumstances relevant to the case need to be ascertained or new evidence examined, it shall adopt a ruling to renew the hearing of the case on the merits. After finishing the hearing of the case on the merits, the court shall hear the closing speeches in the general procedure.

**Article 257. Withdrawal of the court to decision-making room**

After the summations, the court shall withdraw to the decision-making room to adopt the judgement or an appropriate ruling in the case, unless the court decides when leaving to the decision-making room to defer the adoption and pronouncement of the judgement. The presiding judge shall make an announcement to the effect to those present in the courtroom.

**Article 258. Adoption or pronouncement of judgement or ruling**

1. The judgement shall be adopted in a decision-making room. In the decision-making room, the court may also adopt a ruling to defer the adoption and pronouncement of the judgement, to renew hearing of the case, to discontinue the proceedings or to leave the claim unheard.

2. Having adopted the judgement or ruling, the court shall return to the courtroom and the presiding judge or a judge of the chamber shall read out the judgement or ruling.

3. All the persons present in the courtroom shall listen to the judgement while standing, with the exception of cases provided for in Article 236 paragraph 2 of this Code.

4. Having read out the judgement or the ruling to discontinue the proceeding or leave the claim unheard, the presiding judge shall explain the contents of the judgement or ruling, the procedure and time limits for appeal. At the same time, it shall be announced when the persons who participated in the proceeding will be given access to the minutes of the hearing.

**Article 259. Adoption of judgement**

1. The court shall decide on the merits of the case by adopting a judgement.

2. The court shall adopt and pronounce the judgement in the name of the Republic of Lithuania.

**Article 260. Final judgement**

A final judgement shall solve the dispute finally. The final judgement shall be adopted after examining all the evidence and the court may determine the question of validity of all claims filed in the proceedings.

**Article 261. Partial judgement**

1. A partial judgement renders the final settlement for only a part of the dispute. The partial judgement may be adopted when there are several claims filed in the case and the evidence collected is sufficient for the court to rule on one or several claims or a part thereof filed in the proceedings or on the issue of validity of the part of the claim. The partial judgement shall be a final judgement in that part of the dispute.

2. If a partial judgement is appealed against, the hearing of the case regarding other claims or claim parts shall be continued.

**Article 262. Preliminary judgement and judgement *in Absentia***

1. The court hearing the case may adopt a preliminary judgement wherein it shall state how the dispute will be adjudicated in case the parties fail to carry out specific actions.

2. The court hearing the case shall have the right to render the judgement *in absentia* in the cases provided for in this Code.

**Article 263. Legality and motivation of the judgement**

1. The court judgement must be legal and motivated.

2. The court shall motivate its judgement only by such evidence and circumstances that have been examined at the hearing.

**Article 264. Secrecy of deliberations of the court**

1. Only the judges assigned to hear the case may be present during deliberations and adoption of the judgement in the decision-making room. Other persons shall be prohibited from being present in the decision-making room.

2. The judges shall have no right to disclose the opinions stated during deliberations in the decision-making room. A dissenting opinion shall not be considered to be the disclosure of opinions.

**Article 265. Issues settled upon the adoption of the judgement**

1. When adopting a judgement, the court shall weigh the evidence and state, which circumstances relevant to the case have been established and which have not, which law must be applied in the case at hand, and whether the claim is awardable.

2. The court must adopt the judgement on all claims filed by the plaintiff, defendant and third person, except in cases when a partial judgement is rendered. The judgement shall not exceed the claims filed in the case, save in the cases provided for in this Code.

**Article 266. Prohibition to set rights and duties of persons not included among participants in proceedings**

The court shall have no right to adjudicate on the issue of the rights and duties of the persons not included among the participants in the proceeding.

**Article 267 Prohibition to pass conditional judgement**

It shall be prohibited to adopt judgements the enforcement whereof would depend on the existence or non-existence of a certain condition, save for one indicated in Article 262 paragraph 1 of this Code.

**Article 268. Procedure for adopting and formulating the judgement**

1. The judgement shall be adopted immediately after considering the case, save for the cases provided for in this Code.

2. The judge shall adopt the judgement alone (when the case is heard by one judge) or by a majority of votes of the judges. The judgement shall be stated in writing and signed by all the judges who heard the case.

3. The judgement shall be adopted by drawing up its introduction and substantive provisions and shall be read out immediately after the hearing of an individual case, save for cases provided for by this Code, by briefly presenting the motives of the judgement. The parts of the judgement comprising the recital and the motivation shall be drawn up no later than within five days after the pronouncement of the judgement.

4. The form and contents of the court judgement shall meet the requirements of Article 270 of this Code.

5. When the defendant admits the claim fully or in part, a summary version of the motivation may be drawn up only in that part where the defendant has admitted the claim filed. The summary motivation shall not contain the arguments based whereon the court rejects certain evidence.

6. A judge who had a different opinion shall have the right to write a dissenting opinion.

7. A dissenting opinion of the judge shall not be read out during the pronouncement of the judgement, but shall be attached to the case file and it shall be announced that such an opinion exists.

8. Corrections in the text of the judgement shall be discussed and signed by the judges.

#### **Article 269. Deferral of adoption and pronouncement of judgement**

1. By way of exception, having regard to the complexity and scope of the case, the court may, by virtue of a ruling, defer the adoption and pronouncement of the judgement for not longer than a fourteen days period. The judge may hear other cases during that period. The judgement the adopting and pronouncement whereof was deferred must meet all the requirements specified in Article 270 of this Code, however only the introduction and substantive provisions shall be read out, by shortly defining the motives of the judgement.

2. The court may pass a ruling to defer the adoption of the judgement without retiring to the decision-making room.

3. The court shall also indicate the date of pronouncing the judgement in the ruling to defer the adoption and pronouncement of the judgement.

#### **Article 270. Contents of the judgement**

1. The judgement of the court shall consist of the introduction, the recital, the motivation and the substantive provisions.

2. The following shall be indicated in the introduction of the judgement:

1) time and place of the adoption of the judgement;

2) the name of the court which adopted the judgement;

3) the bench of the court (name(s) of the judge(s)), the recording clerk of the court hearing, the parties, other persons participating in the proceedings;

4) the matter of the dispute.

3. The following shall be indicated in the recital of the judgement:

1) a summary of the claims and explanations of the plaintiff;

2) a summary of the rebuttals and explanations by the defendant;

3) a summary of explanations by other persons participating in the proceedings.

4. The following shall be briefly indicated in the motivation of the judgement:

1) the circumstances of the case established by the court;

2) the assessment of the evidence on which the conclusions of the court are based;

3) the arguments based whereon the court rejects certain evidence;

4) the laws and other legal acts invoked by the court, as well as other legal arguments.

5. The following shall be indicated in the substantive provisions of the judgement:

- 1) the conclusion of the court to grant the claim and/or counter-claim in full or in part, at the same time setting forth the contents of the allowed claim, or to dismiss the claim and/or counter-claim;
- 2) in the cases provided for by laws, the amount of the adjudged interest and the time period by which they shall be exacted;
- 3) direction as to the distribution of litigations costs;
- 4) the court's conclusions regarding other issues settled by the judgement;
- 5) the time limits and procedure of appeal against the judgement.

**Article 271. Setting the procedure and time limits for enforcement of the judgement and ensuring enforcement of the judgement**

1. When passing a judgement, the court shall, if necessary, set a specific procedure and time limit for enforcing the judgement, defer or schedule the enforcement.

2. In the instances provided for in this Code, the court shall refer the judgement for immediate enforcement or shall settle the issue of permission to promptly execute the judgement and set this forth in the judgement.

**Article 272. Judgement to award property or value thereof**

By awarding the property in kind, the court shall indicate in the judgement the value of the property, which must be exacted from the defendant, should it turn out during the enforcement of the judgement that the property awarded does not exist.

**Article 273. Judgement whereby the defendant is ordered to carry out or cease certain actions**

1. By passing a judgement whereby the defendant is ordered to perform or cease certain actions which do not relate to the transfer of property or funds, the court may set forth in the same judgement that in case of failure by the defendant to execute the judgement within the set time period, the plaintiff shall have the right to carry out such actions or take measures to have them ceased at the defendant's cost and at the same time to recover the relevant expenses from the defendant.

2. If the actions specified can be carried out or ceased only by the defendant, the court shall fix in the judgement the time period within which the judgement must be executed and shall specify the amount of a fine to be imposed upon the defendant in case he fails to execute the judgement or cease the actions indicated within the prescribed time period.

**Article 274. Judgement in favour of several plaintiffs or against several defendants**

1. By passing a judgement in favour of several plaintiffs, the court shall specify which part of the judgement relates to each of them or shall state that the right of exaction shall be joint and several.

2. By passing a judgement against several defendants, the court shall specify which part of the judgement must be executed by of the defendants or shall state whether the defendants' liability shall be joint and several or subsidiary.

**Article 275. Sending transcripts of the court judgement of to the parties, third persons and other persons**

1. Transcripts of the judgement drawn up in the procedure specified in Article 270 of this Code shall be issued to the persons who participated in the hearing upon their request. Transcripts of the court judgement shall be sent to the parties and third persons who failed to appear at the court hearing, not later than within five days after the day of pronouncement of the judgement.

2. The court, having adopted a judgement whereby the legal status of the item of property subject to registration is changed or the management, usage and disposition conditions thereof materially change, as well as if the court judgement has impact upon the legal status of the item of property subject to registration or upon the rights *in rem* thereto, a transcript of the effective judgement of the court shall, not later than within three days, be sent to the registrar of the public register where the item of property or the rights *in rem* there to have been registered.

#### **Article 276. Correction of clerical errors and obvious errors in calculation of the judgement**

1. The court, having pronounced a judgement in the case, shall have no right to reverse or amend the judgement by itself.

2. The court may, on its own initiative or at the request of the persons participating in the proceedings, correct the clerical errors and obvious errors in calculation, the correction whereof does not change the substance of the judgement. The issue of correction shall be determined by virtue of a ruling without notifying the parties to this effect. A separate appeal may be filed against such ruling of the court. The issue of such corrections shall be dealt with according to written proceedings.

3. A copy of the ruling correcting the clerical errors or obvious errors in calculation shall, within three days after the entry thereof, be sent to the parties and third persons.

4. A separate appeal may be filed against such rulings of the court.

#### **Article 277. Complementary judgement**

1. Having adopted a judgement in the proceedings, the court may, upon the petition of the participants in the proceedings, also upon its own initiative, adopt a complementary judgement:

1) in case of failure to adjudicate in the judgement any of the claims in respect whereof evidence has been submitted and explanations have been made by the parties;

2) if the court, having determined the issue of law, has failed to indicate the amount of the fine imposed, the property to be transferred or the actions which the defendant must perform or from the performance whereof he must abstain;

3) if the court has not decided the issue of litigation costs.

2. The issue regarding the adopting of a complementary judgement may be raised within twenty days from the delivery of the court judgement.

3. The court shall adopt a complementary judgement after having heard the issue at the court hearing. The parties shall be notified of the time and venue of the hearing. Failure by the persons to appear does not prevent from determining the issue of the complementary judgement. The provisions of Article 269 of this Code shall not be applicable when passing the complementary judgement. The complementary judgement must meet the requirements set by Article 270 of this Code. Transcripts of the complementary judgement shall, not later than within three days after the adoption of the complementary judgement, be sent to the parties and third persons if they did not attend the court hearing.

4. The complementary judgement may be appealed against according to the appeals procedure within twenty days from the day of adoption thereof.

5. A separate appeal may be filed against the court ruling dismissing the petition for adopting a complementary judgement.

#### **Article 278. Construction of the judgement**

1. If the judgement is unclear, the court that adopted the judgement shall have the right to construction, at the request of the participants in the proceedings as well as on its own initiative, of the judgement rendered by it, however, without changing its contents.

2. It shall be allowed to construct the judgement, provided it is pending, the period during which the judgement may be enforced has not expired or this period has not been resumed.

3. The issue regarding the construction of the judgement shall be settled at the court hearing. The persons participating in the proceedings shall be notified of the time and venue of the hearing. However, failure by such persons to appear does not prevent from determining the issue of construction of the judgement.

4. The court ruling regarding the construction of the judgement may be appealed against by a separate appeal.

#### **Article 279. Coming into Effect of the Judgement**

1. The judgements of the court of the first instance that have not been appealed against shall become effective after the time-limit for appeal has elapsed. The judgement which has been appealed shall become effective, unless it has been reversed, after the case has been heard on appeal, and the ruling or a new judgement of the court of the appeal instance shall come into effect as of the day of the adoption thereof. In case the judgement or ruling are not subject to appeal in the instances specified in this Code, they shall come into effect on the day of the adoption thereof.

2. Judgements rendered *in absentia* shall become effective after twenty days from the adoption thereof. In case a petition regarding revision of such a judgement is filed, it shall come into force after the revision procedure is over, provided that the petition regarding the revision of the judgement *in absentia* is not accepted.

3. Orders or rulings of the court of cassation shall come into effect on the day of the adoption thereof.

4. After the judgement, the order or the ruling has become effective, the parties and other participants in the proceedings, also their legal successors may not file with the court anew the same claims on the same grounds as well as contest in another proceedings the facts and legal relations determined by the court. This shall not prevent the parties concerned from applying to court regarding an infringed or contested right, if such a dispute has not been examined and determined by an effective judgement of the court.

5. If after the coming in effect of the judgement, order or ruling whereby periodic payments from the defendant are awarded, the circumstances which may affect the amount or durations of they payments substantially change, each party shall have the right to vary the amount and time periods of the payment by filing a new claim.

#### **Article 280. Measures taken regarding exhibits after the judgement comes into force**

1. After the judgement comes into force, the exhibits shall be returned to the persons wherefrom they have been obtained or shall be released to the persons who have been granted the right thereto by the court, unless otherwise stated in the judgement.

2. The items of property which cannot be possessed by persons according to law, shall be transferred to appropriate public legal entities.

3. The documents which constitute exhibits shall remain attached to the case file throughout the whole period of its keeping or shall be transferred to the interested persons upon the request thereof.

#### **Article 281. Directing the judgement for enforcement**

Judgements of the court may be enforced when they come into force, save when they are enforced promptly or when the debtor enforces the judgement of the court himself.

**Article 282. Judgements and rulings subject to enforcement without delay**

1. In case of prompt enforcement, the enforcement of a court judgement or ruling (or parts thereof) shall commence before they have come into force. Appealing against judgements or rulings subject to enforcement without delay shall not stay the enforcement thereof.

2. The court shall order the enforcement without delay of the following judgements and rulings:

- 1) on the award of maintenance;
- 2) on the award of work pay – the parts of judgements not exceeding an average monthly wage;
- 3) on settling the persons evicted out of residential premises;
- 4) on instituting bankruptcy or restructuring proceedings;
- 5) on the reduction of the share capital of a bank.

**Article 283. Right of the court to allow enforcement of the judgement without delay**

1. The court may allow to promptly enforcing the whole judgement or a part thereof:

- 1) on the award of payments in compensation for damage to health or depriving of life;
- 2) on the award of payment due to the author for using his copyright, to the inventor who has a patent – for using his invention;
- 3) on changing the formulation of dismissal;
- 4) on the reinstatement of the employee to his job;
- 5) in any other cases if a delay in enforcing the judgement due to special circumstances may cause substantial damage to the plaintiff or render the judgement not feasible or difficult to enforce.

2. By allowing to enforce the judgement without delay on the grounds referred to in paragraph 1 subparagraph 5 hereof, the court must require the plaintiff to ensure the recourse on the enforcement of the judgement in case the enforced judgement of the court is reversed after it has been enforced.

3. In case there are grounds provided for in Article 282 paragraph 2 and Article 283 paragraph 1 of this Code and the issue of enforcement without delay has not been settled by a court judgement, the court which adopted the judgement shall, at the request of the persons participating in the proceedings or upon its own initiative, allow, by virtue of a ruling, enforcing it without delay before the judgement comes into force. In such cases, the court shall decide on the issue of allowing enforcement of the judgement without delay according to written proceedings.

**Article 284. Stay and scheduling of enforcement of the judgement, change of enforcement procedure of the judgement**

1. The court shall have the right, at the request of the persons participating in the proceedings or on its own initiative, to stay or schedule enforcement of the judgement, also change the enforcement procedure of the judgement, taking into account the financial status or other circumstances of both parties. It shall not be allowed to stay or schedule the judgement or a portion of the judgement subject to enforcement without delay.

2. In case the issues indicated in paragraph 1 hereof have not been settled by the court ruling, they shall be considered at a hearing, by notifying all the persons participating in the proceedings. Failure by these persons to appear does not prevent from determining the issue posed to the court.

3. A separate appeal may be filed against the court ruling on staying or scheduling enforcement of the judgement, also on changing the enforcement procedure of the judgement.

### **Article 285. Adoption of the judgement *in absentia***

1. A judgement *in absentia* may be rendered in case one of the parties, which has been duly notified of the time and venue of the hearing, fails to appear at the hearing and to file a petition to hear the case in its absence, and the attending party requests to adopt such a judgement, as well as in other cases provided for by this Code. A judgement *in absentia* may also be rendered in case one or several plaintiffs or defendants fail, in the aforementioned circumstances, to appear at the hearing in the proceedings with several plaintiffs or defendants. If the party, which fails to appear at the hearing, disagrees with having a judgement adopted *in absentia*, the court shall be governed by Article 246 of this Code.

2. A judgement *in absentia* due to failure by the defendant to appear may be passed only regarding such items of the claim, whereof the defendant has been notified under the procedure prescribed by this Code. By passing the judgement *in absentia*, the court shall make a formal examination of the evidence submitted in the case, i. e., ascertain whether there is a ground to adopt such a judgement in case the contents of the evidence is proved to be true.

3. The court shall dismiss a request of the party present at the hearing to render a judgement *in absentia* and shall defer the case hearing, if:

1) the party who failed to appear has not been duly notified of the time and venue of the court hearing;

2) a request from the absent party to adjourn the case hearing, by specifying and substantiating the reasons for non-appearance, has been obtained and the court held such reasons to be relevant.

4. The court's refusal to render the judgement *in absentia* shall be motivated.

5. The absent party, which was the reason of adopting the judgement *in absentia*, shall not be entitled to appeal against such judgement under the appeal or the cassation procedure.

6. The adoption and pronouncement of the judgement *in absentia* may not be deferred.

7. A transcript of the judgement *in absentia* shall, no later than within three days after the adoption thereof, be sent to the party which failed to appear.

### **Article 286. Contents of the judgement *in absentia***

1. The judgement *in absentia* shall consist of the introduction and the substantive provisions, as well as of a summary of motivation.

2. The introduction of the judgement shall, in addition to general requirements set for this part of the judgement, state that the judgement has been rendered *in absentia*.

3. The substantive provisions of the judgement, in addition to general requirements set for this part of the judgement, shall specify the times limits and procedure for filing a petition for reviewing of this judgement.

### **Article 287. Petition for Reviewing the Judgement *in absentia***

1. The party, which failed to appear at the court hearing, shall, within twenty days after adoption of such judgement, have the right to file the court that rendered the judgement *in absentia* a petition for reviewing the judgement *in absentia* (hereinafter – the petition).

2. The following shall be indicated in the petition:

1) the name of the court which adopted the judgement *in absentia*;

2) the name of the party filing the petition;

3) circumstances proving the relevance of the reasons for non-appearance at the court hearing and non-informing the court thereof prior to the hearing, also the proof of such circumstances;

4) circumstances which may affect the legality and motivation of the judgement, and evidence corroborating such circumstances;

5) a request of the party filing the petition;

- 6) a list of the material attached by the party to the petition;
- 7) the signature of the party filing the petition and the date when the petition was drawn up.
3. The court shall be given such number of the copies of the petition and its attachments that would be equal to the number of the parties and third persons.
4. Shortcomings in the petition shall be rectified under the procedure set for rectifying the shortcomings of the claim.
5. In case an appeal and a petition for reviewing the judgement *in absentia* are filed in the same proceedings, first of all the petition for reviewing the judgement *in absentia* shall be considered and the ruling of the court passed to this effect come into force.

**Article 288. Considering the petition for reviewing the judgement *in absentia***

1. Having accepted the petition, the court shall send copies of the petition and attachments thereto to the parties and third persons and shall inform that, within fourteen days after the dispatch thereof, the parties must and the third persons have the right to submit their written opinion on the petition.
2. The court shall consider the petition according to written proceedings not later than within fourteen days after the expiry of the time period set for presenting the response.
3. Having considered the petition, the court shall have the right:
  - 1) to dismiss the petition;
  - 2) to reverse the judgement *in absentia* and resume the case hearing on the merits.
4. Having decided on the petition, the court shall revoke the judgement *in absentia* and resume the hearing of the case on the merits, if it finds that the party failed to appear at the hearing due to serious reasons that he could not notify the court in due time and that the evidence contained in the petition may affect the legality and motivation of the judgement rendered *in absentia*.
5. A transcript of the ruling shall, not later than within three days, be sent to the parties and third persons.
6. A separate appeal may be filed against the ruling dismissing the petition.

**Article 289. Repeated Judgement *in Absentia***

1. If the court resumes the hearing of the case on the merits on the grounds provided for in Article 288 paragraph 4 of this Code and the party due to which the judgement *in absentia* has been rendered fails to appear without any good reason, provided it has been duly notified of the hearing time and venue, the court shall have the right to adopt the judgement *in absentia* for the second time.
2. In the case referred to in paragraph 1 hereof, a petition for reviewing the judgement *in absentia* cannot be filed.

**SECTION TWO  
RULING AND RESOLUTION OF THE COURT**

**Article 290. Adoption of the Ruling and Resolution**

1. The court shall pass rulings on particular issues on which the case cannot be decided on the merits. The court may, by virtue of a ruling, also settle other issues in the cases provided for by this Code and other laws.
2. The court shall have the right to pass written or oral rulings during the court hearing (either at the pre-trial or full hearing). A written ruling shall be recorded in the minutes of the hearing. It shall be passed in a decision-making room and shall be drawn up as a separate procedural document. The court ruling may be written, if it can be appealed against by a separate appeal according to this Code. The court shall also have the right to pass written rulings in other

instances, if it finds them necessary. The court shall have the right also to make oral rulings in a decision-making room.

3. The court shall announce the written or oral ruling made during the hearing (either pre-trial or full hearing) immediately after it was adopted.

4. The court shall pass written rulings in any other cases than during the pre-trial hearing or full hearing.

5. In the instances provided for in this Code, the court may decide on procedural issues by virtue of a resolution. When deciding on the issue through a resolution, a judge shall write down on the document under consideration how he decides the issue in question. At the same time, the judge shall indicate its name, surname, date and sign the resolution. The resolution of the judge shall not be subject to appeal.

6. The issues that can be settled by a resolution of the judge in the cases provided for in this Code may also be settled by a ruling.

#### **Article 291. Contents of a ruling**

1. The following shall be indicated in a ruling:

1) the time and place of the adoption of the ruling;

2) the name of the court, the composition of the court and recording clerk of the hearing;

3) the persons participating in the proceedings and the matter of the dispute;

4) the issue on which the ruling is adopted;

5) motives on the basis whereof the court has arrived at its conclusions and the laws and other legal acts invoked by the court;

6) court ruling;

7) the procedure and time limits for appealing against the ruling.

2. An oral ruling shall contain the data specified in paragraphs 4, 5 and 6 hereof.

#### **Article 292. Sending of rulings to the parties and third persons**

A transcript of the ruling drawn up according to the procedure prescribed by Article 291 of this Code shall be given to the participants in the hearing upon the request thereof. The parties to the proceedings and the third persons who fail to appear at the court hearing shall, not later than within three days from the adoption thereof, be sent transcripts of rulings that may be subject to separate appeals.

### **SECTION THREE TERMINATION OF PROCEEDINGS**

#### **Article 293. Grounds for termination of proceedings**

The court shall terminate the proceedings:

1) if the case is not subject to investigation by the court;

2) the plaintiff or the petitioner have not complied with the procedure for extra-judicial consideration of the dispute established by the law for the cases of the said category and it is no longer possible to have recourse to this procedure;

3) if the court's judgement adopted in relation to a dispute between the same parties thereto, regarding the same subject matter and on the same ground, or a court ruling to accept the plaintiff's withdrawal of the claim or to approve a peaceful settlement between the parties has become effective;

4) if the plaintiff has withdrawn his claim and the court has allowed the withdrawal;

5) if the parties have entered into a peaceful settlement and the court has approved it;

6) if the arbitration award passed in relation to a dispute between the same parties thereto, regarding the same subject matter and on the same ground has become effective;

- 7) if, upon the demise of a natural person who was one of the parties to the proceedings, the legal relation of the dispute precludes legal succession;
- 8) if, upon the liquidation of a legal person who was one of the parties to the proceedings;
- 9) in other cases provided for by this Code.

**Article 294. Procedure of termination of the proceedings and the consequences thereof**

1. The proceedings shall be terminated by a court ruling. If the proceedings are terminated due to the case being outside the jurisdiction of the courts, the court must indicate the institution to which the plaintiff or the petitioner must apply.

2. Appeal to the court in relation to the dispute between the same parties about the same subject matter and on the same grounds shall be inadmissible upon the termination of the proceedings.

**Article 295. Appealing against the Court Ruling to Terminate the Proceedings**

A separate appeal may be filed against the court ruling to terminate the proceedings.

**SECTION FOUR  
LEAVING THE PETITION UNCONSIDERED**

**Article 296. Grounds for leaving a petition unconsidered**

1. The court shall leave a petition unconsidered:
  - 1) if the plaintiff or the petitioner failed to observe, upon petition to the court, the procedure of preliminary extra-judicial investigation of the case prescribed for the cases of the category and the possibility to comply with the procedure still exists;
  - 2) if the petition has been filed by a legally incapacitated person;
  - 3) if the petition has been filed on behalf of the plaintiff or petitioner by a person not authorised to conduct the proceedings;
  - 4) if a dispute between the same parties regarding the same dispute and on the same ground is pending before the court;
  - 5) if the defendant does not request a judgement *in absentia* in case provided for in Article 246 paragraph 1 of this Code;
  - 6) if both parties did not request hearing the case in their absence and failed to appear without any good reason;
  - 7) if the person who filed the petition has failed to pay the stamp duty of a fixed amount;
  - 8) if several claims have been filed and the stamp duty has been paid only for some of them – in the section regarding unsettled claims;
  - 9) if the parties reach peaceful settlement and refer the dispute to arbitration;
  - 10) in the cases indicated in Article 139 paragraph 1 of this Code;
  - 11) if it is found at the case hearing in the court of the first instance that the petition does not meet the requirements set for the contents of a claim;
  - 12) in other cases provided for in this Code and the Civil Code.
2. A claim shall be left unconsidered with reference to paragraph 1, §§ 7, 8 and 11 hereof only if the party fails to eliminate the shortcomings within a specified period and only at the court of the first instance.
3. A claim may be left unconsidered with reference to paragraph 1, § 3 hereof only if the party fails to rectify the shortcomings within the time period set by the court.

**Article 297. Procedure and consequences of leaving a petition unconsidered**

1. If the petition is left unconsidered, the case shall be disposed of by a court ruling. The court must specify in the ruling the procedure for eliminating the circumstances listed in Article 296 paragraphs 1, 2, 3, 7, 8, and 11 of this Code, which preclude the hearing of the case.

2. After the elimination of the circumstances that constituted the grounds for leaving the petition unconsidered, the interested person shall be entitled to file a petition *de novo* pursuant to the provisions generally applicable.

**Article 298. Procedure for appealing against the court ruling to leave a petition unconsidered**

A separate appeal may be filed against the court ruling to leave the petition unconsidered.

**SECTION FIVE**

**COURT RULINGS REGARDING REMEDYING OF VIOLATIONS OF LAW**

**Article 299. Separate rulings**

If during the hearing of a civil case the court comes to a conclusion that the persons have violated the laws or other legal acts, it shall make a separate ruling and shall send it to the appropriate institutions or officials of public administration, thereby informing them about the violations.

**Article 300. Court actions if elements of crime become known**

1. If in the course of hearing of a civil case the court establishes elements of crime in the actions of a participant in the proceedings or any other person, it shall notify the prosecutor thereof.

2. In such cases, the court, taking into account the circumstances of the case, shall either hear the civil case on the merits or suspend the proceedings.

**PART III**

**FORMS OF CONTROL OF THE VALIDITY AND LEGALITY OF COURT JUDGMENTS AND RULINGS AND STARTING FRESH PROCEEDINGS**

**CHAPTER XVI**

**CASE PROCEDURE IN THE COURT OF APPEAL INSTANCE**

**SECTION ONE**

**APPEALING COURT JUDGMENTS THAT ARE NOT *RES JUDICATA***

**Article 301. Review by appeal procedure of court judgments that are not *res judicata***

1. Judgments (orders, rulings) of a court of first instance that are not *res judicata*, except the cases provided in this Code, shall be appealed by the appeal procedure.

2. County courts shall hear cases according to appeals (separate appeals) concerning a district court judgment, ruling, order or decision that is not *res judicata*.

3. The Appeal Court of Lithuania shall hear cases according to appeals (separate appeals) concerning a county court judgment, ruling, order or decision that is not *res judicata*.

**Article 302. Rules of procedure**

The general provisions of this Code as well as the provisions regulating the procedure of the court of first instance, which do not contradict the rules referred to in this Chapter, shall be applicable to appeal procedure.

**Article 303. Restrictions on lodging an appeal**

1. No appeal is possible in small claims disputes when the disputed amount is less than two hundred and fifty litas. This restriction is not applicable to disputes arising in cases concerning wages and other work-related payments, maintenance orders, or compensation of damages connected with the harming of the health of a natural person, loss of life, or a professional illness.

2. A default court judgment cannot be the subject of an appeal if the appeal is lodged by the person in which respect the said judgment is passed.

#### **Article 304. Composition of a court of appeal instance**

1. A panel of three judges shall hear a case by appeal procedure.

2. In the cases provided in this Chapter, one judge may perform the procedural actions in the appeal procedure.

#### **Article 305. Subjects of an appeal**

The parties to the proceeding shall be entitled to lodge an appeal.

#### **Article 306. Content of an appeal**

1. An appeal, besides the general requirements raised for court documents, must indicate:

1) the judgment being appealed and the court, which passed the judgment;

2) the amount in the dispute when it is a property dispute;

3) The case's circumstances, evidence, and legal arguments, on which are founded the illegitimacy or invalidity of the judgment or a part thereof (grounds of the appeal) and the reasons for submitting new evidence (Article 314 of this Code);

4) the petition of the appellant (subject of the appeal);

5) the petition of the appellant to hear the case by means of written proceedings if he so desires;

6) a list of the written materials shall be annexed to the appeal.

2. An appeal cannot be founded on circumstances, which were not indicated in the court of first instance.

3. Together with an appeal must be submitted the evidence prescribed in Article 314 of this Code and the reasons why the evidence had not been submitted earlier (if the appellant has any) as well as data about the official fee having been paid for the appeal (or that the appellant is released from the official fee or that the payment of the official fee has been deferred).

#### **Article 307. Terms for lodging an appeal**

1. An appeal can be lodged within thirty days of the day the judgment of the court of first instance was passed. If the place of residence or registered office of the appellant is in a foreign state, the appeal can be lodged within forty days of the day the judgment of the court of first instance was passed.

2. The term for lodging an appeal can be extended if the court acknowledges that the term was missed due to valid reasons. A separate appeal may be lodged concerning a court ruling, by which a petition to extend an expired term was dismissed. If the court of appeal instance satisfies the separate appeal and extends the expired term, the chairman of the Civil Case Department of the court of appeal instance shall remand the appeal together with the case to the panel of judges of this court or remand it to the court of first instance to decide the question of accepting the appeal. If, in the case provided in this paragraph, the case is sent to the panel of judges of the court of appeal instance to hear, the court of appeal instance shall fulfil the requirements provided in Article 317, paragraph 1, subparagraph 1 of this Code.

3. A petition to extend an expired term for lodging an appeal cannot be submitted if more than six months have passed since the day the court judgment was pronounced.

### **Article 308. Withdrawal of an appeal**

1. The person who lodged an appeal shall be entitled to withdraw the appeal prior to the closing speeches and if the appeal is being heard by means of written proceedings, prior to the beginning of hearing the appeal on the merits. The court may refuse to accept the withdrawal of an appeal if the conditions provided in Article 42, paragraph 2 of this Code exist.

2. The court, after accepting by a ruling the withdrawal of an appeal, shall terminate the appeal procedure by a ruling if the judgment was not appealed by other parties.

3. A party who withdraws an appeal shall not be entitled to lodge it again.

### **Article 309. Joining an appeal**

1. A party who is entitled to lodge an appeal may join a lodged appeal, submitting a written application to the court of appeal instance. It is possible to thus join it until the hearing of the case on the merits is begun. If a party joins an appeal, no official fee shall be collected for the application to join it. The person joining an appeal shall not be able, in the application to join the appeal, to make any independent demands or grounds for the reversal or amendment of the appealed judgment.

2. If the court refuses to accept an appeal, the application for joining it shall be considered not to have been submitted and shall be returned to the party who submitted it.

3. An application for joining an appeal can be submitted to the court of appeal instance.

### **Article 310. Procedure for lodging an appeal**

An appeal shall be lodged through the court, the judgment of which is being appealed.

### **Article 311. Annexes to an appeal**

An appeal and its annexes shall be lodged together with as many copies as there are parties and third parties.

### **Article 312. Prohibition in an appeal to raise new demands**

It is not permitted to raise demands in an appeal, which were not stated when hearing the case in the court of first instance. Demands concurrently connected with the claim that was already filed (for example, to award default interest, interest, fruits, and other cases) shall not be considered new demands. The official fee shall be paid for these demands like for the demand in the court of first instance.

### **Article 313. Prohibition to pass a worse judgment**

The court of appeal instance may not pass a worse judgment or ruling in respect to the applicant than that being appealed if only one of the parties is appealing the judgment. The reversal of the judgment being appealed and the remanding of the case to the court of first instance to be reheard as well as when a judgment is passed in the case provided in Article 320, paragraph 2 of this Code shall not be considered passing a worse judgment.

### **Article 314. New evidence**

The court of appeal instance shall refuse to accept new evidence, which could have been submitted in the court of first instance except in cases where the court of first instance refused without grounds to accept it or where the necessity of submitting this evidence arose later.

### **Article 315. Acceptance of an appeal**

1. The court of first instance, which passed the judgment, shall decide the question of accepting an appeal no later than within three days of its being lodged with the court.

2. An appeal shall not be accepted and shall be returned to the party who lodged it if:

1) the appeal was lodged after the term established for lodging it has passed and no petition was filed to extend this term or said petition was not satisfied;

2) an incapable person or a person, who is not entitled to lodge the appeal, lodged it;

3) if a judgment (ruling), which cannot be the object of an appeal according to the laws, is being appealed.

3. A refusal by a court to accept an appeal on the grounds referred to in paragraph 2 of this Article shall not prevent the relodging of the appeal without violating the term for lodging an appeal if the deficiencies have been eliminated.

4. A judge, when refusing to accept an appeal, shall pass a reasoned ruling. A separate appeal may be lodged concerning this ruling.

5. If the deficiencies referred to in paragraph 3, subparagraphs 1-3 of this Article are revealed when hearing the case by appeal procedure, the appeal procedure shall be terminated.

### **Article 316. Elimination of the deficiencies of an appeal**

1. If the lodged appeal or its annexes do not meet the requirements referred to in Articles 306 and 311 of this Code, the court shall pass a ruling and establish a term for the appellant to eliminate the deficiencies.

2. If the appellant accomplishes the requirements referred to in the ruling within the established term, the appeal shall be considered to have been lodged on the day it was first lodged. Otherwise the appeal shall be considered not to have been lodged and by a ruling shall be returned to the person who lodged it.

3. The court of appeal instance, after establishing that the court of first instance, in deciding the question of accepting an appeal, was required to assign the appellant a term for the elimination of any deficiencies, shall pass a ruling and establish a term for the appellant to eliminate the deficiencies.

### **Article 317. Actions of a judge of the court of first instance after accepting an appeal**

1. The court of first instance, after accepting an appeal, within seven days of the end of the term to appeal the established decision, must send:

1) to the parties participating in the appeal procedure, copies of the appeal and its annexes;

2) to the court of appeal instance, the case together with appeal and its annexes that it received.

2. After accepting an appeal concerning a partial judgment, copies, confirmed by the court, of only that part of the case, which is connected with the passing of the judgment, may be sent to the court of appeal instance.

3. If a question is raised in the court of first instance concerning the passing of an additional judgment, the case with the appeal concerning the court judgment passed in the case shall be sent to the court of appeal instance only after the question concerning the passing of an additional judgment in the case has been heard.

### **Article 318. Responses to an appeal**

1. The parties, within twenty days of sending an appeal from the court of first instance to the court of appeal instance, must and the other parties to the proceeding shall be entitled to submit thorough responses in writing to the appeal, in which their opinion shall be set out concerning the appeal lodged.

2. The court of appeal instance shall decide a question of accepting a response to an appeal. After accepting a response to an appeal, a copy of it shall be sent to the appellant and to any person who joined the appeal.

3. Responses to an appeal, which are received after the expiry of the term established in paragraph 1 of this Article, shall be returned to the person who submitted them.

**Article 319. Formation of the panel of judges and assignment of a hearing date**

1. The chairman of the court of appeal instance and the chairman of the Civil Cases Division of this court, pursuant to the procedure established for the assignment of cases in the courts, shall by a ruling form a panel of judges, appoint its chairman and reporter, and assign the date of the hearing. The case together with the appeal shall be given to the reporter.

2. The reporter shall perform any actions necessary to prepare the case to be heard.

3. The parties to the proceeding shall be notified about the place and time for hearing the appeal case. When hearing the case by means of written proceedings, the parties to the proceeding shall not be invited to the hearing and the hearing shall take place in their absence. In case of an oral proceeding, the parties to the proceeding shall be called to the hearing but their absence shall not hinder the hearing of the case.

**Article 320. Limits of the hearing of the case**

1. The limits of appeal procedure in hearing a case shall consist of the factual and legal grounds of the appeal and the verification of the absolute grounds for the invalidity of the judgment.

2. The court of appeal instance shall hear the case without exceeding the limits established in the appeal except when public interest requires this when hearing the categories of cases prescribed in Part IV, Chapters XIX and XX, and in Part V of this Code. Irrespective of the limits of the appeal, the court of appeal instance shall also verify whether the absolute grounds for the invalidity of the judgment, which are provided in Article 329 of this Code, exist.

**Article 321. Hearing a case by means of written proceedings**

1. A panel of judges by means of written proceedings may resolve the appeal if:

1) the court of first instance, which accepted the appeal, was required to refuse to accept it. In this case the court of appeal instance shall terminate the appeal proceeding and pass a ruling to refund the official fee paid;

2) it is established that absolute grounds for the invalidity of the judgment of the court of first instance exist.

2. The hearing shall consist of a report about the case, the appeal, and the response to the appeal, the expression of the judges' opinions, the voting, and the passing of a ruling.

**Article 322. Right of an appellant to request written proceedings**

At the petition of the appellant, a case may be heard by appeal procedure by means of written proceedings if the other parties to the proceeding do not object in their responses to the appeal.

**Article 323. Restrictions on amending the subject or grounds of an appeal**

After the expiry of the term for lodging an appeal, it is forbidden to amend (append) an appeal.

**Article 324. Orally hearing a case on the merits**

1. In case of oral proceedings, the chairman of the panel shall open the hearing, announce the composition of the panel, report which case shall be heard pursuant to whose appeal and concerning which court judgment or ruling, verify which persons are present, establish the identity of those present, and verify the authorisations of the representatives. The court shall ask the persons present at the hearing whether they have any applications or petitions. The court shall decide by a ruling any applications or petitions submitted. The hearing of a case on the merits in a court of appeal instance shall begin with a report by the panel's reporter about the case, appeal, and any response to the appeal.

2. In case of oral proceedings, after the report about the case, the court shall hear the speeches of the parties to the proceeding concerning the arguments of the appeal. The appellant shall speak first. The court shall warn the parties to the proceeding if the content of their speeches does not conform to the content of the submitted court documents.

3. When the court acknowledges that it is essential, the evidence examined in the court of first instance may be examined a second time or additionally. The court may also examine evidence, which the court of first instance refused to examine. New evidence, which was not submitted in the court of first instance, shall be examined only if the court, pursuant to Article 314 of this Code, recognises it as possible to accept and examine.

4. In case of oral proceedings, after examining the evidence, the parties to the proceeding shall be entitled to state their opinion in the closing speeches. If it is not necessary to examine any evidence, the closing speeches shall occur after the speeches of the parties to the proceeding.

5. In case of oral proceedings, minutes shall be kept in the hearing.

### **Article 325. Passing and pronouncing a judgment or ruling**

1. In case of oral proceedings, after the speeches and closing speeches of the parties to the proceeding, the court shall retire to pass a judgment or ruling.

2. After passing a judgment or ruling, the court shall return to the courtroom and the panel chairman or another judge shall pronounce the caption and resolution, orally state the reasons of the judgment or ruling, and announce when the entire judgment or ruling shall have been written up.

3. The entire judgment or ruling shall be set out in writing and signed by all the judges no later than within fourteen days of the day the judgment or ruling was passed.

4. The parties to the proceeding shall be informed about the judgement or ruling of the court of appeal instance, which was passed by means of written proceedings, and in the cases provided in paragraph 5 of this Article.

5. In exceptional cases, after taking into consideration the case's complexity and size, a court, which is hearing a case by appeal proceedings, may, by a ruling, defer passing a judgement or ruling for a term of no longer than fourteen days. In such a case, the panel of judges or one of the judges shall pronounce the judgement or ruling. During the same period the judges may hear other cases.

### **Article 326. Rights of a court of appeal instance**

1. A court of appeal instance, after hearing a case, shall be entitled to:

1) allow the judgment of the court of first instance to stand;  
2) reverse the judgment of the court of first instance (in full or in part) and pass a new judgment;

3) amend the judgment of the court of first instance;

4) reverse the judgment of the court of first instance in full or in part and remand the case to the court of first instance to be reheard;

5) reverse the judgment of the court of first instance (in full or in part) and terminate the proceedings or dismiss the application on the merits if the circumstances referred to in Articles 293 and 296 of this Code are established except in the cases referred to in Article 296, paragraph 1, subparagraphs 7, 8, and 11 of this Code.

2. In the case prescribed in paragraph 1, subparagraph 2 of this Article, a court judgment shall be passed and in the cases prescribed in subparagraphs 1, 3, 4, and 5, a court ruling.

### **Article 327. Right of the court of appeal instance to reverse an appealed court judgment and remand the case to the court of first instance to be reheard**

1. The court of appeal instance shall reverse the appealed court judgment and remand the case to the court of first instance to be reheard if:

- 1) the grounds referred to in Article 329, paragraphs 2 and 3 of this Code are established;
- 2) the merits of the case have not been revealed and according to the evidence submitted in the proceeding, it is impossible to hear the case on the merits in the court of appeal instance.

2. If the court of first instance failed to decide all the demands made in the case, the court of appeal instance may, in the portion of undecided demands, return the case to the court of first instance and in the other portion decide the case by the procedure established in this Chapter.

**Article 328. Prohibition to reverse a judgement or ruling on formal grounds**

A legal and reasoned court judgement or ruling on the merits cannot be reversed on only formal grounds.

**Article 329. Reversal of a judgment after violating or incorrectly applying the rules of procedural law**

1. A violation of the rules of procedural law or their improper application is grounds to reverse a judgment only if the case could have been incorrectly decided due to this violation. In this case, the case can be sent to the court of first instance to be reheard only when the court of appeal instance is unable to correct these violations.

2. The following cases shall be recognised as absolute grounds for the invalidity of the judgment:

- 1) the case was heard by a court of an unlawful composition;
- 2) the court of first instance made a decision concerning the rights and duties of parties not included in the proceeding;
- 3) A different judge than the one who heard the case passed the judgment of the court of first instance;
- 4) the judgement or ruling contains no reasons (no abridged reasons);
- 5) there are no minutes of the hearing in the case when it was heard by means of oral proceedings;
- 6) the rules for specific or exclusive jurisdiction were violated;
- 7) the court of first instance failed to decide all the demands made in the case and it is impossible to separate the case by the procedure established in Article 327, paragraph 2 of this Code.

3. The following cases shall also be recognised as absolute grounds for the invalidity of the judgment if:

- 1) the court of first instance heard the case in the absence of at least one of the parties to the proceeding, who was not notified about the time and place of the hearing, if said party has founded his appeal on these circumstances;
- 2) in hearing the case in the court of first instance, the procedural language rules were violated and the party, whose rights were violated, has founded his appeal on these circumstances.

**Article 330. Reversal or amendment of a judgment if the rules of substantive law have been violated**

A violation of the rules of substantive law shall be grounds to reverse or amend the judgment of a court of first instance if the court of first instance applied or interpreted them improperly.

**Article 331. Content and *res judicata* of a judgment (ruling) of the court of appeal instance**

1. A judgment (ruling) of a court of appeal instance shall consist of a caption, description, reasoning, and resolution.
2. The caption of the judgment (ruling) shall indicate:

- 1) the time and place the judgment (ruling) was passed;
  - 2) the name and composition of the court that passed the judgment (ruling);
  - 3) the persons who participated in hearing the case in the court of appeal instance (in the event of oral proceedings);
  - 4) the appellant;
  - 5) the judgment (ruling) of the court of first instance that is being appealed;
  - 6) the parties, other participants in the proceeding, and the subject of the dispute.
3. The description of a judgment (ruling) must contain:
- 1) a brief exposition of the circumstances of the case;
  - 2) the merits of the judgment (ruling) being appealed;
  - 3) the grounds of the appeal, the arguments of the response to the appeal, which have significance for the legality and validity of the judgment (ruling) being appealed, and indications about anyone who has joined the appeal.
4. The reasoning of a judgment (ruling) must contain in succinct form:
- 1) the circumstances of the case established by the court;
  - 2) any evidence, on which the court conclusions are based;
  - 3) any arguments, due to which the court rejected any evidence;
  - 4) any laws, other legal acts, and other legal arguments, which the court followed in drawing its conclusions.
5. The resolution of a judgment (ruling) must indicate the judgment of the court of appeal instance.
6. The judgment or ruling of the court of appeal instance shall be *res judicata* from the day it is passed.

**Article 332. Separate ruling of a court of appeal instance**

The court of appeal instance may in the cases and by the procedure provided by Article 299 of this Code pass a separate ruling.

**Article 333. Returning the case to the court of first instance**

The court of appeal instance, after hearing the appeal, within three days of the day a judgment or ruling being drawn up, shall return the case to the court of first instance.

**SECTION TWO  
SEPARATE APPEALS**

**Article 334. Right to lodge a separate appeal**

1. A ruling of the court of first instance may be appealed by a separate appeal to the court of appeal instance separately from the court judgment:

- 1) in the cases provided by this Code;
- 2) when the court ruling prevents any possibility of continuing the case.

2. After receiving a separate appeal, the court of first instance within three days of receiving it:

1) when it agrees with the separate appeal if it was lodged not concerning rulings passed in the cases provided in Article 293 of this Code, shall by means of written proceedings itself reverse the appealed ruling, sending a copy of the ruling passed on this question to the parties to the proceeding;

2) when it disagrees with the separate appeal or when the appeal was lodged concerning the rulings referred to in Article 293 of this Code, shall by the established procedure send the case with the separate appeal to the court of appeal instance;

3. Separate appeals concerning other rulings of a court of first instance cannot be lodged but the reasons for the legality and validity of these rulings can be included in an appeal.

**Article 335. Procedure and terms for lodging separate appeals**

Separate appeals shall be lodged through the court, the ruling of which is being appealed, within seven days of the day the ruling was passed. If the court ruling being appealed was passed by means of written proceedings by the procedure established by this Code, a separate appeal may be lodged within seven days of the day the copy of the ruling was served.

**Article 336. Hearing a separate appeal**

A court of appeal instance shall hear a separate appeal by means of written proceedings except in cases where the court hearing this appeal acknowledges the necessity of oral proceedings.

**Article 337. Rights of a court of appeal instance**

A court of appeal instance, which is hearing a separate appeal, shall be entitled by its own ruling:

- 1) to allow the ruling of the court of first instance to stand;
- 2) to reverse the ruling of the court of first instance and decide the question on the merits;
- 3) to reverse the ruling of the court of first instance and remand the question to the court of first instance to be reheard;
- 4) to amend the ruling of the court of first instance.

**Article 338. Validity of the rules of appeal proceedings**

The rules regulating the proceedings in a court of appeal instance shall apply to lodging and hearing separate appeals, except for the exceptions provided in this section.

**Article 339. *Res judicata* of a ruling of a court of appeal instance**

A ruling of a court of appeal instance, passed concerning a separate appeal, shall be *res judicata* from the day it is passed.

**CHAPTER XVII  
CASE PROCEDURE IN A CASSATION COURT**

**Article 340. Review of *res judicata* court judgments and rulings by cassation procedure**

1. The judgement and rulings of a court of appeal instance by the procedure and under the conditions established in this Chapter can be appealed and reviewed by cassation procedure.
2. The Supreme Court of Lithuania shall hear cases by cassation procedure.
3. Repeat cassation appeals concerning the same *res judicata* court judgement or ruling are not possible. A case concerning the same *res judicata* court judgement or ruling may be heard by cassation procedure only one time.
4. A panel of three judges, a panel of seven judges, or a plenary session of the Civil Cases Division of the Supreme Court of Lithuania shall hear a case by cassation procedure in the cases established by this Chapter.
5. If the performance of certain procedural actions is not regulated in this Chapter, Articles 1-300 of this Code shall be applicable in so far as they do not contradict the provisions of this Chapter.

**Article 341. Restrictions on lodging a cassation appeal**

Cassation is impossible:

- 1) concerning judgments and rulings of a court of first instance, which have not been reviewed by appeal proceedings;
- 2) in property disputes if the disputed amount is less than five thousand litas. This restriction is not applicable to disputes arising in cases concerning wages and other labour-related payments, maintenance orders, or compensation of damages connected with harm to a natural person's health, loss of life, or a professional illness.

**Article 342. Entities able to initiate cassation proceedings**

Parties to the proceedings may lodge a cassation appeal.

**Article 343. Procedure for lodging a cassation appeal**

A cassation appeal shall be lodged directly with the Supreme Court of Lithuania.

**Article 344. Cassation appeal annexes**

A cassation appeal and its annexes shall be lodged together with as many copies as there are parties and third parties.

**Article 345. Terms for lodging a cassation appeal**

1. A cassation appeal can be lodged within three months of the day the judgement or ruling being appealed became *res judicata*.

2. An expired term may be extended for persons, who miss the term for lodging a cassation appeal due to reasons, which were acknowledged by the court as valid. An application to extend an expired term cannot be satisfied if it submitted when more than one year has passed since the day the judgment became *res judicata*.

3. An application to extend an expired term shall be decided the selection panel of judges, provided in Article 350 of this Code, by a ruling, which shall be final and shall not be subject to appeal.

**Article 346. Grounds for reviewing by cassation procedure a *res judicata* court judgement or ruling**

1. Cassation is possible only if the grounds enumerated in this Article exist.

2. The grounds for reviewing a case by cassation procedure are:

1) a violation of the rules of substantive or procedural law, which violation has an essential significance for the uniform interpretation and application of the law if this violation could influence the passing of a wrongful judgment (ruling);

2) if the court deviates in the judgment (ruling) being appealed from the practice for the application and interpretation of the law formulated by the Supreme Court of Lithuania;

3) if the practice of the Supreme Court of Lithuania is not uniform in respect to the disputed question of the law.

**Article 347. Content of a cassation appeal**

1. A cassation appeal, besides the general requirements raised for court documents, must:

1) indicate the judgement or ruling, concerning the review of which the cassation appeal has been lodged;

2) indicate the disputed amount in property disputes;

3) indicate the complete legal arguments, which confirm the existence of the cassation grounds referred to in Article 346 of this Code;

4) the cassator's petition.

2. It is not allowed in a cassation appeal to evoke new evidence and circumstances, which were not heard in the court of first or appeal instance.

3. A lawyer shall draw up a cassation appeal. Those employees of a legal person, who have a higher (university) legal education, may also draw up the cassation appeal of legal persons. If the cassator is a natural person who has a higher (university) legal education, he shall be entitled to draw up the cassation appeal himself. The person lodging a cassation appeal and the person who drew it up shall sign the cassation appeal.

4. Copies of the judgment (ruling) being appealed and the judgments and rulings connected with it; evidence of the payment of the official fee or a petition to be released from or to defer the payment of the official fee; and evidence confirming the petition's reasons must be annexed to a

cassation appeal. Evidence confirming the legal qualification of the person who drew up the appeal shall be annexed to a cassation appeal.

#### **Article 348. Joining a cassation appeal**

1. The parties to the proceeding, within the term established for submitting responses to the cassation appeal, may, by written application, join a lodged cassation appeal. In the application to join a lodged cassation appeal, the person joining it cannot express any independent grounds for reviewing the appealed judgement or ruling by cassation procedure or any independent demands.

2. No official fee shall be collected for an application to join a cassation appeal.

3. The provisions of Article 344 and Article 350, paragraph 8, of this Code shall be applicable to an application to join a cassation appeal.

4. A selection panel of judges by the procedure established in Article 350 of this Code shall decide a question of accepting an application to join a cassation appeal. An application to join a cassation appeal that is submitted after the expiry of the established term shall not be accepted and shall be returned to the person who submitted it.

#### **Article 349. Withdrawal of a cassation appeal**

1. A cassator shall be entitled to withdraw a lodged cassation appeal in the hearing prior to the end of the speeches of the parties to the proceeding and during written proceedings, prior to the beginning of the hearing. It is impossible to withdraw a cassation appeal later.

2. After accepting the withdrawal of a cassation appeal, a court shall pass a ruling to terminate the cassation proceedings unless other parties to the proceedings have also lodged a cassation appeal. A copy of the ruling shall be sent to the parties and any third parties.

3. The court shall be entitled to refuse to accept the withdrawal of a cassation appeal when the conditions referred to in Article 42, paragraph 2 of this Code exist.

4. After accepting the withdrawal of a cassation appeal, an application to join the appeal shall not be heard.

#### **Article 350. Procedure for accepting a cassation appeal**

1. A selection panel formed of three judges by the chairman of the Supreme Court of Lithuania or the chairman of the Civil Cases Division of this court shall decide the question of accepting a cassation appeal. A cassation appeal shall be considered accepted if at least one of the members of the selection panel votes for it. The question of accepting a cassation appeal shall be decided by passing a ruling by means of written proceedings. The participation of a judge in the selection panel, which decides the question of accepting a certain cassation appeal, shall not prevent him from hearing the case according to that cassation appeal by cassation procedure.

2. The acceptance of a cassation appeal shall be refused if it:

1) was lodged after the term for lodging a cassation appeal had expired and there was no petition to extend the expired term or the petition to extend it was not satisfied.

2) contradicts the requirements established in Article 341 of this Code;

3) does not meet the requirements established in Article 346 of this Code;

4) does not meet the requirements of Article 347 of this Code;

5) has not been signed, was signed by an unauthorised person, or was lodged by a person who is not entitled to initiate cassation proceedings;

6) has been lodged a second time after the case has already been heard by cassation procedure;

7) has been lodged without paying the official fee of the established size and there is no petition to release the cassator in part from paying this tax or deferring it or the cassator's petition to be released in part from paying this tax or to defer it was not satisfied.

3. If a petition to be released from the payment of the official fee or a petition to defer the official fee is not satisfied, the selection panel, in deciding the question of the acceptance of a cassation appeal, shall establish a term for the payment of the official fee. If this instruction is not carried out, it shall refuse to accept the cassation appeal.

4. The question of accepting a cassation appeal shall be decided by a ruling. This ruling shall be final and not subject to appeal. The ruling shall consist of a caption and resolution as well as concisely stated reasons, on the basis of which the cassation appeal was accepted or its acceptance was refused. A cassation appeal which is not accepted shall be returned to the person who lodged it. When refusing to accept a cassation appeal, the question of refunding the official fee shall be decided by the same ruling.

5. If a cassation appeal is refused on the grounds referred to in paragraph 2, subparagraphs 2, 3, 4, 5, or 7 of this Article, then the cassator, after correcting the deficiencies, shall be entitled to relodge the cassation appeal if he does so without violating the term established in Article 345 of this Code. Such a cassation appeal shall not be considered a repeat appeal.

6. An accepted cassation appeal shall be recorded in chronological order on the list of cases to be heard by cassation procedure in the Supreme Court of Lithuania. The selection panel which decided the question of accepting the cassation appeal shall demand the case.

7. The recording of the accepted cassation appeal on the list of cases to be heard by cassation procedure in the Supreme Court of Lithuania shall be reported to the parties. A copy of the cassation appeal, together with the notice about the recording of the cassation appeal, shall be sent to the parties and any third parties.

8. After the question of the acceptance of a cassation appeal is decided, it is impossible to append or amend the cassation appeal.

#### **Article 351. Responses to a cassation appeal**

1. The parties must and other participants in the proceeding shall be entitled to submit responses in writing to the cassation appeal within one month of the recording of the appeal on the list of cases to be heard by cassation procedure in the Supreme Court of Lithuania. A response to a cassation appeal must include complete reasoned grounds for disagreeing with the lodged cassation appeal. A response to a cassation appeal shall be drawn up and signed by the same procedure as a cassation appeal. Any responses to a cassation appeal, its appendices or its amendments, which are submitted after the established term has expired, shall not be accepted and shall be returned to the persons who submitted them.

2. After assigning an oral hearing of a case, copies of any accepted response to the cassation appeal shall be sent to the parties and any third parties except the person who submitted it.

#### **Article 352. Formation of the panel of judges and the assignment of a court date**

1. The chairman of the Supreme Court of Lithuania and the chairman of the Civil Cases Division, while following the established procedure for the assignment of cases, shall, by a ruling, form a panel of judges, appoint its chairman and reporter, and set the hearing date. The cassation appeal and case it received shall be given to the reporter.

2. The reporter and judges of the panel shall perform any actions necessary for preparing to hear the case.

3. The place and time of the hearing of the cassation case shall be reported to the parties to the proceeding. When hearing the case by means of written proceedings, the parties to the proceeding shall not be called to the hearing and the hearing shall occur in their absence. In the event of oral proceedings, the parties, third parties, and their representatives indicated in Article 354 of this Code shall be called to the hearing but their absence shall prevent the hearing of the case.

#### **Article 353. Limits of hearing a case**

1. The court of cassation, without exceeding the limits of the cassation appeal, shall verify the appealed judgment and/or rulings from the aspect of the application of the law. The court of cassation shall be bound by the circumstances established by the courts of first and appeal instance.

2. The court shall be entitled to exceed the limits of a cassation appeal if public interest demands it.

3. The court of cassation may not pass a worse judgment concerning the cassator than the appealed judgement or ruling if the judgment has been appealed by only one of the parties. Reversing the judgement or ruling being appealed and remanding the case to a court of lower instance to be reheard as well as the passing of a judgment in the case provided in paragraph 2 of this Article shall not be considered passing a worse judgment.

#### **Article 354. Representation**

Representatives pursuant to law, lawyers, employees of legal persons who have a higher (university) legal education, and the persons referred to in Article 56, paragraph 1, subparagraph 4 of this Code, may represent the parties and third parties during a cassation hearing.

#### **Article 355. Rights of the parties to the proceeding in cassation proceedings**

1. Parties to the proceeding shall be entitled to submit challenges and petitions to the judges hearing the case or to one of them. If the case is being heard by means of written proceedings, the parties to the proceeding may realise these rights prior to the beginning of the hearing and in case of oral proceedings, also orally prior to the beginning of the hearing of the case on the merits.

2. In the event of oral proceedings, the cassator or his representative shall be entitled to set out reasoned grounds of the cassation appeal and state the reasoning concerning the response received to the cassation appeal. The other party, third party, or their representatives shall be entitled to state their arguments concerning the cassation appeal and the response to the cassation appeal.

3. The parties to the proceeding shall be entitled to receive information about the course and results of the hearing of a case by cassation procedure.

#### **Article 356. Hearing a case in a court of cassation hearing**

1. A cassation case shall be heard after the expiry of the term for lodging a cassation appeal. The cassation case shall be heard by means of written proceedings. The hearing shall consist of a report about the case, the cassation appeal, the response to the cassation appeal, the statement of the opinion of the judges, the voting, and the passing of a ruling (decision).

2. After deciding that it is necessary, the panel of judges shall assign an oral hearing of the case. In the event of oral proceedings, the chairman of the panel shall begin the hearing, announce the composition of the panel, announce which case is being heard according to whose cassation appeal and concerning which court judgement or ruling, verify which persons are present, establish the identity of those present, and verify the authorisations of their representatives. The court shall ask those parties present at the session whether they have applications or petitions. The court shall pass a ruling concerning the submitted applications and petitions. The hearing of the case shall begin with the report of the reporter about the case, the cassation appeal, and the response to the cassation appeal. Afterwards those persons who have the right to speak shall be heard. The cassator or his representative shall speak first. The court shall establish the order of the speeches of the other persons. The chairman of the panel may establish the duration of the speeches. The court shall caution the parties if the content of their speeches does not conform to the content of the court documents that have been submitted. The court shall be entitled to ask questions. Those parties who have spoken in the case shall have the right of reply.

3. The hearing of the case in the court of cassation shall be concluded by passing a resolution (decision) by the procedure established in this Chapter. The panel of judges of the court

of cassation shall decide the case by a ruling and a plenary session of the Civil Cases Division by a decision.

4. In the event of oral proceedings, minutes shall be kept in the hearing.

5. The panel of judges or division plenary session, if the grounds established in this Code exist, shall defer or suspend the case being heard by cassation procedure. The fresh proceedings shall be started after the circumstances disappear, due to which it was deferred or suspended.

#### **Article 357. Hearing the case in an enlarged panel of judges or division plenary session**

1. The chairman of the Supreme Court of Lithuania, the chairman of the Civil Cases Division, or the panel of judges by a ruling may send the case to an enlarged panel of seven judges or a plenary session of the Civil Cases Division to be heard if a complex question of the interpretation or application of the law arises in the cassation case. The panel of judges shall pass this ruling in the deliberation room.

2. The chairman of the Supreme Court of Lithuania and the chairman of the Civil Cases Division, while following the procedure established for the assignment of cases, by a ruling shall form an enlarged panel of seven judges, appoint its chairman and reporter, and set the date of the hearing. If a panel of three judges sends the case to an enlarged panel of seven judges, then the judges who began hearing this case by cassation procedure shall usually be included in the composition of the enlarged panel of judges.

3. After sending the case to a plenary session of the Civil Cases Division to be heard, the chairman of the Supreme Court of Lithuania or the chairman of the Civil Cases Division shall appoint the reporter and set the hearing date.

#### **Article 358. Passing a court ruling (decision)**

1. A court ruling (decision) shall be passed by a majority of the votes pursuant to the requirements of this Code. The judge having the least work experience in the Supreme Court of Lithuania shall speak first and the hearing chairman last. If the votes in a plenary session of the Civil Cases Division are evenly divided, the hearing chairman shall have the casting vote.

2. The ruling (decision) passed by the court shall be set out in writing and signed by the all the judges. The session's hearing chairman and reporter shall sign the decision of a division plenary session.

3. After hearing the case, a court ruling (decision), which consists of a caption and resolution, shall be passed and a ruling (decision) meeting the requirements of Article 361 of this Code shall be drawn up within twenty days of its being passed.

4. In the event of oral proceedings, the court ruling shall be pronounced in the courtroom. The hearing chairman of a Civil Cases Division plenary session, the chairman of the panel of judges, or a judge shall read the resolution of the ruling (decision) and orally state the reasons of the ruling (decision).

5. The panel of judges or Civil Cases Division plenary session by a ruling may defer the passing of a court ruling (decision) for no longer than a twenty-day period. During this period the judges may hear other cases. The date for passing the ruling shall be reported to the parties to the proceeding during the hearing in the event of oral proceedings. In the event of oral proceedings, when pronouncing the ruling, the passing and pronouncement of which was deferred, the other judges of the panel of judges or division plenary session need not attend.

#### **Article 359. Rights of the court of cassation**

1. The court of cassation, when hearing a case by cassation procedure, shall be entitled to:

- 1) to allow the judgement or ruling to stand;
- 2) to amend the judgement or ruling;

3) to reverse the judgement or ruling and leave in force one of the judgements or rulings passed earlier in the case;

4) to reverse the judgment (in full or in part) and pass a new judgment;

5) to reverse the judgment in full or in part and remand the case to the court of appeal instance to be reheard except in the cases provided in Article 360 of this Code;

6) to reverse the judgment in full or in part and terminate the case or dismiss the application on the merits.

2. After reversing part of a judgement or ruling, the court of cassation must make an indication in its ruling concerning the validity of the remaining part of the judgement or ruling.

3. The court of cassation, after hearing a case, shall reverse or amend the appealed judgement or ruling after establishing the grounds provided in Article 346 of this Code.

4. The court of cassation shall amend or reverse a judgement or ruling and pass a new judgment if it establishes that only the rules of substantive law were violated by applying or interpreting them improperly. The court of cassation shall also have this right in a case where a violation of the rules of procedural law is established, which violation it can itself eliminate. In these cases the court of cassation shall be bound by the circumstances established by the court of first and/or appeal instance.

5. A court judgment or ruling shall be reversed by cassation procedure and the case terminated or the application dismissed on the merits on the grounds referred to in Articles 293 and 296 of this Code except paragraph 1, subparagraphs 7, 8, and 11 of Article 296.

#### **Article 360. Right of the court to remand a case to the court of first instance**

The court of cassation shall reverse the judgement or ruling in full or in part and remand the case to the court of first instance to be reheard if the absolute grounds, referred to in Article 329, paragraphs 2 and 3 of this Code, for the invalidity of the judgement or ruling are established. The case can also be sent to the court of first instance to be reheard after establishing essential violations of the rules of procedural law, which violations cannot be eliminated in the court of appeal instance.

#### **Article 361. Content of a court ruling (decision)**

1. A ruling (decision) of a court of cassation shall consist of a caption, description, recital, and resolution.

2. The caption of a ruling (decision) shall indicate:

1) the time and place the ruling (decision) was passed;

2) the name and composition of the court that passed the ruling;

3) the parties who participated in hearing the case in the court of cassation (in the event of oral proceedings);

4) the cassator;

5) the appealed court judgments (rulings);

6) the parties, other participants in the proceeding, and subject of the dispute.

3. The description of a ruling (decision) must contain:

1) a brief presentation of the circumstances of the case;

2) the merits of the judgments (rulings);

3) the grounds of the cassation appeal, the arguments of the response to the cassation appeal, which have a significance for the legality of the appealed judgement (ruling), and an indication about anyone who joined the cassation appeal.

4. The recital of the ruling (decision) must contain:

1) the laws and reasons, on the basis of which the court of cassation formed its opinion;

2) the relevant rule, in the case being heard, for the application or interpretation of the law for the practice of the courts.

5. The resolution of the ruling (decision) must indicate the judgment of the court of cassation.

6. The panel of judges, which passed the ruling, may suggest publishing the ruling in the bulletin published by the Supreme Court of Lithuania.

**Article 362. *Res judicata* and the obligation of a ruling of a court of cassation**

1. A ruling of a court of cassation is final, not subject to appeal, and *res judicata* from the day it is passed.

2. The explanations set out in the ruling of a court of cassation are compulsory for the court rehearing the case.

**Article 363. Suspension of the enforcement of a judgement or ruling**

The chairman of the Supreme Court of Lithuania, the chairman of the Civil Cases Division, a selection panel of judges, a panel of judges, or a Civil Cases Division plenary session shall be entitled to suspend by cassation procedure the enforcement of a judgement or ruling while the case is heard by cassation procedure.

**Article 364. Returning a case heard by cassation procedure and sending out copies of the ruling (decision)**

A court of cassation, after hearing a case, within three days of the day a ruling (decision) is drawn up, shall return the case to the court of first instance or the court, which is shown in the ruling (decision), and send copies of the ruling (decision) to the parties to the proceeding.

**CHAPTER XVIII  
STARTING FRESH PROCEEDINGS**

**Article 365. Starting fresh proceedings**

1. Fresh proceedings of a case, ended by a *res judicata* court judgment (ruling), can be started on the grounds and by the procedure established in this Chapter. The parties and third parties as well as parties not included in the hearing of the case, if the *res judicata* judgement or ruling violates their rights or interests protected by the laws, can submit a petition to start fresh proceedings.

2. The Prosecutor General of the Republic of Lithuania may, by the procedure established in this Chapter, submit petitions to start fresh proceedings in order to protect a public interest.

**Article 366. Grounds for starting fresh proceedings**

1. Fresh proceedings can be started if the following grounds exist:

1) if the European Court of Human Rights recognises that the judgments, rulings, or decisions of the courts of the Republic of Lithuania in civil cases contradict the European Convention for the Protection of Human Rights and Fundamental Freedoms and/or its additional protocols, in which the Republic of Lithuania is a participant.

2) new essential circumstances in the case, which were not and could not be known to the applicant during the hearing of the case, are newly revealed;

3) the knowingly false explanations of a party or third party or testimony of a witness, the knowingly false opinion of an expert, a knowingly false translation, or the falsification of documents or material evidence, due to which a wrongful or unfounded judgment was passed, are established by a *res judicata* court sentence;

4) the criminal acts of the parties to the proceeding or other participants in the proceedings or the judges, which were committed in hearing the case, are established by a *res judicata* court sentence;

5) a judgment or sentence of a court or another act of an individual nature of state or municipal institutions, which was the grounds for passing the judgment, ruling, or decision, was reversed as wrongful or unfounded;

6) if one of the parties during the proceedings was incapable and was not represented by a representative in accordance with the law;

7) if the court made a decision in its judgment concerning the rights and duties of parties not involved in the hearing of the case;

8) if a court of an unlawful composition heard the case;

9) if an obvious error in the application of the rules of law was made in the judgment (ruling) of the court of first instance and the judgment (ruling) was not reviewed by appeal procedure. The Prosecutor General of the Republic of Lithuania shall also be entitled to submit petitions to start fresh proceedings on the grounds provided in this paragraph concerning court judgments (rulings), which were reviewed by appeal procedure.

2. In the cases referred to in paragraph 1, subparagraphs 6 and 8 of this Article, fresh proceedings shall not be started if the person who submitted the petition could invoke these grounds in an appeal or cassation appeal.

3. A petition to start fresh proceedings is impossible concerning *res judicata* court judgments on questions of annulling or dissolving a marriage if at least one of the parties, after the judgment became *res judicata*, entered into a new marriage or registered a partnership (cohabitation).

#### **Article 367. Submitting a petition to start fresh proceedings**

1. If a petition to start fresh proceedings is based on one of the grounds provided in Article 366, paragraph 1, subparagraph 1 of this Code, it shall be submitted to the Supreme Court of Lithuania.

2. If a petition to start fresh proceedings is based on one of the grounds provided in Article 366, paragraph 1, subparagraph 8 of this Code, it shall be submitted to the court of an unlawful composition, which heard the case.

3. If a petition is based on other grounds, it shall be submitted to the court of first instance, which heard the case.

4. A petition to start fresh proceedings shall be heard in the same civil proceeding, in which it is petitioned to start the fresh proceedings.

#### **Article 368. Terms for submitting a petition**

1. A petition to start fresh proceedings can be submitted within three months of the day, on which the person submitting it learned or had to have learned of the circumstances creating the grounds to start fresh proceedings.

2. No petition to start fresh proceedings can be submitted if more than five years have passed since the judgment or ruling became *res judicata* except in the case referred to in Article 366, paragraph 1, subparagraph 1 of this Code.

#### **Article 369. Content of a petition to start fresh proceedings**

1. Besides the general content requirements raised for a claim, a petition to start fresh proceedings must indicate:

1) the name of the court, which passed the judgement or ruling;

2) the grounds for starting fresh proceedings;

3) the reasons for starting fresh proceedings;

4) the circumstances, on which are based the calculation of the terms referred to in Article 368 of this Code;

5) the petition of the person who submitted the application.

2. Any evidence substantiating the existence of grounds to start fresh proceedings must be annexed to the petition to start fresh proceedings.

**Article 370. Hearing a petition to start fresh proceedings**

1. In deciding the question of accepting a petition to start fresh proceedings, the court shall check whether the petition meets the requirements raised for this court document, which are established in Article 369 of this Code. If the petition fails to meet the requirements raised for its form and content or if the official fee has not been paid, the court by the procedure established by this Code shall resolve the question of the elimination of the deficiencies of the court document and if the grounds provided in Article 137, paragraph 1, subparagraphs 1, 2, 7, and 8 of this Code exist, it shall refuse to accept the petition. A court ruling, by which the acceptance of a petition to start fresh proceedings was refused, may be appealed by a separate appeal.

2. After accepting a petition to start fresh proceedings, the court shall send copies of the petition to the parties and any third parties and set a court date for hearing the petition to start fresh proceedings. The court shall inform the parties to the proceeding by summons about the time and place of the hearing. Prior to the day of the hearing, the parties to the proceeding shall be entitled to submit responses to the petition to start fresh proceedings. A hearing shall be set for no earlier than within fourteen days of the day the petition is accepted. The court shall be entitled to demand from the person, who submitted the petition, additional evidence that the term established in Article 368 of this Code has not expired or that the grounds referred to in Article 366, paragraph 1 exist.

3. After hearing the question of a petition to start fresh proceedings in a hearing and establishing that the petition was submitted prior to expiry of the term established in Article 368 of this Code and based on the grounds established in Article 366, paragraph 1, of this Code, the court by a ruling shall start fresh proceedings and set a date for hearing the case in a hearing or shall by a ruling refuse to start fresh proceedings if it establishes that the deficiencies referred to in this paragraph exist. After starting fresh proceedings, the grounds for starting fresh proceedings must be shown in the court ruling. A separate appeal may be lodged concerning a court ruling, by which starting fresh proceedings is refused, except in the cases where starting fresh proceedings is refused in a court of appeal instance or court of cassation. The ruling of a court of appeal instance, by which starting fresh proceedings is refused, can be appealed by cassation procedure.

4. After starting fresh proceedings, the court shall hear the case a second time in accordance with the general rules of this code but without exceeding the limits, which are defined by the grounds for starting fresh proceedings. If during the hearing, in which fresh proceedings have been started, it is revealed that additional preparation is unnecessary to hear the case in court, with the consent of the parties to the proceeding the court shall start hearing the case on the merits.

5. When hearing a petition to start fresh proceedings and/or hearing a case, in which fresh proceedings have been started, the judge, due to whose judgement or ruling fresh proceedings have been started, may not attend.

**Article 371. Rights of the court**

1. After hearing the case, the court shall be entitled to:

- 1) dismiss the petition concerning the amendment or reversal of a court judgment (ruling);
- 2) amend the court judgement or ruling;
- 3) reverse the court judgment (ruling) and pass a new judgment (ruling).

2. A court ruling shall be passed in the case provided in paragraph 1, subparagraph 1 of this Article and a court judgement or ruling in the cases provided in paragraph 1, subparagraphs 2 and 3 of this Article.

3. After a court amends of a judgment (ruling) or passes a new judgment (ruling), the previous court judgments (rulings) shall lose their force.

**Article 372. Legal force of a judgment (ruling)**

1. The submission of a petition to start fresh proceedings shall not suspend the enforcement of the judgement or ruling.

2. The court hearing a petition to start fresh proceedings shall be entitled to suspend the enforcement of the judgement or ruling until the case concerning the starting of fresh proceedings has been heard. No appeal shall lie against a ruling concerning the suspension of the enforcement of a judgement or ruling.

**Article 373. Reversal of the execution of a judgment**

After reversing or amending a judgement or ruling if it had already been executed or began to be enforced, at the petition of one of the parties the court shall obligate the parties to the dispute to return that which they had received in enforcing the judgment.

**Article 374. Restrictions on lodging a second appeal to start fresh proceedings**

A second petition to start fresh proceedings on the same grounds is impossible.

**PART IV**

**SPECIAL FEATURES OF HEARING DIFFERENT CATEGORIES OF CASES**

**CHAPTER XIX**

**SPECIAL FEATURES OF HEARING FAMILY CASES**

**SECTION ONE**

**GENERAL PROVISIONS**

**Article 375. Procedural rules**

1. The exceptions to the general rules for hearing a claim, which are provided in this Chapter, shall be applicable to all family cases unless the case is being heard by means of special proceedings.

2. In hearing cases concerning family legal relations, a court shall also follow the rules for procedural law provided in the Civil Code.

**Article 376. Role of the court**

1. The court hearing the case shall be entitled on its own initiative to collect evidence, which the parties have not evoked if, in its opinion, this is essential in order to fairly decide the case.

2. The court must undertake measures to reconcile the parties, thus endeavouring to protect the rights and interests of the children.

3. The court, taking into consideration the circumstances of the case that form the grounds of the claim and that have been explained in the hearing, shall be entitled to exceed the demands made, i.e. it may satisfy more demands than were made as well as pass a judgment concerning demands, which were not made but which are directly connected with the subject and grounds of the filed claim.

4. If one of the alternative demands provided in the laws is made in the case, the court, after establishing that there are no grounds to satisfy the demand made, may on its own initiative, when there are grounds, employ an alternative means of defending the rights or legal interests of a person (or child), which is provided in the laws.

**Article 377. Changing the subject or grounds of a claim**

Prior to the conclusion of hearing a case on the merits, a plaintiff shall be entitled to change the subject or grounds of a claim and the defendant shall be entitled to file a counterclaim. The

court hearing the case shall be entitled to refuse to accept the submitted evidence, which could have been submitted previously if the court establishes that it is being submitted in order to protract the proceeding.

**Article 378. Prohibition to pass a default judgment**

The court, in hearing a case pursuant to Articles 381-409 of this Code, shall not be entitled to pass a default judgment.

**Article 379. Restriction of the publicity of a hearing**

Disputes arising due to family legal relations shall be heard in a closed hearing if at least one of the parties to the proceeding requests it.

**Article 380. Attendance of children in a hearing**

1. When deciding any question connected with a child, a child who is able to formulate his own views must be questioned directly and if that is impossible, through a representative. In passing a judgment, the child's opinion must be taken into account if that does not conflict with the interests of the child himself.

2. A child's opinion can be expressed orally, in writing, or in other ways selected by the child. The statement of a child who has reached the age of fourteen about his agreement or disagreement with the claim must be expressed in writing or entered in the minutes of the hearing and signed by the child.

**SECTION TWO  
DIVORCE, ANNULMENT, AND SEPARATION**

**Article 381. Filing a claim**

1. A claim concerning the dissolution of a marriage shall be filed with the district court according to place of residence of the defendant. If the plaintiff has a minor child living with him, the claim concerning the dissolution of the marriage may also be filed with the county court according to the plaintiff's place of residence.

2. A claim concerning the annulment of a marriage shall be filed according to the place of residence of the defendants or one of them.

3. The persons referred to in Articles 3.38-3.40 of the Civil Code shall be entitled to file a claim concerning the annulment of a marriage.

4. A petition concerning the dissolution of a marriage by the mutual consent of the spouses (Article 3.51 of the Civil Code) or an application by one spouse concerning the dissolution of a marriage (Article 3.55 of the Civil Code) shall be heard by special proceedings.

**Article 382. Content of a claim**

Besides the general requirements raised for the content and form of court documents, the following must be shown in the claim:

- 1) the date and place of birth of the plaintiff and defendant;
- 2) the reasons, due to which the application to dissolve the marriage, annul it, or establish a separation is being filed;
- 3) if the couple has children, data about the children (name, surname, date of birth) and any demands concerning the establishment of their place of residence and a maintenance order if their place of residence and maintenance have not been established by the agreement of the parents. If the place of residence and maintenance of the children have been established by the agreement of the parents, this agreement must be submitted to the court together with the claim;

4) data about any joint community property and a demand to divide it except in cases where the community property has been divided by a notarised agreement or where neither spouse has any property to divide as well as a demand concerning an order for the maintenance of a spouse or an indication that no maintenance is being demanded or that the maintenance has been established by the agreement of the parties;

5) data about the creditors of one or both spouses and an indication that the plaintiff has notified the creditors known to him about the initiation of the case (Article 3.126 of the Civil Code);

6) an indication, by which is stated the defendant's fault concerning the breakdown of the marriage if the claim is being filed on the grounds provided in Article 3.60 of the Civil Code;

7) a petition concerning what the surnames of the spouses must be after the dissolution of the marriage;

8) a list of the documents annexed to the claim. Among the annexed documents must be the original marriage certificate, copies of the birth certificates of the children, and certificates about the income earned by the parties except where the plaintiff has no possibility of submitting these documents.

### **Article 383. Prohibition against raising other demands**

In cases being heard by the procedure established in this Section, the parties may not raise any other demands except those provided in Article 385, paragraph 1 of this Code.

### **Article 384. Hearing a case**

1. When a plaintiff, after receiving a summons but failing to petition to have the case heard in his absence, fails to appear at the hearing without valid reasons, the court shall dismiss the claim on the merits.

2. When a defendant, after receiving a summons but failing to petition to have the case heard in his absence, fails to appear at the hearing without valid reasons, the court shall hear the case on the merits. The court by a ruling may declare the presence of the defendant necessary and notify the defendant about this. If in this case the defendant fails to appear at the hearing due to reasons, which the court declares not to be valid, a fine of up to one thousand litas shall be imposed on him and he may be conducted to the session.

3. In hearing a divorce case, a court shall undertake measures to reconcile the spouses and shall be entitled to set a term for the spouses to reconcile. The total duration of a term set for spouses to reconcile cannot be longer than six months. After setting a reconciliation term, the hearing of the case shall be suspended. Fresh proceedings shall start on the petition of one of the parties after the term established by the court has passed. Taking into consideration the circumstances of the case, the court on the petition of one of the parties shall be entitled to reduce the reconciliation term set. An application shall be dismissed on the merits without calling the parties if during one year since the beginning of the reconciliation term neither of the spouses demands the marriage be dissolved. No reconciliation term shall be set if the reconciliation of the spouses could harm the interests of the spouse demanding the dissolution of the marriage or the minor children of a spouse. The provisions of this paragraph shall also be applicable in separation cases.

4. The parties shall inform the court about any reconciliation. The written statement of the parties shall be annexed to the case and an oral statement shall be recorded in the minutes of the hearing and signed by the parties. After receiving a statement by the parties, the court by a ruling shall terminate the proceedings. No appeal shall lie against the court rulings, provided in this Article, to suspend or terminate the proceedings. A court ruling terminating the proceedings shall not prevent the petitioning of the court again concerning the dissolution of the marriage or separation.

5. The court, until a judgment is passed, taking into consideration the interests of one or both spouses and any children, may employ the temporary protection measures referred to in Article 3.65 of the Civil Code.

6. The marriage shall be dissolved if the court establishes that it is impossible for the spouses to continue living together and to preserve the family.

7. If one of the parties to the dispute dies, the court shall terminate the hearing of the case.

8. The court shall annul a marriage when it establishes at least one of the grounds for annulling a marriage.

#### **Article 385. Court judgment**

1. In passing a judgment to dissolve a marriage, the court must decide the question of any demands made concerning maintenance and the establishment of the place of residence of any children, the maintenance of one spouse, and the division of any property. When annulling a marriage, the court must decide the questions of the maintenance of any children, the reasonable maintenance of one spouse, and the establishment of the place of residence of any children.

2. The marriage shall be considered dissolved as of the day the court judgment to dissolve it becomes *res judicata*. The court, within three business days of the day court judgment to dissolve or annul the marriage becomes *res judicata*, must send a copy of the judgment to the Register Office at the court's location so that this office may register the fact of the dissolution of the marriage.

#### **Article 386. Separation**

Petitions concerning separation shall be heard by the procedure established in Sections One and Two of this Chapter, taking into consideration the special features established by the Civil Code.

### **SECTION THREE ESTABLISHMENT OF PATERNITY (MATERNITY)**

#### **Article 387. Filing a claim and the content of a claim**

1. The court shall hear a case concerning the establishment of paternity only if there is a dispute between the parties.
2. The persons referred to in Article 3.147 of the Civil Code may file a claim concerning the establishment of paternity.
3. The claim shall be filed with the county court according to the place of residence of the plaintiff or defendant.
4. Besides the general requirements raised for the content and form of court documents, a claim must contain the following data about the child (name, surname, date of birth, and place of residence) when the child himself does not file the claim.
5. The plaintiff may also make a demand concerning the maintenance of the child in a case concerning the establishment of paternity.

#### **Article 388. Attendance of the parties in the hearing**

1. If the plaintiff, after receiving a summons, fails without valid reasons to appear at the hearing, the court shall dismiss the claim on the merits except in cases where the court shall decide to hear the case on the merits in the interests of the child.
2. The attendance of the defendant in the hearing is essential. In exceptional cases, the court shall be entitled to hear the case in the absence of the defendant if there is no possibility of ensuring his attendance or his attendance has no bearing on passing the judgment.
3. When the defendant, after receiving a summons, fails without valid reasons to appear at the hearing, a fine of up to one thousand litas shall be imposed on him and he can be conducted to the hearing.

#### **Article 389. Hearing a case**

The grounds for establishing paternity are the opinion of an expert. If the parties refuse an examination, the grounds for establishing paternity can be the evidentiary facts reliably confirming paternity: the joint life together of the child's mother and the presumed father of the child prior to the birth of the child, their joint education or maintenance of the child, evidence, which confirms that the defendant has recognised his paternity, etc. The court, taking into consideration the circumstances of the case, may consider the defendant's refusal of an examination as evidence of paternity.

#### **Article 390. Termination of the proceedings**

The court shall terminate the proceedings if:

- 1) the child dies, concerning the establishment of whose paternity the case was initiated, if he has no descendents;
- 2) the defendant files an application with the Register Office concerning the recognition of his paternity and the Register Office registers the defendant as the father of the child.

#### **Article 391. Establishment of paternity after the death of the presumed father of the child**

1. If, prior to beginning to hear a case concerning the establishment of paternity in court, the presumed father of the child dies, the court shall hear the case for establishing paternity by the procedure established in Part V, Chapter XXVI of this Code.

2. If the presumed father of the child dies after the hearing of the case concerning the establishment of paternity has been begun in court, the court shall dismiss the claim on the merits and explain to the plaintiff his right to petition the court by the procedure established in Part V, Chapter XXVI of this Code.

**Article 392. Court judgment**

1. After establishing paternity, the court shall recognise the defendant as the father of the child and the child as the child of the defendant. The court shall also decide the question concerning a demand for an order for the maintenance of the child if said demand has been made in the case or if it decides this question on its own initiative.

2. The court within three business days of the day the court judgment establishing paternity becomes *res judicata* must send a copy of the judgment to the Register Office that registered the birth of the child so that it may register the establishment of the paternity.

**Article 393. Establishment of maternity**

Articles 387-392 of this Code shall be applicable *mutatis mutandis* to the establishment of maternity.

**SECTION FOUR  
CONTESTING PATERNITY (MATERNITY)**

**Article 394. Right to file a claim**

The persons referred to in Article 3.151 of the Civil Code may file a claim concerning the contesting of paternity (maternity).

**Article 395. Jurisdiction**

The county court of the defendant's place of residence shall hear a claim concerning the contesting of paternity (maternity).

**Article 396. Content of the claim**

Besides the general requirements raised for the content and form of court documents, a claim must indicate when the plaintiff learned about the disputed data contained in the child's birth certificate or when the circumstances were revealed that allowed him to claim that the data does not conform to reality.

**Article 397. Preparation for the proceedings**

The court, in preparing to hear the case in court, shall demand applications from the Register Office and any other material, according to which the plaintiff was registered as the father (mother) of the child.

**Article 398. Compulsory attendance in the proceeding**

When hearing disputes concerning the contesting of paternity (maternity), it is essential that the state institution for the protection of the child's rights attend.

**Article 399. Court judgment**

The court, within three business days of the day the court judgment concerning the contesting of the paternity (maternity) becomes *res judicata*, must send a copy of the judgment to the Register Office that registered the birth of the child so that it may deregister the paternity (maternity).

**SECTION FIVE  
RESTRICTION OF PARENTAL AUTHORITY**

**Article 400. Filing a claim**

The persons referred to in Article 3.182 of the Civil Code may file a petition for the separation of the child from the parents (father or mother) as well as for the temporary or unlimited restriction of parental authority.

**Article 401. Jurisdiction**

1. The county court of the place of residence of one or both parents, the restriction of whose authority is sought, or of the child shall hear the cases referred to in this Section.

2. A claim may be filed with the county court of the plaintiff's place of residence by one of the child's parents or the guardian (carer), with whom the child is living.

**Article 402. Grounds for restricting parental authority**

The court shall be entitled to restrict the authority of the parents in respect to their children only on the grounds established Book Three of the Civil Code.

**Article 403. Content of a claim**

Besides the general requirements raised for the content and form of court documents, a claim must indicate the grounds for restricting the authority of the parents or separating the child from the parents (father or mother) as well as any confirming evidence and must indicate the person or children's guardianship (care) institution, to whom the child will be given if the claim is satisfied.

**Article 404. Preparation for the proceedings**

1. The court, in preparing to hear the case in court, shall charge the state institution for the protection of the child's rights with submitting its opinion concerning the dispute.

2. Taking into consideration the grounds of the petition, the court shall demand the appropriate institutions submit any data confirming or refuting the circumstances shown in the petition.

3. Taking into consideration the child's interests, the court shall decide the question of whether it is necessary to employ temporary protection measures.

**Article 405. Right of the court to change the grounds of the claim**

If the claim cannot be satisfied on the grounds shown by the plaintiff but in hearing the case, the court establishes other circumstances, due to which the claim can be satisfied, the court shall satisfy the claim after obtaining the opinion of the state institution for the protection of the child's rights.

**Article 406. Court judgment**

1. The authority of the parents (or of one of them) shall be restricted towards the children or the claim dismissed by a court ruling.

2. If the claim is satisfied, the child shall be given to the person or children's guardianship (care) institution shown in the claim or in the opinion of the state institution for the protection of the child's rights.

3. If there is no consent by the state institution for the protection of the child's rights to give the child to the person or child guardianship (care) institution shown in the claim, the court shall oblige the state institution for the protection of the child's rights to take care of the child's living and maintenance conditions.

**Article 407. Establishment of guardianship (care)**

When passing a judgment to restrict the authority of the parents, the court by the same judgment shall establish the permanent guardianship (care) of the child and his place of residence.

**Article 408. Revocation of the restriction of parental authority or a hearing concerning the replacement of one kind of limitation of the parental authority with another kind**

The revocation of the restriction of parental authority or the replacement of one kind of limitation of the parental authority with another kind, which are referred to in Article 3.181 of the Civil Code, shall be heard by special proceedings.

**Article 409. Court hearing cases concerning the revocation of the restriction of parental authority**

The county court of the child's place of residence shall hear cases concerning revocation of the restriction of parental authority.

**CHAPTER XX  
SPECIAL FEATURES OF THE HEARING OF LABOUR CASES**

**Article 410. Procedure for hearing cases**

1. A court shall hear labour cases while following the general rules of this Code, taking into consideration the exceptions provided in this Chapter or in other laws.

2. Disputes arising due to labour legal relations shall be heard by the procedure established in this Chapter except cases concerning compensation of damages and in the event of the other disputes established in this Code.

**Article 411. Filing a claim**

1. In the interests of persons, who are under the age of the 18, these persons and their representatives may file a claim pursuant to the law.

2. Claims in labour cases can be filed pursuant to the general rules of jurisdiction or according to the location where the work is being performed, was performed, or had to be performed.

**Article 412. Consequences of not following preliminary out-of-court procedure for hearing a dispute**

1. If a party petitions the court without following preliminary out-of-court procedure for hearing cases, the court shall refuse to accept the claim or shall dismiss it on the merits and explain to the plaintiff his right to use the procedure for hearing the case out of court. In this case, the day he petitioned the court shall be considered the day he petitioned the institution hearing the labour dispute if the person petitions this institution no later than within fourteen days of the day the court ruling was delivered to him.

2. If the institution hearing the labour dispute previously acknowledged itself as incapable of deciding the dispute, the court shall hear the case.

**Article 413. Terms for preparing to hear the case in the court and for hearing the case**

1. Preparation for hearing the case in court must be ended no later than within thirty days of the day the claim was accepted.

2. The court shall employ measures to eliminate deficiencies in the claim only if it is impossible eliminate these deficiencies during the preparation for hearing it in court.

3. The case must be heard no later than within thirty days of the day, on which the preparation for hearing the case in court ended.

**Article 414. Role of the court**

1. The court hearing the case shall be entitled on its own initiative to collect evidence, which the parties have not used if it thinks that this is essential in order to fairly decide the case.

2. If the court, in hearing the case pursuant to a worker's claim, establishes that the claim was not brought against the person, who must defend pursuant to the claim, then it shall be entitled on its own initiative to include the attendance of a second defendant in the case.

3. The court shall caution the parties about the right of the court to exceed any demands made and employ an alternative manner provided in the laws of protecting the rights and legal interests of workers.

**Article 415. Preparation for the proceedings**

1. The court, in preparing to hear a case in court and taking into consideration the circumstances of the case, shall demand from the defendant any documents about the hiring and dismissal (promotion and suspension) of the plaintiff, imposition of disciplinary penalties, the plaintiff's average wages, and any other documents essential for hearing the case if the plaintiff is unable to submit them.

2. The preparation for hearing the case in court shall occur at the preliminary hearing.

**Article 416. Procedural succession of a worker's rights**

The procedural succession of a worker's rights in a labour case is possible only pursuant to a worker's claim concerning the awarding of wages or other payments connected with labour legal relations.

**Article 417. Right of the court to exceed the subject and grounds of a claim**

In a case pursuant to a worker's claim, the court of first instance, taking into consideration the circumstances of the case that form the grounds of the claim and that are revealed in the hearing, shall be entitled to exceed the demands made, i.e. it may satisfy demands in excess of what were made as well as pass a judgment concerning demands, which are not made but are directly connected with the subject and grounds of the filed claim.

**Article 418. Right of the court to employ an alternative means of defending a worker's rights**

If a worker has made one of the alternative demands provided in the laws, the court of first instance, after establishing that there are no grounds for satisfying the demand made, may on its own initiative, when there are grounds, employ an alternative means provided in the laws of defending the worker's rights or legal interests.

**CHAPTER XXI**

**CASES CONCERNING INFRINGEMENT OF CONTROL OF AN OBJECT**

**Article 419. Jurisdiction**

Claims concerning the elimination of infringements of the control of real property shall be filed with a court at the location of the real property and of moveable property pursuant to the general rules of jurisdiction.

**Article 420. Content of a claim**

Besides the data enumerated in Article 135 of this Code, a claim must indicate:

- 1) evidence confirming the fact of the control of the object;
- 2) a description of the object;
- 3) for registered objects, the data from the public register.

**Article 421. Preparation for hearing a case in court and the terms for hearing a case**

1. The preparation for hearing the case in court must be concluded no later than within thirty days of the day the claim was accepted.

2. The case must be heard no later than within thirty days of the day, on which the preparation for hearing the case in court was concluded.

**Article 422. Hearing a case**

1. When hearing a case concerning the fact of an infringement of control, the court shall ascertain only the last fact of its control and the infringement of this control without ascertaining either the defendant's right to the object or his good will.

2. In cases concerning an infringement of the control of an object, the submission of a counterclaim is not permitted.

**Article 423. Court judgment**

The court, in passing a judgment to satisfy a claim, shall establish an actual term, within which the defendant must eliminate the infringements of the control of the object.

**CHAPTER XXII  
DOCUMENTARY PROCEEDINGS**

**Article 424. Admissibility**

1. A claim, the subject of which is monetary demands (arising from an agreement, tort, labour relations, maintenance order, etc), the awarding of moveable property or securities, or demands from a real property lease due to the eviction of the renter, can be decided on the petition of the plaintiff by the procedure established by in this Chapter if all the demands are founded on admissible documentary evidence.

2. In those cases where the claim does not meet the requirements established in paragraph 1 of this Article and, due to this, is impossible to hear by the procedure established in this Chapter, the court shall establish a term for eliminating the deficiencies in the claim, obligating the plaintiff to found his demands on admissible documentary evidence or to pay the outstanding part of the official fee so that it is possible to hear the case according to the general rules of the contentious proceedings. If the plaintiff fails to do this, the claim shall be considered to have not been filed and shall be returned to the person who filed it.

3. If several independent demands have been joined in a claim, for which a hearing by means of documentary proceedings has been petitioned, but not all of them are founded on admissible documentary evidence, the court pursuant to the rules of this Chapter shall hear the properly made demands and shall separate the other demands into a separate case and hear them in accordance with the general rules of contentious proceedings.

4. Claims shall not be heard by the procedure established in this Chapter if the defendant lives abroad or if the defendant's domicile is abroad.

5. The claims provided in this Chapter shall be filed according to general rules of jurisdiction.

**Article 425. Content of a claim**

1. Besides the requirements referred to in Article 135 of this Code, a claim must indicate the petition of the plaintiff to hear the case by means of documentary proceedings and indicate all the documentary evidence, on which the plaintiff has founded his demands.

2. The documentary evidence, on which the demands made are founded, must be annexed to the claim by the procedure established in Articles 113 and 114 of this Code.

3. The official fee paid for a claim filed by means of documentary proceedings shall be equal to half the amount, which should be paid for hearing a claim in court by general contentious proceedings but no less than twenty litas except in cases when pursuant to the laws or a court ruling the person is released in full or in part from the official fee or when the term for paying the official fee is deferred.

**Article 426. Waiver of documentary proceedings**

Prior to the passing of an interlocutory judgment in a case, the plaintiff may waive the documentary proceedings. In that case, a term shall be established for the plaintiff to pay the outstanding part of the official fee. If the additional amount is not paid, the claim shall be considered not to have been filed and shall be returned to the person who filed it. After paying the additional amount of the official fee, the case shall be sent to be heard in accordance with the general rules of contentious proceedings.

**Article 427. Hearing in court**

1. Documentary proceedings shall occur in accordance with the general rules of contentious proceedings except for the exceptions referred to in this Chapter.

2. A claim filed by the procedure established in this Chapter shall be heard by means of documentary proceedings.

3. The court must pass an interlocutory judgment no later than within fourteen days of the day the claim was accepted.

4. Prior to passing an interlocutory judgment, the filed claim shall not be reported to the defendant.

5. Pursuant to the general procedure established in this Code, when there are grounds, the court may take temporary protection measures without reporting their employment to the defendant.

**Article 428. Passing an interlocutory judgment and its becoming *res judicata***

1. The court, after establishing that there are grounds to satisfy the claim pursuant to the evidence submitted, shall pass an interlocutory judgment.

2. The interlocutory court judgment shall contain a caption, description, reasoning, and resolution.

3. The judgment's caption shall indicate:

- 1) the time and place the judgment was passed;
- 2) the name of the court that passed the judgment;
- 3) the composition of the court and the parties;
- 4) the subject of the dispute;

4. The judgment's description shall give a summary of the plaintiff's demands.

5. The judgment's reasoning shall briefly indicate:

- 1) the circumstances of the case established by the court;
- 2) the evidence, on which the court's conclusions are founded;
- 3) the laws, which the court followed;

6. The judgment's resolution must contain:
  - 1) the court's conclusion to satisfy the claim and the stated content of the satisfied claim;
  - 2) a demand to the defendant to execute the judgment within twenty days of the service of the judgment or to submit reasoned objections in writing to the court which passed the judgment;
  - 3) an indication that if no objections are submitted within twenty days of the service of the judgment, the interlocutory judgment shall become *res judicata* and on the basis of it the plaintiff may be issued a writ of execution;
  - 4) an indication of how the litigation expenses were divided;
  - 5) an indication that no appeal or a cassation appeal shall lie against the interlocutory judgment;
  - 6) information about the fact that from the day of the initiation of the case in court until the complete execution of the court judgment, the debtor pursuant to the Civil Code must pay interest as well as any default interest provided in the laws or an agreement if the liability was not fulfilled or fulfilled improperly.
7. After drawing the conclusion that the claim according to the evidence submitted cannot be completely satisfied, the court shall pass a ruling to hear the case pursuant to the general rules of contentious proceedings and shall establish a term for paying the outstanding balance of the official fee.
8. The interlocutory court judgment shall not be subject to appeal by appeal or cassation procedure. This court judgment shall become *res judicata* if within the term established by Article 430, paragraph 1 of this Code the defendant fails to file reasoned objections.
9. It is impossible to expedite the enforcement of an interlocutory court judgment.

**Article 429. Sending out copies of an interlocutory judgment and its annexes**

A copy of the interlocutory court judgment together with copies of the claim and its annexes shall be sent to the defendant no later than the next business day after the interlocutory court judgment is passed and shall be served by the procedure established in Article 124, paragraphs 1-3 of this Code except when it served to a carer or by means of a public announcement. A copy of the interlocutory court judgment shall be sent to the plaintiff within three days of this judgment becoming *res judicata*.

**Article 430. Defendant objections and hearing a case**

1. The objections of a defendant concerning a filed claim and the interlocutory court judgment must be submitted in writing within twenty days of the day the interlocutory court judgment was served. The objections of the defendant must meet the general requirements raised for the content and form of court documents and must be reasoned and founded on the means of evidence referred to in Article 177 of this Code. After accepting the objections, the plaintiff shall not pay any additional official fee.

2. After accepting the defendant's objections, the court no later than the next business day shall send a copy of the defendant's objections to the plaintiff. The plaintiff shall be entitled within fourteen days of the court sending the objections to submit a response to the defendant's objections, indicate additional reasons in his response to support his demands, and submit new evidence. The court shall send the response received from the plaintiff to the defendant no later than the next day. The rules for preparing to hear cases that are provided in Articles 225-233 of this Code shall not be applicable for documentary proceedings.

3. A hearing shall be set no later than within thirty days of the day, on which the court received the plaintiff's response to the defendant's objections or the term for submitting responses expired.

4. It is impossible to change the subject or grounds of a claim, to increase a claim's demands, or to file a counterclaim in documentary proceedings. If the plaintiff fails to submit a

response to the defendant's objections, it is impossible to pass a default judgment in the plaintiff's favour.

5. If the objections are submitted after the expiry of the twenty day term or if they fail to meet the requirements provided in paragraph 1 of this Article, the court shall refuse to accept them. A court ruling, by which the acceptance of the objections is refused, may be appealed by a separate appeal. If the defendant missed the term due to valid reasons, on his petition the court shall be entitled to extend the term.

6. After hearing a case, the court shall pass a final judgment in the case, by which it may:

- 1) allow the interlocutory judgment to stand;
- 2) reverse the interlocutory judgment and dismiss the claim;
- 3) amend the interlocutory judgment.

7. By the final judgment, the court shall decide the question of the division of the official fee and other litigation expenses between the parties.

8. The court's final judgment may be appealed by the general procedure established in this Code for appealing court judgments.

9. If the defendant within twenty days of when the interlocutory judgment was passed executes the court judgment and submits to the court in writing documents confirming this, the court by a ruling shall reverse the court's interlocutory judgment and terminate the proceedings. In this case, the official fee paid by the plaintiff shall be refunded to him. If the defendant executes the court judgment in part and submits objections concerning the demands of the other part, the case shall be heard by the procedure established in this Article and the question of the validity of the plaintiff's demands shall be decided by passing a final judgment. If the parties to the documentary proceeding conclude an out-of-court agreement and the court approves it, the interlocutory judgment shall be reversed by the same court ruling.

## **CHAPTER XXIII SPECIAL FEATURES OF HEARING CASES CONCERNING THE ISSUANCE OF COURT ORDERS**

### **Article 431. Admissibility**

1. Cases pursuant to the application of a creditor concerning monetary demands (arising from an agreement, tort, labour relations, maintenance order, etc) as well as concerning the awarding of real property shall be heard by the procedure established in this Chapter.

2. An application shall not be heard by the procedure established in this Chapter if:

1) at the moment an application concerning the issuance of a court order is filed, a creditor has not performed a liability belonging to him (or a part thereof), for which payment is being demanded, and the debtor is demanding it be performed;

2) it is impossible to perform the liability in instalments and the creditor demands part of the liability be performed;

3) the debtor lives abroad or the debtor's registered office is abroad;

4) the debtor's place of residence and work are unknown.

3. If, after a case has been brought in court pursuant to a creditor's demand and a court order issued, it is revealed that the debtor's place of residence and work is unknown, the court shall reverse the court order and the creditor's application shall be dismissed on the merits. No separate appeal shall lie against this court ruling.

4. Any demands, which should be heard by the procedure established in this Chapter, at the choice of the creditor may also be heard pursuant to the rules of contentious proceedings or by means of documentary proceedings.

5. The cases shall be heard by the procedure established in this Chapter using court documents of the same form. Information technologies may be used for processing court documents.

**Article 432. Application of the general rules of contentious proceedings**

If the performance of any procedural actions is not regulated in this Chapter, the rules of contentious proceedings for the hearing of cases shall be applicable.

**Article 433. Form and content of an application**

1. An application for the issuance of a court order, besides the general requirements raised for the content and form of court documents, must indicate:

1) the name, surname, personal number, and address of the creditor and if the creditor is a legal person, his full name, registered office, code, settlement account number, and credit institution information as well the name and address of his representative if a representative files the application;

2) the name, surname, personal number (if this is known), address, and work place (if this is known) of the debtor and if the debtor is a legal person, his full name, registered office, code, settlement account number, and credit institution information;

3) the amount of the demand and if the award of an object is petitioned, the market value, name, and detailed description of the object;

4) the demand being made and its factual grounds;

5) a reasoned petition, if there are grounds to employ temporary protection measures against the debtor, and data about the debtor's property;

6) confirmation that the grounds referred to in Article 431, paragraph 2 of this Code do not exist;

7) a list of the documents annexed to the application.

2. An application for a maintenance order shall also indicate the debtor's date and place of birth, the date of birth of the dependent, the size of the maintenance to be ordered for each month, and the term of the maintenance to be ordered. Copies of the appropriate civil status records and data about all the income being received by the debtor must also be annexed to maintenance order application.

3. The Minister of Justice shall approve the forms for court documents according to the kinds of demands.

**Article 434. Litigation expenses**

1. An official fee equal to a fourth of the amount, which should be paid for the hearing of a claim in court by contentious proceedings but no less than ten litas shall be paid for an application for the issuance of a court order except when pursuant to the laws or by a court ruling the party is released in full or in part from the payment of the official fee or when the term for the payment of the official fee is deferred.

2. If, after the court issues an order, the debtor files objections and the creditor files a claim by the general procedure, the official fee provided in paragraph 1 of this Article shall be included in the amount of the official fee payable for the claim.

3. If an application is returned to the creditor in the case referred to in Article 439, paragraph 6 of this Code, the official fee paid shall not be refunded to the applicant.

4. If the plaintiff was entitled to satisfy the demands by the summary procedures established in this Chapter but filed a claim pursuant to the general rules for contentious proceedings, the official fee and other litigation expenses shall be awarded to him only on the amount of the claim, which the defendant disputed unless the plaintiff had grounds from the defendant's behaviour to think that the defendant would dispute the demand.

### **Article 435. Acceptance of an application**

1. The question of the acceptance of a creditor's application shall be decided no later than the next day after the day it was filed with the court. If a creditor's application meets the requirements established in this Chapter, the question of its acceptance may be decided by a resolution of the judge.

2. The court by a ruling shall refuse to accept an application if:

1) the application does not meet the general requirements raised for the content and form of court documents or the requirements prescribed in Article 433 of this Code;

2) the application does not meet the admissibility requirements provided in Article 431, paragraphs 1 and 2 of this Code;

3) the circumstances provided in Article 137, paragraph 2 of this Code exist;

4) the application is manifestly groundless.

3. If the circumstances provided in paragraph 2 of this Article are revealed after the acceptance of the application, the court, taking into consideration the nature of the deficiencies of the application, shall dismiss the application on the merits or terminate the proceedings and revoke the court order if one has been passed.

4. A court ruling to refuse to accept an application shall be final and no appeal shall lie against it but this shall not prevent, after the deficiencies have been corrected, the filing of a new application by the procedure established by the laws or the filing of a claim in court according to the rules of contentious proceedings. A creditor may file a second application by the procedure established in this Chapter only if the previous application failed to meet the formal requirements raised for the content and form of court documents of this kind and if any other hindrances forming the grounds for the refusal to accept the previous application have been eliminated.

5. If a creditor withdraws his application prior to the issuance of a court order, the court shall return the application to the creditor. This shall not prevent the creditor from refileing the demand by the procedure established by this Code. If a creditor waives a demand after the issuance of a court order, the court shall decide this question pursuant to the rules for waiving a claim provided in this Code.

### **Article 436. Issuance of a court order**

1. After deciding the question of the acceptance of an application, the court shall immediately but no later than the next day, issue a court order to the creditor and by the procedure established by this Code decide the question of the employment of temporary protection measures against the debtor.

2. The court order shall indicate:

1) the date the order was issued;

2) the name of the court that issued the order as well the name and surname of the judge;

3) the name, surname, personal number, and address of the creditor and if the creditor is a legal person, his full name, registered office, code, settlement account number, and credit institution information;

4) the name, surname, personal number (if this is known), address, and work place (if this is known) of the debtor and if the debtor is a legal person, his full name, registered office, code, settlement account number, and credit institution information;

5) the grounds for the recovery;

6) the amount of money to be recovered from the debtor and if objects are being awarded, their market value, name, and a detailed description;

7) the amount of default interest to be recovered if default interest has been awarded;

8) the litigation expenses to be recovered;

9) the kind of temporary protection measures if such measures are applicable.

3. A court order, issued pursuant to demands concerning a maintenance order, besides the requirements referred to in paragraph 2 of this Article, shall indicate the date and place of birth of the debtor, the date of birth of the dependent, the amount of maintenance ordered for each month, and the term of the ordered maintenance.

4. A court order must meet the requirements established for enforcement documents.

5. The judge shall sign the order and confirm it with the court's seal.

6. If the court employs temporary protection measures, a copy of the court order shall be sent the day it is issued to the bailiff, manager of the property register, or any other person, who is to execute it.

7. A court order shall not be subject to appeal by appeal or cassation appeal procedure. The court order shall become *res judicata* if the debtor files no objections concerning the creditor's application within the term established in Article 437, paragraph 2, subparagraph 1 of this Code. It is impossible to expedite the execution of the court order.

#### **Article 437. Notice to the debtor**

1. Copies of the creditor's application and the court order shall be sent to the debtor no later than the next day after the order is issued.

2. Together with the copies of the creditor's application and the court order, the court shall send the debtor a notice, in which must be indicated:

1) a suggestion to pay, no later than within twenty days of the day the notice is served on the debtor, the amounts awarded to the creditor (including any default interest and litigation expenses), to return the awarded object, and to report to the court in writing the execution of the court order or to file objections concerning the demand made by the creditor;

2) information that if the requirements of paragraph 2, subparagraph 1 of this Article fail to be executed, after the court order becomes *res judicata*, and on the petition of the creditor, a writ of execution shall be issued for the enforcement of compulsory recovery;

3) information about the fact that the court at the demand of the creditor shall hear the application pursuant to the general rules of contentious proceedings if the debtor files objections concerning the application filed by the creditor and about the fact that from the day the case is brought in court until the complete execution of the court judgment, the debtor pursuant to the Civil Code must pay interest and pay any default interest provided in the laws or in an agreement if the liability was not performed or was performed improperly;

4) information about the fact that in passing the court order, the court did not verify the validity of the demand made by the creditor.

#### **Article 438. Service of court documents**

The court notice as well as copies of the creditor's application and the court order shall be served on the debtor by the procedure established in Article 124, paragraphs 1-3 of this Code except service to a carer or by means of a public announcement. After the court order becomes *res judicata*, it shall be sent to the collector within three days.

#### **Article 439. Debtor objections**

1. A debtor may file objections concerning an application filed by a creditor or concerning a part thereof with the court that issued the court order. If the debtor has fulfilled part of the creditor's demand or even if he has not fulfilled it but acknowledges part of the demand, he may file objections concerning the validity of the remaining part of the creditor's demand.

2. A debtor's objections concerning a creditor's application must be filed in writing within twenty days of the day the notice about issuance of a court order was served on the debtor. The objections must conform to the general requirements raised for the content and form of court documents except the requirements to indicate the grounds of the objections. If due to valid reasons

the debtor files the objections after the expiry of the term referred to in this paragraph, on the petition of the debtor the court may extend the term for filing objections. A ruling, by which such a debtor petition is dismissed, may be appealed by a separate appeal.

3. After receiving the objections, the court no later than within three days must notify the creditor that he shall be entitled no later than within fourteen days of the day the court notice was served to file a claim meeting the requirements of Article 135 of this Code and to pay an additional amount of the official fee. The temporary protection measures employed by the court may not be revoked during the term for filing a claim established in this paragraph.

4. If the debtor fulfils part of the demands adjudged to the creditor pursuant to the court order or even if he has not fulfilled but acknowledges part of the demand and files objections only concerning the remaining part of the creditor's demands, the court pursuant to the rules of this Chapter shall pass a new order concerning the adjudgment of the part of the creditor's demands, which are not disputed by the debtor. The creditor may file a claim concerning the unsatisfied part of the demands by the procedure established in this Article.

5. The court order or the appropriate part thereof shall be revoked at the same time by the ruling, by which the question of accepting the claim filed by the creditor by the procedure established in paragraph 3 of this Article.

6. If the creditor fails to file a suitably drawn up claim with the court within the term established in paragraph 3 of this Article, the creditor's application shall be considered not to have been filed and shall be returned to the creditor by a court ruling and the court order and temporary protection measures employed shall be revoked. This ruling may be appealed by a separate appeal. This shall not prevent the creditor from filing a claim by the general procedure.

7. If the debtor within the term established in Article 437, paragraph 2, subparagraph 1 of this Code executes the court order and submits in writing to the court documents confirming this, the court by a ruling shall revoke the court order and terminate the case.

8. If the creditor and the debtor conclude an out-of-court settlement after the court order is passed and the court approves the settlement, the court order shall be revoked by the same court ruling.

#### **Article 440. Consequences of filing a manifestly groundless application**

If a person by the procedure established in this Chapter dishonestly files a manifestly groundless creditor demand, the court may impose a fine of up to one thousand litas on him. In addition, by the procedure established by the laws, this person can be obliged to compensate any losses incurred by other persons due to the filing of the dishonest demand.

**CHAPTER XXIV**  
**SPECIAL FEATURES OF HEARING**  
**DISPUTES FOR THE ADJUDGMENT OF SMALL AMOUNTS OF MONEY**

**Article 441. Special features of the proceedings**

1. Cases concerning the adjudgment of amounts of money not exceeding one thousand litas shall be heard pursuant to the general rules of contentious proceedings except the exceptions provided in this Article.

2. If the amount of the claim does not exceed the amount established in paragraph 1 of this Article, the court hearing the case shall be entitled to itself decide by what form and procedure to hear the case. The case shall be heard by oral proceedings if at least one of the parties requests it.

3. In the cases referred to in paragraph 1 of this Article, the court shall pass a judgment, which must contain a caption and resolution as well as briefly report the reasons.

**PART V**  
**SPECIAL PROCEEDINGS**

**CHAPTER XXV**  
**GENERAL PROVISIONS**

**Article 442. Cases being heard by a court by means of special proceedings**

A court, by means of special proceedings, shall hear cases:

- 1) concerning the establishment of legally relevant facts;
- 2) concerning the declaration of a natural person as dead or missing;
- 3) concerning the declaration of a natural person as incapable or of limited active capacity or the declaration of a minor as emancipated;
- 4) concerning adoption;
- 5) concerning guardianship or care;
- 6) concerning the appealing of the actions of a bailiff or notary;
- 7) concerning the registration of a civil status acts or the restoration, amendment, appending, correction, or annulment of a record;
- 8) concerning the restoration of rights according to lost bearer securities (challenge proceedings);
- 9) concerning rights in rem except cases being heard according to the rules for contentious proceedings;
- 10) concerning family legal relations except cases being heard according to the rules for contentious proceedings pursuant to Part IV, Chapter XIX of this Code;
- 11) concerning mortgage (real property collateral) legal relations;
- 12) concerning the restoration of lost judicial or enforcement files;
- 13) concerning the extension of an expired term established by laws;
- 14) concerning the issuance of court permits, the confirmation of statements or facts, the application of property administration and inheritance procedures (appointment of an inheritance administrator, the creation of the description of property, the publishing of a will, etc.) and other cases, which shall be heard by means of summary proceedings pursuant to the Civil Code and other laws.

### **Article 443. Special features of hearing special proceedings cases**

1. A court shall hear special proceedings cases pursuant to the rules of this Code with the exceptions and additions, which Part V of this Code and other laws shall establish.

2. An application concerning the initiation of a case must meet the requirements raised for the content and form of court documents together with the additions provided in the appropriate Articles of Part V of this Code.

3. An interest party in the proceedings shall mean each party, with whose rights and duties the case being heard is connected. If it is revealed that the case being heard is connected with the rights and duties of a person meeting this criterion, the court shall call him to participate in the case as an interested party.

4. The hearing of the cases referred to in this Chapter shall be initiated with an application or petition by an applicant.

5. The cases referred to in this Chapter shall be heard by means of written proceedings except when Part V of this Code indicates otherwise. The court hearing the case shall be entitled to decide to hear a specific case by means of oral proceedings. The absence of the parties to the proceeding at the hearing shall not prevent the court from hearing the case except in the cases provided in Part V of this Code when the attendance of the parties to the proceeding in the hearing is mandatory.

6. The litigation expenses of the parties to the proceeding shall not be subject to reimbursement. In those cases when the interest of the parties to the proceeding in the end of the proceeding is different or their interests are opposite, the court shall proportionately divide the litigation expenses incurred or adjudge their reimbursement from the party to the proceeding, whose application was dismissed.

7. A court shall hear the cases referred to in this Chapter by special proceedings without taking into consideration during the hearing whether a dispute concerning rights has arisen. Any interested parties may file applications with independent demands during the hearing of the case by the procedure established in Part V of this Code.

8. In hearing a case by the procedure established in Part V of this Code, a court must undertake every necessary measure so that the circumstances of a case are thoroughly revealed.

9. The court, in hearing a case by special proceedings, shall not be entitled to pass a default judgment.

10. Applications and petitions in special proceedings cases shall be filed with the county court of the place of residence of the applicant or petitioner or the registered office in case of a legal person except in the exceptions provided in Part V of this Code.

## **CHAPTER XXVI**

### **CASES CONCERNING THE ESTABLISHMENT OF LEGALLY RELEVANT FACTS**

#### **Article 444. Cases being heard by a court concerning the establishment of legally relevant facts**

1. A court shall establish facts, on which depend the arising, amendment, or end of the personal or property rights belonging to persons.

2. The court shall hear cases:

1) concerning the establishment of kinship;

2) concerning the establishment of the fact of a person's maintenance;

3) concerning the establishment of the fact of the registration of a birth, adoption, marriage, divorce, partnership, or death or of other civil status acts;

4) concerning the establishment of a fact that documents, which establish a right except personal identification and certificates issued by the Register Office, belong to a person, whose

name, surname, father's name (patronymic) shown in the document do not coincide with the name, surname, father's name (patronymic) shown on his personal identification or birth certificate;

5) concerning the establishment of the fact of the control of a building, land, or forest by right of ownership;

6) concerning the establishment of the fact of an accident;

7) concerning the establishment of the fact of a person's death at a certain time and under certain circumstances if the Register Office refuses to register the death;

8) concerning the establishment of the fact of the receiving of an inheritance as well as of the place an inheritance originated;

9) concerning the establishment of other legally relevant facts if the laws do not provide another procedure for establishing them.

#### **Article 445. Conditions necessary for establishing legally relevant facts**

A court shall establish legally relevant facts only when the applicant is unable by another procedure to obtain the required documents confirming these facts or when it is impossible to restore lost documents.

#### **Article 446. Filing an application**

In cases concerning the establishment of legally relevant facts, applications shall be filed with the county court of the applicant's place of residence except cases concerning the establishment of facts of the control of a building, land, or forest by right of ownership, the receiving of an inheritance, and the place an inheritance originated. In these cases the applications shall be filed with the county court of the respective location of the building, land, or forest or of the location of the inherited property or the main part thereof.

#### **Article 447. Content of an application**

An application must indicate:

1) why it is necessary to establish a legally relevant fact;

2) the reasons, due to which it is impossible to obtain or restore the documents confirming the legally relevant fact;

3) evidence confirming the legally relevant fact as well as confirming that the applicant cannot obtain the required documents or that it is impossible to restore the lost documents.

#### **Article 448. Court judgment**

1. In those cases when a court acknowledges a fact to be established, it must indicate in the judgment why the fact was established as well as indicate the evidence, on the basis of which the fact was acknowledged as established.

2. A *res judicata* court judgment establishing a fact, which must be registered in a Register Office or recorded in other institutions shall be grounds to register or record this fact there but this is not the equivalent to documents issued by these institutions.

**CHAPTER XXVII**  
**CASES CONCERNING THE DECLARATION OF A PERSON AS DEAD OR MISSING**  
**AND STARTING FRESH PROCEEDINGS**

**SECTION ONE**  
**CASES CONCERNING THE DECLARATION OF A NATURAL PERSON AS DEAD**

**Article 449. Filing an application**

1. Cases concerning the declaration of a natural person as dead shall be brought in the county court of the place of residence of the missing natural person and if the place of residence of the natural person is unknown and it is impossible to establish it, the county court of his last known place of residence. If two or more natural persons have disappeared due to the same event, the chairman of the Appeal Court of Lithuania or the chairman of the Civil Cases Division of this court shall assign one court, which shall have exclusive jurisdiction in respect to the case connected with this event.

2. Each interested person or public prosecutor may file an application concerning the declaration of a natural person as dead.

3. An application concerning the declaration of a natural person as dead may be filed no earlier than when six months remain until the expiry of the term, at the end of which a missing natural person can be declared dead. If it is possible to declare the natural person dead when six months have passed since the event, which provides the grounds to believe that the missing person has died, the application concerning the declaration of the natural person as dead can be filed no earlier than when three months remain until the expiry of the term, at the end of which a missing natural person can be declared dead.

**Article 450. Content of an application**

An application concerning the declaration of a natural person as dead, besides the general requirements raised for the content and form of court documents, must indicate:

1) the name, surname, date of birth, and personal number (if it is known) of the missing natural person, the name and surname of the parents, and his mother's maiden name (if it is known);

2) the last known place of residence and location of the missing natural person;

3) why the applicant needs to declare the natural person dead;

4) the circumstances posing a mortal threat to the natural person who disappeared without news or providing grounds to presume that he died due to an accident as well as the evidence confirming these circumstances;

5) data from the known place of residence or last known place of residence of the missing person or his last known place of residence, work place, the police, and other institutions confirming the knowledge of his presence or absence as well as any data, which persons can provide news about the missing person;

6) data about the property and dependents of the missing person;

7) if the appointment of a property administrator is petitioned, the reasons for said petition and the proposed administrator shall be indicated.

**Article 451. Preparation for the proceedings**

1. After accepting an application, the court, on the petition of the person who filed the application or on its own initiative, may appoint a temporary administrator of the property of the person, who was petitioned to be declared dead, and undertake other measures to protect and manage the property of the missing person as well as to give funds from this property to the

dependents of the missing person, if necessary. A temporary administrator of the property of the missing person shall be appointed until the court judgment in the case becomes *res judicata*.

2. After accepting an application, the court shall pass a ruling to publish an announcement about initiation of the case in 'Valstybės žiniuose' ['Official Gazette'] as well as to make a public announcement about this in a newspaper distributed in the territory of the last known place of residence of the missing person. The announcements shall be placed using the funds of the person who filed the application. The court may rule to place an announcement in yet another publication or make a public announcement about initiating the case in yet another manner, which it shall acknowledge as suitable.

3. Notices about the initiation of the case must indicate:

1) the data about the missing person referred to in Article 450, paragraphs 1 and 2 of this code;

2) any essential circumstances known from the material in the case, which could help in finding the missing person;

3) a message to the missing person that he should respond prior to the expiry of the term shown in the ruling since otherwise he may be declared dead;

4) a message to everyone, who may be able to supply information about the missing person that they supply it to the court within the term indicated.

4. The court shall establish a term of no less than three and no longer than six months, which term shall be indicated in the announcements and within which it is proposed that the missing person respond.

#### **Article 452. Hearing a case**

1. The case shall be heard by means of oral proceedings. The hearing of the case may occur prior to the expiry of the term indicated in the notice but cannot be concluded prior to the end of:

1) the terms provided in the Civil Code, after the expiry of which a person may be declared dead;

2) the term indicated in the notice, within which it is proposed that the missing person respond.

2. The applicant, any other persons interested in the conclusion of the case, and any witnesses, who are aware of circumstances connected with the case, shall be called to the hearing of the case.

3. If in hearing a case concerning the declaration of a person as dead it is revealed that the missing person has beyond doubt died, the court pursuant to the laws must continue to hear the case pursuant to the provisions of this Code, which regulate the establishment of the fact of a person's death.

#### **Article 453. Court judgment**

1. The court judgment to declare a person dead shall be the grounds for the Register Office of the court's location to make a Register Office death record.

2. The resolution of the court judgment to declare a person dead must indicate the name and surname of the natural person, his personal number (if known), date and place of birth, place of residence or last known place of residence, place of death, and the circumstances for the date of the person's death to be considered the day the court judgment becomes *res judicata*.

3. If there is evidence in the case confirming that the person disappeared without news under circumstances, which posed a mortal threat or provide grounds to presume that he died due to an accident, the court may acknowledge the date of the death of this person as the presumed date of his death. In this case, the resolution of the court judgment shall indicate the specific presumed date and place of the person's death.

4. If it is impossible to establish the specific place of a person's death, the resolution of the court judgment shall indicate the place of this person's death as the his last known location.

## **SECTION TWO**

### **CASES CONCERNING THE DECLARATION OF A NATURAL PERSON AS MISSING**

#### **Article 454. Filing an application**

1. Cases concerning the declaration of a natural person as missing shall be brought in the county court of the person's place of residence and if the place of residence of the natural person is unknown and it is impossible to establish it, the county court of his last known place of residence.

2. Each interested person or public prosecutor may file an application concerning the declaration of a natural person as missing.

3. An application concerning the declaration of a natural person as missing may be filed no earlier than when three months remain until the expiry of the term, within which the natural person can be declared missing.

#### **Article 455. Content of an application**

An application concerning the declaration of a natural person as missing, besides the general requirements raised for the content and form of court documents, must indicate:

- 1) the name, surname, date of birth, and personal number (if it is known) of the absent natural person, the name and surname of his parents, and his mother's maiden name (if it is known);
- 2) the last known place of residence and location of the absent natural person;
- 3) why the applicant needs to declare the natural person missing;
- 4) the circumstances confirming that it is unknown where the natural person is;
- 5) data from the place of residence of the absent person or his last known place of residence, work place, the police, or other institutions confirming the knowledge about his presence or absence as well as any data, which persons can provide news about the absent person;
- 6) data about the property and dependents of the absent person;
- 7) if the appointment of a property administrator is petitioned, the reasons for said petition and the proposed administrator shall be indicated.

#### **Article 456. Preparation for the proceedings**

The preparation for the proceedings concerning the declaration of a natural person as missing shall be made by the procedure established in Article 451 of this Code.

#### **Article 457. Hearing a case**

A court shall hear a case concerning the declaration of a natural person as missing pursuant to the rules established in Article 452, paragraphs 1 and 2 of this Code.

#### **Article 458. Court judgment**

1. The resolution of a court judgment to declare a person missing must indicate the name and surname of the natural person, his personal number (if known), date and place of birth, and place of residence or last known place of residence.

2. A court, after declaring a natural person missing, if there are grounds, by the same ruling shall appoint a permanent administrator for the person's property. If a temporary property administrator was appointed by a court ruling, then the court, after passing a judgment to declare the person missing, shall appoint a permanent property administrator.

**SECTION THREE**  
**REOPENING CASES CONCERNING THE DECLARATION OF A NATURAL PERSON**  
**AS DEAD OR MISSING**

**Article 459. Filing an application**

1. Each interested person or public prosecutor may file an application concerning reopening a case, in which it was decided to declare a natural person dead or missing. A court by a ruling may reopen the hearing of a case on its own initiative.

2. An application shall be filed with the county court, which passed the judgment to declare the natural person dead or missing.

**Article 460. Hearing an application**

If the case shall be heard by means of oral proceedings, those persons who participated in the case, in which a judgment was passed to declare a natural person dead or missing, shall be called to the hearing.

**Article 461. Court judgment**

1. If, after examining the evidence, the location of the natural person who was declared dead or missing is revealed, the court by a ruling shall revoke its judgment to declare the natural person dead or missing and to establish an administrator for the person's property. Otherwise the judgment shall stand.

2. If it is revealed that the date of the person's death is different than that indicated in the court judgment concerning the declaration of the natural person as dead, the court shall revoke its judgment only if the fact of the natural person's death is established at the same time.

3. If the natural person, who was declared dead or missing by the court judgment, himself appears in the court and confirms his identity, the court by means of written proceedings by a ruling shall immediately revoke its judgment.

**CHAPTER XXVIII**  
**CASES CONCERNING THE DECLARATION OF A NATURAL PERSON AS**  
**INCAPABLE OR OF LIMITED ACTIVE CAPACITY OR THE DECLARATION OF A**  
**MINOR AS HAVING FULL ACTIVE CAPACITY (EMANCIPATED)**

**SECTION ONE**  
**GENERAL PROVISIONS**

**Article 462. Jurisdiction**

1. An application concerning the declaration of a natural person as incapable or of limited active capacity shall be filed with the county court of the place of residence of the person, whom it has been petitioned to declare incapable or of limited active capacity.

2. An application concerning the declaration of a minor as emancipated shall be filed with the county court of the place of residence of the minor.

**Article 463. Filing an application**

1. An application concerning the declaration of a natural person as incapable or of limited active capacity may be filed by:

1) the spouse of the person, whom it has been petitioned to declare incapable or of limited active capacity;

2) the parents or adult children of the person, whom it has been petitioned to declare incapable or of limited active capacity;

3) a guardianship/care institution:

4) a public prosecutor.

2. An application concerning the declaration of a natural person of minor age as having limited active capacity may be filed no earlier than when six months remain until the person, who should be declared as having limited active capacity, reaches adulthood.

3. The person who filed an application concerning the declaration of a natural person as incapable may amend the demand until the conclusion of the hearing of the case and petition that the person be declared of limited active capacity and if he petitioned a natural person be declared as being of limited active capacity in the original application, petition to declare him incapable.

4. A person, who files a manifestly groundless application concerning the declaration of a natural person as incapable or of limited active capacity, by a court ruling may be fined from five hundred to two thousand litas. The litigation expenses can also be adjudged from this person.

5. The minor himself, his parents, the carer, and the guardianship (care) institution may file an application concerning the declaration of a minor as emancipated.

6. A children's guardianship (care) institution, public prosecutor, or other interested persons may file an application concerning the limitation or deprivation of the right of a minor from fourteen to eighteen years of age to independently dispose of his income and property. In hearing this application, the provisions of Section Four of this Chapter shall be applicable *mutatis mutandis*.

#### **Article 464. Parties to the proceeding**

1. The parties to the proceeding concerning the declaration of a natural person as incapable or of limited active capacity shall consist of, besides the applicant, the person whom it has been petitioned to declare incapable or of limited active capacity as well as the guardianship (care) institution. The court, as an interested party to the proceedings, may involve the close relatives and other family members, who are living together with him, of the person whom it has been petitioned to declare incapable or of limited active capacity.

2. If it is impossible, due to the state of health, confirmed by the opinion of an expert, of the natural person whom it has been petitioned to declare incapable or of limited active capacity, to call and question him in court or to serve him with the court documents, the court shall hear the case in the absence of this person.

3. The parties to a proceeding concerning the declaration of a minor as emancipated or to a proceeding concerning the limitation or deprivation of the right of a minor from fourteen to eighteen years of age to independently dispose of his income and property shall consist of, besides the applicant, the minor himself, his parents or carer, and the guardianship (care) institution, if the minor has no parents.

## **SECTION TWO**

### **CASES CONCERNING THE DECLARATION OF A NATURAL PERSON AS INCAPABLE**

#### **Article 465. Content of the application**

In an application concerning the declaration of a natural person as incapable, besides the general requirements raised for the content and form of court documents, must be reported any circumstances demonstrating the mental disability of the natural person, due to which this person cannot understand the significance of his actions or control them. In addition a physician's certificate or other evidence about the person's mental state must be submitted.

#### **Article 466. Preparation for the proceedings**

If there are data about the mental disability of the natural person, the judge, who has been appointed to prepare for hearing the case, shall assign by a ruling a forensic psychological examination to establish the mental state of the person if no such examination has been performed previously and demand the person's medical documents, which are necessary for the examination.

#### **Article 467. Hearing the case**

1. A court shall hear a case concerning the declaration of a natural person as incapable by means of oral proceedings after notifying the parties to the proceeding.

2. If a court acknowledges that it is essential to question the person, whom it has been petitioned to declare incapable, and this person fails to appear at the hearing, the court may rule to conduct this person to the court with the help of the police or to conduct him for questioning to another court at the location of this person. The questioning of the person shall be performed in the presence of the forensic psychiatrist treating him.

3. If the person avoids the forensic psychiatric examination, the court may pass a ruling to send the person by force for the performance of an out-patient forensic psychiatric examination. The police shall enforce this ruling. A separate appeal may be lodged concerning the ruling.

4. In those cases where the data obtained during the out-patient examination are insufficient for presenting any forensic psychiatric examination conclusions about the person's mental state, the court may pass a ruling to assign an in-patient forensic psychiatric examination and send the person, whom it has been petitioned to declare incapable, to the examination institution for observation for no longer than six weeks. Prior to passing such a ruling, the court must question the parties to the proceeding. In exceptional cases, the court on the reasoned petition of the experts may extend the aforementioned term to three months. A separate appeal may be lodged concerning the court ruling assigning an in-patient forensic psychiatric examination and sending the person to an examination institution or extending the term for keeping the person in it.

5. In hearing a case concerning the declaration of a natural person as incapable, the court on the petition of the applicant or on its own initiative may also interpret the circumstances as to whether there are grounds to limit the active capacity of the person.

#### **Article 468. Court judgment**

1. After hearing a case in a hearing, the court shall pass a judgment to declare the natural person incapable or to dismiss the application.

2. If it is established during the hearing of a case that there are no grounds to declare the natural person incapable but there are grounds to declare the natural person of limited active capacity, the court shall pass a judgment declaring the natural person to be of limited active capacity.

3. The litigation expenses, except for representation, for the expenses of declaring a natural person incapable shall be covered from state funds.

4. A court judgment declaring a natural person incapable shall be grounds for establishing guardianship for this person or appointing a guardian. The questions of the establishment of guardianship or the appointment of a guardian for this person shall be decided by the procedure established in Chapter XXX of this Code.

5. The parties to the proceeding as well as the natural person declared incapable shall be entitled to appeal the court judgment.

#### **Article 469. Revocation of a court judgment**

If a natural person who was declared incapable recovers or the state of his health greatly improves, the court of first instance, which heard the case, pursuant to the application of the person's guardian or the other persons enumerated in Article 463, paragraph 1 of this Code and on the basis of the conclusions of the forensic psychiatric examination, shall pass a judgment to revoke

the judgment it had passed previously and to declare the recovered person fully capable or change the declaration of incapacity to a declaration of limited active capacity. The person who was declared incapable shall not himself be entitled to petition the court concerning his being declared as having full active capacity or concerning changing the declaration of incapacity to a declaration of limited active capacity.

### **SECTION THREE**

#### **CASES CONCERNING THE DECLARATION OF A NATURAL PERSON TO BE OF LIMITED ACTIVE CAPACITY**

##### **Article 470. Content of the application**

Besides the general requirements raised for the content and form of court documents, an application concerning the declaration of a natural person to be of limited active capacity must report any circumstances demonstrating that the person is abusing alcoholic beverages, narcotics, and/or narcotic or toxic substances.

##### **Article 471. Preparation for the proceedings**

If any data provided in Article 470 of this Code about the abuse by a natural person of alcoholic beverages, narcotics, and/or narcotic or toxic substances exists, the court, in preparing to hear the case, shall assign by a ruling a forensic examination in order to establish the state of the person's health if such an examination has not previously been performed and demand any of the person's medical documents necessary in order to perform the examination.

##### **Article 472. Hearing a case**

1. A case concerning the declaration of a natural person to be of limited active capacity shall be heard following the rules established in Article 467, paragraphs 1, 2, and 3 of this Code.
2. If, during the hearing of a case concerning the declaration of a natural person to be of limited active capacity, data about the mental disability of this person is established, the court on the petition of the applicant or on its own initiative may also interpret the circumstances as to whether there are grounds to declare the person incapable. In this case, the court may employ the measures provided in Article 467, paragraph 4 of this Code against the person.

##### **Article 473. Court judgment**

1. After hearing the case in a hearing, the court shall pass a judgment declaring the person to be of limited active capacity or shall dismiss the application.
2. If it is established while hearing the case that the person is unable to understand the significance of his actions or to control them due to a mental disability, the court shall pass a judgment to declare the person incapable.
3. The litigation expenses, except for representation, for declaring a natural person to be of limited active capacity shall be covered from state funds.
4. A court judgment declaring a natural person to be of limited active capacity shall be grounds for appointing a carer for this person. The questions of the establishment of a care or the appointment of a carer for this person shall be decided by the procedure established in Chapter XXX of this Code.
5. The parties to the proceeding including the natural person declared to be of limited active capacity shall be entitled to appeal the court judgment.

##### **Article 474. Revocation of a court judgment**

1. If the circumstances, due to which the full active capacity of a natural person was declared limited, disappear, the court, which heard the case, pursuant to the application of the

person himself, the person's carer, or the other persons enumerated in Article 463, paragraph 1 of this Code, shall pass a judgment to revoke the judgment it passed previously and to declare the natural person fully capable.

2. If the state of health of a natural person, who was declared to be of limited active capacity, greatly deteriorates, the court, which heard the case, pursuant to the application of the person's carer or the other persons enumerated in Article 463, paragraph 1 of this Code and on the basis of the conclusions of a forensic psychiatric examination, shall pass a judgment to revoke the judgment it passed previously and to change the declaration of the natural person to be of limited active capacity to a declaration of him as incapable.

## **SECTION FOUR CASES CONCERNING THE DECLARATION OF A MINOR TO BE OF FULL ACTIVE CAPACITY (EMANCIPATED)**

### **Article 475. Content of an application**

An application concerning the declaration of a minor to be of full active capacity, besides the general requirements raised for the content and form of court documents, must indicate:

1) data about the minor (name, surname, personal number, date and place of birth, place of residence, parents or carer, workplace, and education institution);

2) the reasons, on the basis of which it is petitioned that the minor be declared to be of full active capacity;

3) any evidence confirming that the minor is able to independently realise all his civil rights or perform his duties (character references from his place of residence, employment, and education, data about the minor's family status and material situation, a certificate about the state of his health issued by the procedure established by Minister of Health, etc);

4) the written consent of the minor if the application was filed with the court by someone other than the minor.

### **Article 476. Preparation to hear the case**

The court, in preparing to hear the case shall:

1) charge the state institution for the protection of the child's rights of the minor's place of residence with submitting its opinion concerning the readiness of the minor to independently realise all his civil rights or perform his duties;

2) demand data about whether the minor has been convicted or whether he has committed a violation of administrative law or of another law;

3) if it is necessary to establish the level of the minor's physical, moral, spiritual, or mental development, assign a forensic psychological and/or psychiatric examination and demand any of the minor's medical documents or other material necessary to perform said examination;

4) perform any other actions necessary to prepare for hearing the case.

### **Article 477. Hearing a case**

1. A case concerning the declaration of a minor to be of full active capacity shall be heard by means of oral proceedings.

2. The hearing of the case shall be reported to the applicant, the minor whose case is to be heard, his parents or carer, the state institution for the protection of the child's rights, and the guardianship (care) institution (if the minor has no parents).

3. The case shall be heard with the necessary attendance of all the parties to the proceeding.

4. During the hearing, the court shall confirm the written consent of the minor to be declared to be of full active capacity after hearing the explanations of said minor. If the minor's consent was not annexed to the application, the minor may submit his written consent during the hearing of the

case. This shall be recorded in the minutes of the hearing and the minor shall sign the minutes. The court must explain to the minor the consequences of submitting said consent.

5. The minor may withdraw the consent he submitted to be declared to be of full active capacity prior to the court judgment being passed.

**Article 478. Court judgment**

1. After hearing the case in a hearing, the court shall pass a judgment to declare the minor to be of full active capacity or shall dismiss the application.

2. The litigation expenses, except for representation, for declaring a minor to be of full active capacity shall be covered from state funds.

3. A court judgment declaring a minor to be of full active capacity shall be grounds for revoking the cure of the minor if this has been established.

4. The parties to the proceeding shall be entitled to appeal the court judgment.

**Article 479. Revocation of a court judgment**

1. If circumstances are established that a minor, who was declared to be of full active capacity, in independently realising his rights or performing his duties harmed the rights or legal interests of himself or other persons, the court pursuant to the application of the minor's parents or the guardianship (care) institution may revoke the judgment declaring the minor to be of full active capacity.

2. A court judgment to revoke a previous judgment, by which a minor was declared to be of full active capacity, shall be grounds for establishing the care of a minor, who has no parents.

**CHAPTER XXIX  
CASES CONCERNING ADOPTION**

**Article 480. Filing an application**

1. A citizen of the Republic of Lithuania whose place of residence is in the Republic of Lithuania shall file an adoption application to a county court according to his own place of birth or that of the adoptee.

2. A citizen of the Republic of Lithuania whose domicile is abroad, a citizen of a foreign state, a stateless person, or a citizen having citizenship of the Republic of Lithuania and of a foreign state shall file an adoption application with the Vilnius County Court.

### **Article 481. Content of an application**

1. Besides the general requirements raised for the content and form of court documents, an application must indicate:

1) data about the applicant (name, surname, personal number, date and place of birth, place of residence, workplace, family status, material situation, state of health, whether he has been included on the list of prospective adoptive parents, and the opinion of the institutions of the foreign state, which the applicant is a citizen of or where his place of residence is located, about whether he is suitable to be an international adopter);

2) data about the adoptee (name, surname, personal number, date and place of birth, his parents or guardians (carers), the child's location, state of health, and whether he has been included on the list of children offered for adoption);

3) the reasons for the adoption;

2. If the applicant is petitioning to grant the adoptee the adopters' surname and a name indicated by them, this must be reported in the adoption application.

### **Article 482. Submission of evidence**

1. The following must be annexed to an adoption application:

1) health certificates for the adopters and, if possible, for the adoptee, that are issued by the procedure established by Minister of Health;

2) if possible, a court ruling confirming the consent of the parents of the child and if the parents of the child are minors or incapable, their parents or guardians (carers) to the adoption except in the cases provided by the laws;

3) if it is possible and the child has a guardian (carer) appointed by the procedure established by the laws, except a state guardianship institution, a court ruling confirming the consent of the guardian (carer) to the adoption;

4) if one of the spouses petitions to adopt, the notarised written consent of the other spouse to the adoption except in the cases provided by the laws;

5) data that the adopter is included on the list of prospective adoptive parents and that the adoptee is included on the list of children offered for adoption;

6) the opinion of a social worker certified by the state institution for adoption concerning their preparedness to adopt.

2. Citizens of foreign states or stateless persons, in filing an adoption application, shall submit documents and data registered by the procedure established by the laws of their state that the foreign state acknowledges the adoption of the specific child, that the child has been or shall be issued with an official permit to enter that country and live their permanently. The translation into Lithuanian, confirmed by the procedure established by the laws, must be attached to these documents. The documents must be legalised except in the cases provided by the laws or international agreements.

### **Article 483. Preparation for the proceedings**

A court, in preparing to hear a case:

1) shall charge the state institution for adoption with submitting its opinion about whether there are any obstacles provided by the laws to adopting this specific child as well as submitting any data about whether a petition has been received from other persons about adopting the same child and about the registration of the adopter and adoptee in the appropriate lists;

2) shall demand data from the state institution for adoption about the origin, development, state of health, and family of the child to be adopted;

3) if a citizen of a foreign state or a stateless person has petitioned to adopt, shall charge the state institution for adoption with submitting its opinion about whether the pre-court adoption procedure has been performed pursuant to the Civil Code.

**Article 484. Hearing a case**

1. A case concerning an adoption shall be heard by means of oral proceedings in a closed hearing.

2. The hearing of the case shall be reported to the applicant, any other parties who have expressed a desire to adopt the same child, the state institution for adoption, the state institution for the protection of the child's rights, and any other interested parties.

3. Any other persons who express a desire to adopt the same child may file applications with independent adoption demands to the court that is hearing the case.

4. A case concerning an adoption shall be heard with the necessary attendance of the applicants, a representative of the state institution for adoption, and a representative of the state institution for the protection of the child's rights, which latter two shall be submit to the court their opinions concerning the adoption.

5. The court shall verify whether the adopters have the proper conditions and are properly prepared to adopt a child.

6. The consent of the parents or guardians (carers) can be withdrawn prior to the passing of a court judgment concerning the adoption. After filing an application to withdraw their consent to the adoption, the proceedings concerning the adoption shall be suspended until the question of whether to withdraw the consent has been decided.

**Article 485. Consent of the adoptee**

1. An adoptee, who has attained the age of ten, must be heard concerning his adoption in the hearing. The court shall ascertain whether the adoptee consents to be adopted and be the adopted child of the adopter, whether he consents that the adopters be declared his parents and he the child of the adopters, and whether he consents that his name and surname be changed. Without the written consent of an adoptee, who has attained the age of ten, it is impossible to adopt him.

2. An adoptee, who is under the age of ten, must be heard in a hearing concerning his adoption and the changing of his name and surname if he is able to express his opinion and formulate his views. His opinion may be expressed orally, in written form, or in other ways chosen by the child. The court, in passing a judgment, must take into consideration the wish of this child if this does not conflict with the interests of the child himself.

3. An expert psychologist may be called to establish whether the child is able to express his opinion and to explain the opinion expressed by the child.

4. In hearing the child, the court shall follow the rules provided in Article 194, paragraph 1 of this Code.

5. In exceptional cases at the discretion of the court, any party to the proceeding may be removed from the courtroom by a court ruling for the period the child's opinion is being heard. When this party returns to the courtroom, the opinion expressed by the child must be reported to him.

6. If the court permits, a pedagogue and/or psychologist participating in the proceeding and the parties to the proceeding may ask the child questions.

7. The court must explain to the adoptee the consequences of giving his consent and of adoption. The court shall refuse to accept the consent of the adoptee to be adopted if there are grounds to think that this consent was obtained through coercion or deceit or in order to obtain an illegal financial benefit.

**Article 486. Placement of a child in a family prior to adoption**

1. If, taking into consideration the psychological readiness of the future adoptive parents to adopting and of the child to being adopted, the length of the period the future adoptive parents and the adoptee have interacted prior to the filing of the adoption petition and other circumstances can raise doubts about whether the child will adapt to the adopters' family and there are grounds to think that there are no other obstacles to the adoption, the court hearing the case, on the petition of the state institution for adoption or on its own initiative, may by a ruling may establish a six to twelve month probationary period for the applicant and place the child with the applicant's family, in which he cared for and brought up. In this case, the hearing of the adoption case shall be suspended.

2. After reopening the hearing of the case, the state institution for adoption shall submit to the court its opinion about the readiness of the adopters to adopt this specific child and the psychological match of the adopters and the child.

3. After reopening the hearing of the case, the court shall once again perform the requirements of the laws concerning the consent of the adoptee.

#### **Article 487. Court judgment**

1. By a court judgment, the child shall be adopted or the adoption application dismissed.

2. After satisfying the application, by a court judgment the adopters shall be declared the parents of the child and the adoptee the child of the adopters. If by a court judgment the child was placed with the family prior to adoption, then after adopting the child, the adopters shall be considered the parents of the child pursuant to the law from when the ruling to place the child with the family became *res judicata*. The court shall certify this in the judgment.

3. The resolution of the court judgment concerning the adoption shall retain the data preserving the individuality of the child: his date of birth, place of birth, as well as his name and/or surname if these are not changed.

4. When citizens of a foreign state adopt, the resolution of the court judgment shall indicate to which state they are being allowed to adopt.

5. After the court judgment concerning the adoption becomes *res judicata*, it shall be sent within three days to the Register Office, which registered the birth of the child.

6. The court judgment concerning the adoption shall be grounds for the civil status records office to amend the record of the birth of the adopted child and to issue a new birth certificate.

7. The entire court judgment shall be pronounced in a closed hearing.

#### **Article 488. Consent to the adoption**

1. The parents of the child and if they are minors or incapable, their parents or guardians (carers), or the child's guardian (carer) shall submit their written consent, recorded by an application, to the adoption to the county court according to their place of residence or according to the place of residence of the child, concerning whom the consent is being given.

2. An application concerning confirmation of consent to the adoption must indicate:

1) data about the person giving the consent (name, surname, personal number, date and place of birth, and place of residence);

2) data about age or state of health of the child's parents if they are minors or incapable;

3) data about the child (name, surname, personal number, date and place of birth, his parents or guardians (carers), and the child's place of residence and location).

3. Evidence confirming the circumstances reported in the consent must be annexed to the consent to the adoption.

4. The consent to an adoption shall be heard by means of oral proceedings. The hearing of this question shall be reported to the person giving the consent and to the minor parents of the child.

5. The court must explain the consequences of giving such consent and of adoption to the person giving the consent.

6. The question of the confirmation of the consent to the adoption shall be decided by a court ruling. The court shall confirm the consent if it establishes that the consent to the adoption has been given consciously, the will of the person giving the consent has not been affected, and it has not been obtained through coercion or in order to obtain an illegal financial benefit. In confirming the consent, the court shall explain in the ruling the consequences of the adoption and the right to withdraw the consent given. This ruling can be appealed by a separate appeal.

7. After the ruling confirming the consent to the adoption becomes *res judicata*, the court shall send a copy within three business days to the state institution for adoption.

#### **Article 489. Withdrawal of consent to adoption**

1. The parents or guardians (carers) may withdraw the consent to the adoption they gave. If consent to adopt the child of minor or incapable parents was given by their parents or guardians (carers), then when the parents of the child become adults or attain full active capacity, the consent to the adoption shall lose its force. An application concerning the withdrawal of the consent to the adoption shall be filed with the court, which confirmed the consent to the adoption.

2. An application concerning the withdrawal of the consent to an adoption must indicate:

1) data about the person who is withdrawing his consent to the adoption (name, surname, personal number, date and place of birth, and place of residence);

2) data about the child, concerning whose adoption the consent given is being withdrawn (name, surname, personal number, date and place of birth, his parents or guardians (carers), and the child's place of residence and location);

3) data about the confirmation of the consent to the adoption.

3. The state institution for adoption, after receiving an application concerning the withdrawal of the consent to the adoption, shall send the application the same day to the court that confirmed the consent and, if the adoption case is being heard in the court, shall immediately report it in writing or orally to the court hearing the adoption case. The filing of an application, if a court judgment concerning the adoption has not been passed, shall suspend the execution of the adoption procedures.

4. The county court, which confirmed the consent, shall hear the application concerning the withdrawal of the consent to the adoption.

5. An application shall be heard by means of oral proceedings. Its hearing shall be reported to the person, who is withdrawing the consent to the adoption, and to the state institution for adoption.

6. The court shall verify whether one year has passed since the restriction of the authority of the parents, whether the restriction of the parental authority has been revoked, and whether the consent to the adoption is being withdrawn only due to a material benefit.

7. An application concerning the withdrawal of consent to an adoption shall be decided by a court ruling. This ruling may be appealed by a separate appeal.

8. After the court ruling, by which the withdrawal of consent to an adoption was confirmed, becomes *res judicata*, the court shall place a notation about the withdrawal of consent to the adoption on the ruling, by which consent to the adoption was confirmed.

9. After the ruling becomes *res judicata*, the court shall send a copy of it within three business days to the state institution for adoption and to the court that suspended the adoption proceeding.

**Article 490. Appealing the opinion of the state institution for adoption**

1. If a person does not agree with the opinion of the social worker certified by the state institution for adoption concerning the readiness to adopt, within one month of the day the opinion was drawn up, he may file an application concerning the rejection of the opinion with the county court according to his place of residence. A person, who is intending to adopt a child abroad, shall file an application with the Vilnius County Court.

2. The opinion of a certified social worker, which is being appealed, shall be annexed to an application concerning the rejection of the opinion.

3. The application shall be heard by means of oral proceedings. Its hearing shall be reported to the applicant, the state institution for adoption, and the social worker who drew up the opinion.

4. A court ruling shall be passed concerning the application. This ruling may be appealed by a separate appeal.

**CHAPTER XXX  
CASES CONCERNING GUARDIANSHIP AND CARE**

**SECTION ONE  
GENERAL PROVISIONS**

**Article 491. Admissibility and the role of the court**

1. Cases concerning the establishment of guardianship (care) for minors and adults, who have been declared incapable or of limited active capacity by a court judgment as well as cases concerning the establishment of care for persons of full active capacity shall be heard by the procedure established in this Chapter.

2. A court hearing a case must undertake every possible measure to protect the rights and interests of persons requiring guardianship or care.

3. If a court acknowledges that it is essential to hear a person, for whom the establishment of guardianship or care and/or the appointment of a guardian or carer has been petitioned, as well as to hear to the ward, it may obligate the persons who live with this person to bring him to the hearing as well as rule that the police conduct this person to the court.

**Article 492. Reimbursement of the necessary expenses incurred by a guardian or carer in connection with the performance of the duties of the guardian or carer**

1. In the cases provided by the laws, the court, which appointed the guardian or carer, shall establish, pursuant to the application of the guardian or carer, the size of the necessary expenses incurred by a guardian or carer in connection with the performance of the duties of the guardian or carer and the procedure for their reimbursement.

2. The question of the reimbursement of expenses shall be decided by a court ruling. This ruling can be appealed by a separate appeal.

**Article 493. Appointment of a property administrator**

1. If an incapable person or one of limited active capacity has real or moveable property, which requires constant care (an enterprise, land, building, etc), a court pursuant to the petition of the guardianship or care institution or on its own initiative shall appoint a property administrator. The guardian (carer) or another person may be appointed the administrator of this property.

2. The question of appointing a property administrator shall be decided by a court ruling. The court shall explain his rights and duties to the appointed property administrator.

3. The court, who appointed the property administrator, pursuant to the application of the guardianship or care or a public prosecutor may relieve this administrator from his duties or replace him by a ruling.

**Article 494. Relieving a guardian or carer of his duties**

1. Pursuant to the application of the guardian, carer, or guardianship and care institution, the guardian or carer can be relieved of his duties by a ruling of the court that appointed him if he is unable to perform his duties due to his own illness, that of other relatives, the deterioration of his material situation, or any other valid reasons.

2. Pursuant to the application of the guardianship and care institution or a public prosecutor, the guardian or carer can be removed by a ruling of the court that appointed him if he has improperly performed his guardian or carer duties, not ensured the protection of the rights and duties of the charge or ward, or used his rights for personal gain.

3. The ward may also file an application to relieve a carer, appointed for a person of full active capacity, of his duties.

4. After a guardian or carer has been relieved of his duties, the question of the appoint of another guardian or carer shall be decided pursuant appropriately to the provisions of Section Two or Three of this Chapter.

5. The guardian or carer of a child may be relieved of his duties by a ruling of the court that appointed him pursuant to an application by the guardian, carer, guardianship and care institution, or the parents or adoptive parents of the child if the child is returned to the parents or adoptive parents.

**Article 495. End of a guardianship or care**

1. Guardianship or care shall end after a court judgment declaring the person to be of full active capacity or revoking the limitation of his active capacity becomes *res judicata*.

2. After a minor attains the age of fourteen, his guardianship shall end and his guardian shall become the minor's carer without any additional judgment.

3. Care shall end when the minor attains the age of eighteen or when he attains full active capacity prior to attaining the age of eighteen in the other cases established by the laws.

4. The care of a person of full active capacity shall be revoked pursuant to this person's application by a ruling of the court that established this care.

**Article 496. Enforcement of court judgments and rulings**

Court judgments and rulings concerning the establishment and revocation of guardianship or care, the appointment of a guardian or carer, or relieving one of his duties shall be enforced in an expedited manner. The lodging of a separate appeal shall not suspend their enforcement.

**SECTION TWO**

**CASES CONCERNING THE PERMANENT GUARDIANSHIP OR CARE OF A CHILD**

**Article 497. Filing an application**

1. The state institution for the protection of the child's rights or a public prosecutor may file an application concerning the establishment of the permanent guardianship or care of a child.

2. The state institution for the protection of the child's rights or a public prosecutor may file an application concerning the appointment of a permanent guardian or carer for a child, for whom permanent guardianship or care has been established.

3. The state institution for the protection of the child's rights or a public prosecutor may join into one their petitions concerning the establishment of the permanent guardianship or care of a child and appointment of his permanent guardian or carer.

4. An application shall be filed according to the place of residence of the child, for whom it has been petitioned to establish a guardianship or care and/or appoint a guardian or carer and if he has none, according to the location of this child.

**Article 498. Content of an application concerning the establishment of the permanent guardianship or care of a child**

An application must indicate:

- 1) data about the child (name, surname, personal number, date and place of birth, the child's place of residence and/or location, state of his health, and data about his parents);
- 2) data about the establishment of any temporary guardianship or care;
- 3) the grounds for establishing permanent guardianship or care;
- 4) data about the child's property.

**Article 499. Content of an application concerning the appointment of a guardian or carer**

The data about the child, which are indicated in Article 498, paragraph 1 of this Code, must be supplied in an application as well as:

- 1) a petition to apply a form of guardianship or care and the grounds for it.
- 2) data about the person who is being recommended to be appointed guardian or carer (for a natural person: name, surname, personal number, date and place of birth, place of residence, work place, family status, material situation, state of health, kinship, relationships with the child requiring guardianship or care, moral and other qualities, and his ability to be a guardian or carer and perform his duties as a guardian or carer and for a legal person: code, banking information, registered office, and financial condition);
- 3) other persons who have expressed their consent to become the guardians or carers of this child;
- 4) the real or moveable property possessed by the child, for which constant care is necessary (an enterprise, land, building, etc) and a recommendation concerning the appointment of an administrator for this property.

**Article 500. Submission of evidence**

The following must be appropriately annexed to the application:

- 1) evidence substantiating the necessity to establish the permanent guardianship or care of the child;
- 2) a health certificate, issued by the procedure established by Minister of Health, for the child and for the natural person being recommended to be appointed guardian or carer;
- 3) the written consent of the person, who is being recommended to be appointed guardian or carer;
- 4) if is being recommended to appoint a natural person or a family guardian or carer, a list of the persons living together with him or them and the written consent of any persons over the age of sixteen shall be submitted;
- 5) if the state institution for the protection of the child's rights is filing the application, its opinion concerning the necessity of establishing the permanent guardianship or care of the child and appointing a guardian or carer must be annexed to the application.

**Article 501. Preparation for hearing the case**

1. After accepting a public prosecutor's application concerning the establishment of the permanent guardianship or care of the child, the court shall charge the state institution for the protection of the child's rights with submitting an application concerning the appointment of a

guardian or carer and its opinion concerning the necessity of establishing the permanent guardianship or care of the child and appointing a guardian or carer.

2. After accepting an application from the state institution for the protection of the child's rights concerning the establishment of the permanent guardianship or care of the child and/or the appointment of a guardian or carer, the court, if the appointment of a natural person or family as the guardian or carer is being recommended, shall demand data about the convictions and infractions of administrative law of this natural person and any other persons or family members living together with him.

#### **Article 502. Hearing a case**

1. A case concerning the establishment the permanent guardianship or care of a child and/or the appointment of a guardian or carer shall be heard by means of oral proceedings.

2. The state institution for the protection of the child's rights, the public prosecutor if he is the applicant, the person recommended to be appointed the guardian or carer, any other persons who have expressed their consent to become the guardians or carers of the same child, and any interested parties shall be notified about the hearing of the case.

3. The case shall be heard with the necessary attendance of the public prosecutor, if he is the applicant, a representative of the state institution for the protection of the child's rights, which shall submit its opinion in court, and the person, who is being recommended to be appointed the guardian or carer.

4. In appointing a guardian or carer, his personal qualities, state of health, ability to be a guardian or carer, his relationship with the child, the child's opinion and interests, and any other relevant circumstances shall be taken into consideration.

#### **Article 503. Opinion of the child**

1. A child, who is able to express his opinion and formulate his own views, must be heard in the hearing concerning the establishment of the permanent guardianship or care and/or the appointment of a guardian or carer. An expert psychologist may be called to establish whether the child is able to express his opinion and to explain the opinion expressed by the child. The child's opinion may be expressed orally, in writing, or in any other way he chooses.

2. In hearing the child, the court shall follow the rules provided in Article 194, paragraph 1 of this Code.

3. In exceptional cases, at the discretion of the court, any party to the proceeding may be removed from the courtroom by a court ruling for the period the child's opinion is being heard. When the person returns to the courtroom, the opinion expressed by the child must be reported to him.

4. With the permission of the court, a pedagogue and/or psychologist participating in the hearing as well as the parties to the proceeding may ask the child questions.

5. The court must explain to the child the consequences of establishing a guardianship or care and appointing a guardian or carer. In passing a judgment, the court must take into consideration the child's opinion if this does not conflict with the interests of the child himself.

#### **Article 504. Court ruling**

1. An application concerning the establishment of the permanent guardianship or care of a child and/or the appointment of a guardian or carer shall be decided by a court ruling.

2. In satisfying an application concerning the establishment of permanent guardianship or care, the ruling shall indicate the data about the ward and the location of the guardianship or care while an application concerning the appointment a guardian or carer shall additionally show the data about the guardian or carer.

3. If the child has real or moveable property which requires constant care, the court shall appoint an administrator for that property.

4. The court shall explain his rights and duties to the appointed guardian or carer and property administrator.

### **SECTION THREE CASES CONCERNING THE GUARDIANSHIP AND CARE OF ADULTS**

#### **Article 505. Duty of the court to initiate the hearing of a case concerning the establishment of a guardianship or care and the appointment of a guardian or carer for an incapable person or one of limited active capacity**

1. The court, after passing a judgment to declare an adult incapable or of limited active capacity, must on its own initiative initiate the hearing of a case concerning the establishment of guardianship or care for this person and the appointment of a guardian or carer.

2. The court, after passing a judgment to declare an adult incapable or of limited active capacity, if this person is in a medical, education, or guardianship and care institution, must on its own initiative establish the guardianship or care of this person.

3. The court, after passing a judgment to declare an adult incapable or of limited active capacity, if this person is not in a medical, education, or guardianship and care institution, must on its own initiative establish the guardianship or care of this person and appoint a guardian or carer.

#### **Article 506. Preparation to hear a case concerning the establishment of guardianship or care and the appointment of a guardian or carer for an incapable person or one of limited active capacity**

1. The court, after passing a judgment to declare an adult incapable or of limited active capacity, shall the same day by a ruling charge a guardianship and care institution to submit to the court within ten days any data necessary for hearing the case.

2. The guardianship and care institution shall submit in writing to the court its opinion, in which it shall indicate:

1) data about the location of the person, concerning whom the case is to be heard, and the necessity of appointing a guardian or carer.

2) if it is necessary to appoint a guardian or carer, the guardian or carer candidate shall be submitted; data about him shall be indicated (name, surname, personal number, date and place of birth, workplace, family status, material situation, state of health, kinship, relationship with the person declared incapable or of limited active capacity, moral and other qualities, and his ability to perform his duties as a guardian or carer) as well as any other relevant circumstances; and its opinion concerning the guardian or carer candidate for the person declared incapable or of limited active capacity shall be indicated;

3) if a guardian or carer candidate is being submitted, the written consent of this person and a health certificate for him issued by the procedure established by Minister of Health shall be annexed;

4) when a person who has been declared incapable or of limited active capacity has real or moveable property which requires constant care (an enterprise, land, building, etc), the letter from the guardianship and care institution must indicate this and recommend the appointment of an administrator for this property;

3. If it is necessary to appoint a guardian or carer, the court shall demand data about the convictions and administrative law infractions of the person being recommended to be appointed the guardian or carer.

4. The preparation for hearing the case must be concluded prior to court judgment, by which the person is declared incapable or of limited active capacity, becomes *res judicata*.

**Article 507. Hearing a case concerning the establishment of guardianship or care and the appointment of a guardian or carer for an incapable person or a person of limited active capacity**

1. A case shall be heard in a hearing immediately after the judgment, by which the person was declared incapable or of limited active capacity, becomes *res judicata*.

2. A case concerning the establishment of guardianship or care shall be heard by means of written proceedings except in cases where the court acknowledges the necessity of orally hearing the case.

3. A case concerning the establishment of guardianship or care and the appointment of a guardian or carer shall be heard by means of oral proceedings. The guardianship and care institution, the person declared incapable or of limited active capacity, the person recommended to be appointed the guardian or carer, and any parties interested in the outcome of the case shall be notified about the hearing of the case. The case shall be heard with the necessary attendance of a representative of the guardianship and care institution, who shall submit its opinion in the court, and the person recommended to be appointed the guardian or carer. The person declared incapable or of limited active capacity shall be entitled in the hearing to give his opinion concerning the guardian or carer candidate if this is possible in light of the state of his health. The court may acknowledge that it necessary that the person declared incapable or of limited active capacity attend the hearing.

4. In appointing a guardian or carer, his moral and other qualities, his capability to perform the guardian or carer functions, his relationship with the person who requires the guardianship or care, and, if possible, the wishes of the person who requires the guardianship or care shall be taken into consideration.

**Article 508. Court judgment**

1. An application concerning the establishment of guardianship or care and the appointment of a guardian or carer shall be decided by a court ruling.

2. In satisfying an application concerning the establishment of guardianship or care, the ruling shall indicate the data about the ward and when an application concerning the appointment of a guardian or carer is satisfied, the data about the guardian or carer shall be additionally indicated.

3. If the incapable person or person of limited active capacity has real or moveable property, which requires constant care, the court shall appoint an administrator for this property.

4. The court shall explain his rights and duties to the appointed guardian or carer and property administrator.

### **Article 509. Care of a person of full active capacity**

1. The court may establish a care and appoint a carer for a person of full active capacity, who is unable to realise his rights or perform his duties due to the state of his health pursuant to his petition or that of his guardianship and care institution or a public prosecutor.

2. An application concerning the establishment of a care and appointment of a carer shall be filed with the district court according to the place of residence of the person, who requires the care, and if he has no place of residence, according to the location of the person.

3. The application of the person of full active capacity must indicate the reasons for the necessity for the establishment of a care and appointment of a carer. The court, in preparing to hear the case, shall charge the guardianship and care institution with submitting any data necessary for hearing the case. The guardianship and care institution shall submit to the court its opinion, to the content of which the requirements of Article 506, paragraph 2, subparagraphs 1, 2, and 3 of this Code shall be correspondingly applicable.

4. The application of a guardianship and care institution must indicate the data about the person, for whom it is petitioned to establish a care and appoint a carer, as well as set out the reasoning for the necessity of establishing a care and appointing a carer. The guardianship and care institution's opinion, to the content of which the requirements of Article 506, paragraph 2, subparagraphs 1, 2, and 3 shall be correspondingly applicable, must be annexed to the application.

5. The court, in preparing to hear the case, shall demand data about the convictions and infractions of administrative law of the person being recommended to be appointed carer.

6. A case concerning the establishment of a care and appointment of a carer for a person of full active capacity shall be heard by means of oral proceedings. The guardianship and care institution, the person, for whom it is petitioned to establish a care and appoint a carer, the person who is being recommended to be appointed carer, and any other persons interested in the outcome of the case shall be notified about the hearing of the case. The case shall be heard with the necessary attendance of a representative of the guardianship and care institution, who shall submit its conclusions in the court, and the person who is being recommended to be appointed carer.

7. A carer shall be appointed for a person of full active capacity only with the consent of the ward.

8. The question of the establishment of a care and the appointment of a carer shall be decided by a court ruling. In satisfying the application, the ruling shall indicate the data about the ward and carer.

9. The court shall explain his rights and duties to the appointed carer.

## **CHAPTER XXXI**

### **CASES CONCERNING THE ACTIONS OF BAILIFFS AND NOTARIES**

#### **Article 510. Lodging an appeal concerning the actions of a bailiff**

1. The procedural actions of bailiffs or their refusal to perform procedural actions can be appealed by the procedure established in this Chapter.

2. An appeal shall be lodged with the district court, in the territory of which the bailiff operates. Appeals concerning the actions of bailiffs shall be subject to an official fee.

3. The lodging of an appeal shall not suspend the performance of the actions but the court, if it acknowledges that it is necessary, shall be entitled to suspend the performance of the actions by means of written proceedings.

4. A failure to lodge the appeal provided in this Chapter shall not take away the right to petition a court concerning the compensation of any harm caused by the illegal actions of a bailiff.

#### **Article 511. Lodging an appeal concerning the actions of a notary**

1. Notarial actions or a refusal to perform a notarial action can be appealed by the procedure established in this Chapter.

2. An appeal shall be lodged with the district court of the work place of the notary (or another person whom the laws entitle to perform notarial actions) whose actions are being appealed. Appeals concerning notarial actions shall be subject to an official fee.

3. A failure to lodge the appeal provided in this Chapter shall not take away the right to petition a court concerning compensation of any harm done by the illegal actions of a notary (or another person whom the laws entitle to perform notarial actions).

#### **Article 512. Terms for lodging appeals**

An appeal concerning the actions of a bailiff or notary can be lodged no later than within twenty days of the day, on which the person lodging the appeal learned or had to have learned about the performance of the action being appealed or the refusal to perform it but no later than within thirty days of the performance of the action being appealed.

#### **Article 513. Court ruling and its appeal**

1. A court shall decide a case concerning the actions of a bailiff or notary by a ruling. After satisfying the appeal, the court shall revoke the action of the bailiff or notary or obligate the bailiff or notary (or another person whom the laws entitle to perform notarial actions) to perform the action.

2. A separate appeal may be lodged concerning a court ruling passed on a question of the actions of a bailiff or notary.

3. A copy of the court ruling shall be sent within three days of the ruling becoming *res judicata* to the bailiff or notary (or another person whom the laws entitle to perform notarial actions).

### **CHAPTER XXXII**

#### **CASES CONCERNING THE REGISTRATION OF A CIVIL STATUS ACTS AND THE RESTORATION, AMENDMENT, APPENDING, CORRECTION, OR ANNULMENT OF RECORDS**

#### **Article 514. Filing an application**

1. An application concerning the registration of a civil status act or the restoration, amendment, appending, correction, or annulment of a record shall be filed with the district court of the applicant's place of residence.

2. The court shall hear a case concerning the registration of a civil status act or the restoration, amendment, appending, correction, or annulment of a record if the Register Office refuses to register a civil status act or to restore, append, amend, correct, or annul a record or if these questions should not be heard in Register Offices.

3. An application, besides the general requirements raised for the content and form of court documents, must indicate what grounds exist for registering the civil status act or restoring, appending, amending, correcting, or annulling a record, when and which Register Office refused to do this, and any evidence confirming these circumstances.

4. Each person shall be entitled to file an application concerning the registration of a civil status act or the restoration, amendment, appending, correction, or annulment of a record if the registration of a civil status act or the restoration, amendment, appending, correction, or annulment of a record is directly connected with the person who filed the application. Other interested persons may file such an application if these persons' rights and interests protected by the laws are violated due to the failure to register the civil status act or to restore, append, amend, correct, or annul the record or if due to this failure certain duties arise for him.

#### **Article 515. Hearing an application**

A court shall hear an application concerning the registration of a civil status act or the restoration, amendment, appending, correction, or annulment of a record by means of oral proceedings.

#### **Article 516. Court judgment**

1. After the court judgment to register the civil status act or to restore, append, amend, correct, or annul the record becomes *res judicata*, it shall be grounds for the Register Office to make, restore, append, amend, correct, or annul the appropriate record.

2. The resolution of a court judgment must indicate which Register Office must make, restore, append, amend, correct, or annul the record, when the record was made, with which persons it is connected, the record number and date, and what record must be made, restored, or annulled, or what must be appended, amended, or corrected in the record.

### **CHAPTER XXXIII**

#### **CASES CONCERNING THE RESTORATION OF RIGHTS PURSUANT TO LOST BEARER SECURITIES CERTIFICATE (CHALLENGE PROCEEDINGS)**

#### **Article 517. Filing a claim**

1. A person, who has lost a securities certificate, may petition the court to declare this certificate invalid and restore his rights pursuant to the lost bearer securities certificate.

2. An application concerning the declaration of a lost bearer securities certificate as invalid shall be filed with the district court of the place of residence or registered office of the person who issued this document.

3. The application must indicate the distinctive marks of the lost bearer securities certificate, any evidence of the fact of its possession, and the name and surname or name of the person who issued the certificate, and report the circumstances, under which the certificate was lost.

#### **Article 518. Preparation for the proceedings**

1. After accepting an application, the court shall pass a ruling the place an announcement in the local newspaper using the applicant's funds.

2. The notice shall contain:

1) the name of the district court, which has received the application concerning the lost document;

2) the name, surname, and place of residence of the applicant;

3) the name and distinctive marks of the document;

4) a suggestion to the holder of the document, the loss of which has been claimed, to file an application with the court concerning his rights to the document and at the same time submit the original document within three months of the day of the notice.

3. Together with the ruling to place an announcement in the local newspaper, the court shall pass a ruling forbidding the payment of money or issuance of securities or objects pursuant to the document and shall send it to the organisation that issued the document.

4. A separate appeal may be lodged concerning the refusal to pass a ruling to place an announcement.

#### **Article 519. Application of the holder of the document**

1. The holder of the document, the loss of which has been claimed, must within three months of the day of the announcement in the newspaper file an application with the district court concerning his rights to the document and at the same time submit the original document.

2. If the holder of the document so petitions, the court may return the original document to the holder until the hearing of the case in a hearing, leaving a certified copy of it in the file.

3. If a copy of the document is left in the file, the original absolutely must be submitted during the hearing.

**Article 520. Actions of the court after receiving the application of the document holder**

If the court receives an application from the holder of the document prior to the expiry of the three-month term from the day of the announcement, the court by a ruling shall dismiss on the merits the application filed by the person who lost the document and establish a term, during which the organisation that issued the document shall be forbidden to pay out money pursuant to it or issuing securities or objects. This term must not be longer than two months. At the same time the court shall explain to the applicant his right by general procedure to file a claim against the holder of the document concerning a demand for the document and to the holder of the document, his right to collect reimbursement from the applicant due to the employment of any temporary protection measures.

**Article 521. Hearing the case**

After the expiry of the three-month term from the day of the announcement, if no application with the original document has been received from the holder of the document, the court shall assign a case to hear it.

**Article 522. Court judgment**

If the application of the applicant is satisfied, the court shall pass a judgment declaring the lost document invalid. The court judgment shall be grounds to pay out money to the applicant, issue securities or objects, or to issue a new document in place of document declared invalid.

**Article 523. Right of the holder of the document to file a claim concerning the irregular acquisition or unjust enrichment**

The holder of the document, who has failed to express his rights to the document on time due to some reason, after the court judgment declaring the document invalid comes into force, may file a claim for the unjust enrichment or irregular acquisition of property against the person, in whose favour the court judgment was passed.

**CHAPTER XXXIV  
CASES CONCERNING RIGHTS IN REM**

**SECTION ONE  
GENERAL PROVISIONS**

**Article 524. Admissibility**

Cases concerning the confirmation of the fact of control, the establishment of the fact of the right of ownership according to acquired prescription, and the declaration of an object to be ownerless shall be heard by the procedure established in this Chapter.

**Article 525. Requirements for the demand**

Besides the general requirements raised for the content and form of court documents, documents from the appropriate public register about rights in rem that should be registered must be submitted together with the application filed by the procedure established in this Chapter.

**SECTION TWO  
CASES CONCERNING THE CONFIRMATION OF THE FACT OF CONTROL**

**Article 526. Filing an application and jurisdiction**

1. A court may confirm the fact of control pursuant to the application of the interested person.

2. An application concerning the confirmation of the fact of control shall be filed with the district court of the applicant's place of residence and if the applicant is a legal person, his registered office. An application concerning real property shall be filed with the district court of the location of the real property.

3. An application concerning the confirmation of the fact of control can be filed only when the applicant is unable by any other procedure to obtain the necessary documents confirming this fact or when he is unable to restore lost documents.

**Article 527. Content of an application**

1. Besides the general requirements raised for the content and form of court documents, an application must contain a complete description of the object, indicate for what purpose the applicant needs to confirm the fact of its control, indicate the reasons, due to which it is impossible to obtain or restore the documents confirming this fact, and indicate any evidence confirming this fact as well as any evidence confirming that the applicant is unable to obtain the required documents or restore the lost documents.

2. All the known persons interested in the fact petitioned to be confirmed must be indicated in the application.

**Article 528. Publishing the initiation of a case**

1. After accepting an application, the court, in cases where the applicant has failed to indicate the persons interested in the fact petitioned to be confirmed and in other cases when it thinks that it is necessary, shall pass a ruling to publish, in the local daily newspaper and one of the main ones of the Republic of Lithuania, the initiation of a case to confirm the fact of control. The notice must indicate:

- 1) the name of the court, where the application was received;
- 2) a complete description of the object;

3) the name and surname of the person controlling the object and if the object is real property, the place of residence of the person controlling the object;

4) a suggestion to any persons, within three months of the day of the publication, to file an application with the court concerning their rights to the object.

2. The notices shall be published in the daily newspapers using the applicant's funds.

3. If the initiation of the case is published in daily newspapers, the court shall assign a case to hear it only after three months have passed since the day of the publication.

#### **Article 529. Court judgment**

A court judgment, by which the fact of the applicant's control can be confirmed or the petition of the applicant dismissed, shall be passed in cases heard by the procedure established in this Section.

### **SECTION THREE**

#### **CASES CONCERNING THE ESTABLISHMENT OF THE FACT OF THE ACQUISITION OF THE RIGHT OF OWNERSHIP BY ACQUIRED PRESCRIPTION**

#### **Article 530. Jurisdiction**

An application concerning the establishment of the fact of the acquisition of the right of ownership by acquired prescription shall be filed with the district court of the place of residence of the applicant and if the applicant is a legal person, his registered office. An application concerning real property shall be filed with the district court of the location of the real property.

#### **Article 531. Content of an application**

Besides the general requirements raised for the content and form of court documents, an application must:

1) contain a complete description of the object, for which it is sought to establish the fact of the acquisition of the right of ownership by acquired prescription;

2) indicate the term of the object's control;

3) indicate that the applicant is the bona fide and lawful owner;

4) indicate that the possession was open and uninterrupted the entire period;

5) indicate that the restrictions, referred to in the Civil Code, for the establishment of the fact of the acquisition of the right of ownership by acquired prescription do not exist.

#### **Article 532. Preparation for hearing it in court**

1. During the preparation for hearing it in court but no later than within thirty days of the hearing, a notice about the hearing of the case shall be published, using the applicant's funds, in a daily newspaper of his place of residence or business and in one of the main daily newspapers of the Republic of Lithuania.

2. The notice must indicate:

1) the court hearing the case;

2) the name, surname, and place of residence of the applicant;

3) the object, for which it is petitioned to establish the fact of the acquisition of the right of ownership by acquired prescription;

4) a suggestion for interested persons, no later than within fourteen days, to petition the court with an application concerning their involvement in the proceedings;

5) the date, time, and place of the hearing of the case.

#### **Article 533. Hearing the case and the court judgment**

1. If prior to the day of the hearing, the honesty, legitimacy, openness, and continuity of the possession are not disputed, the court shall hear the application by means of written proceedings. If the conditions referred to in this Article are disputed, the court shall hear the case by means of oral proceedings.

2. A court judgment, by which shall be established the fact of the acquisition of the right of ownership by acquired prescription or by which the applicant's application shall be dismissed, shall be passed in cases heard by the procedure established in this Section.

#### **SECTION FOUR CASES CONCERNING THE DECLARATION OF AN OBJECT AS OWNERLESS**

##### **Article 534. Filing an application and jurisdiction**

A financial or control institution or a municipal institution may file an application concerning the declaration of an object as ownerless with the district court of the location of the object.

##### **Article 535. Content of an application**

Besides the general requirements raised for the content and form of court documents, an application concerning the declaration of an object as ownerless must indicate what object should be declared ownerless as well as report the circumstances allowing one to think that the object has no owner, bona fide buyer or person lawfully possessing it or that such persons are unknown. The application shall indicate when the object was included in the accounting and any other data known to the applicant about the object.

##### **Article 536. Submission of evidence**

Written evidence from appropriate institutions about what is known about the possession of this object must also be annexed to an application concerning the declaration of an object as ownerless.

##### **Article 537. Court judgment**

The court, after declaring that an object has no owner, bona fide buyer, or person lawfully possessing it or that such persons are unknown, shall pass a judgment declaring the object ownerless and conveying it to the possession of the state or municipality.

#### **CHAPTER XXXV CASES CONCERNING THE DISSOLUTION OF A MARRIAGE BY THE MUTUAL CONSENT OF THE SPOUSES OR ON THE APPLICATION OF ONE OF THE SPOUSES**

##### **Article 538. Admissibility and jurisdiction**

1. Cases concerning divorce by the mutual consent of the spouses (Article 3.51 of the Civil Code) and cases concerning divorce on the application of one of the spouses (Article 3.55 of the Civil Code) shall be heard by the procedure established in this Section.

2. An application to dissolve a marriage by the mutual consent of the spouses shall be filed with the district court of the place of residence of one of the spouses.

3. An application to dissolve a marriage on the application of one of the spouses shall be filed with the district court of the place of residence of the applicant.

4. The guardian, public prosecutor, or guardianship and care institution may file a divorce application in the interests of an incapable spouse.

5. If the former spouses or one of them petitions the court concerning the amendment of the conditions of the contract as to the consequences of the divorce after the circumstances have

essentially changed, the provisions of this Chapter shall be applicable *mutatis mutandis* to the hearing of these cases.

**Article 539. Content of an application**

1. An application for the dissolution of a marriage by the mutual consent of the spouses, besides the data referred to in Article 135 of this Code, must indicate:

- 1) the years of birth of the spouses;
- 2) whether all the conditions established in Article 3.51 of the Civil Code exist;
- 3) the reasons, due to which their relationship has broken down, in the opinion of the spouses;
- 4) data about the creditors of one or both spouses and an indication that the applicant has informed the creditors known to him about the initiation of the case (Article 3.126 of the Civil Code);

5) a demand concerning what the surnames of the spouses must be after the divorce.

2. The spouses must submit together with the divorce application a contract as to the consequences of the divorce meeting the requirements referred to in Article 3.53 of the Civil Code.

3. An application for the dissolution of a marriage on the application of one of the spouses, besides the data referred to in Article 135 of this Code, must indicate:

- 1) the years of birth of the spouses;
- 2) whether one of the conditions provided in Article 3.55, paragraph 1 of the Civil Code exists;
- 3) how the applicant shall perform his duties to the other spouse and any minor children;
- 4) the data referred to in paragraph 1, subparagraph 4 of this Article.

**Article 540. Hearing the case**

1. A court shall hear cases pursuant to the provisions of this Section by means of oral proceedings except in cases where it acknowledges that hearing a case by means of written proceedings shall be insufficient for the stability of the family relationships and for the interests of the children and spouses. When hearing a case by means of oral proceedings, no minutes of the hearing shall be kept.

2. Applications filed by the procedure established in this Section shall be heard in court no later than within thirty days of the day of their acceptance.

3. When a divorce application is filed by the mutual consent of the spouses, the court shall take measures to reconcile the spouses by the procedure established in Article 3.54 of the Civil Code.

4. If, when hearing a divorce case by the procedure established in this Section, creditors of one or both spouses submit demands, the divorce case shall be suspended until the demands of the creditors are decided.

**Article 541. Court judgment**

1. When passing a judgment to dissolve a marriage by the mutual consent of both spouses, the court shall confirm the contract as to the consequences of the divorce submitted by the spouses if this contract meets the requirements of the laws.

2. When passing a judgment to dissolve a marriage on the application of one of the spouses, the court must also decide the questions of the place of residence of any minor children of the spouses and their maintenance as well as the maintenance of one spouse and the division of their joint community property except in cases where the property has been divided by the mutual consent of the spouses, certified by a notary or there is an *res judicata* court judgment concerning the division of their joint community property.

3. A marriage shall be considered dissolved as of the day the court judgment dissolving it becomes *res judicata*. The court within three business days of the day the court judgment dissolving the marriage becomes *res judicata* must send a copy of the judgment to the Register Office of the location of the court so that this can register the fact of the divorce.

## **CHAPTER XXXVI PROCEEDINGS REGARDING MORTGAGE OR PLEDGE RELATIONS**

### **Article 542. Type of proceedings**

1. Applications for the registration of mortgages or pledges, changing or closing of mortgages or pledges, registration of the assignments thereof, deregistration, change in the data contained in the Mortgage Register, applications for coercive recovery of debts and regarding other legal relations arising out of the mortgage or pledge, unless otherwise provided for in this Chapter or other laws, shall be examined by the mortgage judge in accordance with the procedure provided for in this Chapter and the Civil Code.

2. In cases when the keeper of the Real Estate Register notifies the Mortgage Register of the division or joining together of the mortgaged property and of the change of the mortgaged property code, the mortgage judge shall, on his own initiative on the basis of the notification of the keeper of the Real Estate Register, pass within 3 business days a ruling to change the data on the mortgaged property in the Mortgage Register under the procedure prescribed by the Regulations of the Mortgage Register and shall notify the mortgage creditors of the changes made in the data of the Mortgage Register, save for the cases when the property is mortgaged by a bearer mortgage bond.

### **Article 543. Jurisdiction**

1. An application to register a mortgage of real property item shall be filed to the mortgage office in the area where the real property item is located, while an application to register a pledge of movable property – to any mortgage office.

2. An application for changing or closing the mortgage or pledge, an application for coercive recovery of debts and regarding other legal relations arising out of the mortgage or pledge shall be filed to the mortgage office which has registered the mortgage or the pledge.

3. If the pledge of the same movable property item is registered in several mortgage offices or if a mortgage or pledge to secure the same obligation is registered in several mortgage offices, an application for coercive recovery of the debt shall be filed, at the discretion of the creditor on mortgage, to one of the mortgage offices, which has registered the mortgage or the pledge, and the latter shall immediately communicate the fact of receipt of the application, the attachment of the collateral, handing the collateral over for administration by the creditor or the closure of the mortgage or pledge to other mortgage offices where the mortgage or pledge of the property subject to recovery has been registered. In such cases, upon the request of the mortgage office which received the application for coercive recovery of the debt, the mortgage office which has registered the mortgage or pledge shall forward to it the documents in the mortgage or pledge proceedings (or copies thereof) relevant to the examination of the application.

### **Article 544. The form of hearings**

The cases provided for in this Chapter shall be heard in a written procedure and shall be adjudicated by rulings of the mortgage judge, unless otherwise specified in this Chapter.

### **Article 545. Time limits for examining applications and petitions**

The applications and petitions filed under the procedure prescribed by this Chapter shall be examined not later than within three days after they have been filed to the mortgage office, unless this Chapter or other laws provide for other examination time limits.

**Article 546. Registration of application for registering a mortgage or pledge**

1. An application to register a mortgage or pledge shall be registered upon submitting a mortgage or pledge bond of the form approved by the Minister of Justice and other documents specified in the Regulations of the Mortgage Register approved by the Government. If an application for registering a compulsory mortgage or pledge is submitted, the documents proving the data contained in the application shall be submitted together with the mortgage or pledge bond.

2. Upon receiving an application to register a mortgage or pledge, the mortgage or pledge bond and documents appended to it, the mortgage office shall duly stamp the mortgage or pledge bond and shall indicate the date (the year, the month and the day) and the time (the hour and the minutes) of filing the application to register the mortgage or pledge and shall assign it the number of entry in the record of filed documents of the mortgage office, except in case of refusal to accept the application for registering the mortgage or pledge.

3. If the application to register a mortgage or pledge is delivered by post before 12 o'clock, the application shall be registered as of 9 o'clock of the day of its delivery by post. If the application to register a mortgage or pledge is delivered by post after 12 o'clock, the application shall be registered as of 9 o'clock of the following business day.

4. At the applicant's request he shall be issued a document certifying the date and time of registration of his application at the mortgage office.

5. A stamp duty shall be charged for registering the mortgage or pledge. The amount and payment procedure of such stamp duty shall be specified by the Government or its authorised institution.

**Article 547. Recording of data in the mortgage register**

Upon registering the application to register a mortgage or pledge, the particulars indicated in the mortgage or pledge bond shall be recorded in the Mortgage Register in the manner prescribed by the Regulations of the Mortgage Register and within 24 hours shall be e-mailed to the Central Mortgage Register.

**Article 548. Refusal to accept the application to register a mortgage or pledge**

1. The mortgage office shall refuse to accept an application to register a mortgage or pledge and shall return it together with documents attached to it, if:

1) an application to register the mortgage of immovable property is filed with the mortgage office other than that of the locality wherein the property is located;

2) the application fails to indicate the mortgagor and the owner of the mortgaged property and their identification particulars.

2. If, owing to the causes stated in paragraph 1 of this Article, the application to register a mortgage or pledge is returned to the applicant, it shall be deemed not to have been filed.

**Article 549. Procedure for considering the application to register a contractual mortgage or pledge**

1. An application for registration of the contractual mortgage or pledge must be considered no later than on the next following business day following the receipt. When considering the application to register a contractual mortgage or pledge it shall be checked, in the manner prescribed by the Regulations of the Mortgage Register, whether the mortgage or pledge bond is in compliance with the form prescribed by the Minister of Justice, whether it has been properly filled and notarised, whether it has been made up in accordance with the requirements laid down by law, and whether the stamp duty has been paid.

2. If there are obstacles for the registration of the contractual mortgage or pledge, the mortgage judge may reject the accepted application to register the contractual mortgage or pledge

by a written reasoned ruling or may fix a term to meet the prescribed requirements. If they are not met by the fixed time, the application shall be rejected and together with the attached documents shall be returned to the applicant.

3. Following the rejection of the application to register the contractual mortgage or pledge, the data about the filed application transmitted to the Central Mortgage Register shall be kept in the Register until the expiration of the term of appeal by a separate appeal against the judge's ruling to reject the application to register the contractual mortgage or pledge; in the event of the appeal against the judge's ruling - until the consideration of the separate appeal.

#### **Article 550. Registration of the contractual mortgage or pledge**

1. After the application to register a contractual mortgage or pledge has been granted, the mortgage judge or a duly authorized employee of the mortgage office shall register the contractual mortgage or pledge in the local Mortgage Register in the manner prescribed by the Regulations of the Mortgage Register no later than the next business day and within 24 hours shall electronically transmit the data about it to the Central Mortgage Register. The mortgage shall become effective from the moment of its registration in the Central Mortgage Register.

2. The registered original of the contractual mortgage or pledge bond together with a certificate of registration of the mortgage in the Central Mortgage Register shall be mailed to the mortgage creditor; in the event of registration of a bearer mortgage or pledge bond - to the owner of the mortgaged property. The contents of the certificate shall be established by the Regulations of the Mortgage Register.

3. A copy of the mortgage bond shall be kept in the archives of the mortgage office in the manner prescribed by the Regulations of the Mortgage Register.

#### **Article 551. Procedure for considering the application to register a compulsory mortgage or pledge**

1. The application to register a compulsory mortgage or pledge ordered by the court judgment must be considered no later than the next following business day following the receipt thereof in the procedure prescribed in Article 549 of this Code.

2. In other cases the application to register a compulsory mortgage or pledge shall be considered within 5 business days following the receipt, and when it is necessary to submit additional documents or make changes in the mortgage or pledge bond in order to examine the application – within 5 days following submission of the documents or changes in the mortgage or pledge bond. When considering the application it shall be checked, in addition to the circumstances specified in Article 549 of this Code, whether there are grounds for compulsory mortgage or pledge, and also whether the property the compulsory mortgage or pledge of which is sought can be subject to compulsory mortgage or pledge according to the Civil Code. The value of the collateral shall not in fact exceed the amount of the obligations secured by the mortgage or pledge.

3. Following the rejection of the application to register the compulsory mortgage or pledge, the data about the filed application transmitted to the Central Mortgage Register shall be kept for the time period specified in Article 549, para. 3 of this Code.

#### **Article 552. Registration of the compulsory mortgage or pledge**

1. The compulsory mortgage or pledge shall be registered at the Mortgage Register according to the procedure specified in Article 550, para. 1 of this Code. The debtor's consent to have the compulsory mortgage or pledge registered shall not be necessary.

2. The registered original of the mortgage or pledge bond together with a certificate of registration of the mortgage or pledge in the Central Mortgage Register shall be mailed to the mortgage creditor. A certificate of registration of the compulsory mortgage or pledge shall also be mailed to the mortgage debtor.

**Article 553. Transfer of the data about the registration of a mortgage or pledge to the register of property**

The data about the registration of a mortgage or pledge shall be transmitted within 24 hours to the Register (Registers) of Pledged Property in the manner prescribed by the Regulations of the Mortgage Register.

**Article 554. Registration of applications to change or close a mortgage or pledge, to register a renewed mortgage or pledge**

1. Applications to change or close a mortgage or pledge shall be registered in the same manner as an application to register a mortgage or pledge by filing to the mortgage office a mortgage or pledge bond with all the duly recorded changes or inscriptions about the performance of the debt obligation.

2. In the cases specified in Article 565 para. 2 and Article 566 of this Code, a change of the mortgage or pledge shall be registered at the Mortgage Register and the mortgage or pledge shall be de-registered from the Mortgage Register following the coming into force of the ruling of the mortgage judge regarding the change or closure of the mortgage or pledge. In the cases specified in Article 543 para. 3 of this Code the mortgage or pledge shall be de-registered from all mortgage offices on the basis of the ruling of the mortgage judge who has considered the application regarding compulsory debt recovery.

3. In the cases when according to Article 6.126 of the Civil Code the mortgage or pledge is renewed, the mortgage creditor shall file to the mortgage office which has registered the mortgage or pledge under renewal an application to register a renewed mortgage or pledge. Applications to register a renewed mortgage or pledge shall be considered in the same manner as applications to register a compulsory mortgage or pledge by filing to the mortgage office a compulsory mortgage or pledge bond with all the documents certifying the renewal of the mortgage or pledge.

**Article 555. Discrepancies between the mortgage or pledge bond and the data of the mortgage register**

Where the text of the mortgage or pledge bond does not correspond to the entry in the Mortgage Register, the entry in the Mortgage Register shall prevail.

**Article 556. Restoration of rights under the lost mortgage or pledge bond**

1. If a bearer mortgage or pledge bond has been lost, the mortgagor or the mortgagee may apply to the district court for the recognition of the lost bearer mortgage or pledge bond as invalid and restoration under it of the rights in the manner prescribed by Part V, Chapter XXXIII of this Code.

2. If a registered mortgage or pledge bond has been lost, the mortgagee may apply to the mortgage judge for the recognition of the lost mortgage or pledge bond as invalid and restoration under it of the rights. The application shall be filed and a notice on the lost mortgage or pledge bond shall be announced in the manner prescribed in Part V, Chapter XXXIII of this Code. If the original bond is not submitted within one month after the announcement day, the mortgage judge shall consider the application according to the procedure specified in this Chapter and shall restore the rights of the parties under the lost registered mortgage or pledge bond on the basis of the entries contained in the Mortgage Register.

3. Upon receiving the mortgagee's application to recognise the lost mortgage or pledge bond as invalid, the mortgage judge shall prohibit the mortgagor from making payments under the lost mortgage or pledge bond, if the mortgagee so requests.

4. If a lost mortgage or pledge bond under which a debt obligation is still to be performed is recognized as invalid, the mortgage office shall issue to the applicant a duplicate of the lost mortgage bond according to the procedure prescribed by the Regulations of the Mortgage Register and make an appropriate entry in the Mortgage Register.

5. If a lost mortgage or pledge bond that has been paid is recognized as invalid, pursuant to such a decision, the entry about the mortgage shall be stricken out of the Mortgage Register and the mortgage or pledge shall be closed.

**Article 557. Registration of Transfer of the claim secured by mortgage or pledge and of transfer of the mortgagee's priority**

The transfer of the claim secured by mortgage or pledge and the transfer of the mortgagee's priority shall be registered in the Mortgage Register in the same manner as the mortgage or pledge.

**Article 558. Filing and satisfaction of the petition for foreclosure when the property is pledged according to mortgage rules**

1. If the mortgagor fails to fulfil his debt obligation secured by mortgage under the contract within the period specified in the mortgage bond, the mortgagee may file a petition for foreclosure to the mortgage office by stating in the petition the mortgage code in the Mortgage Register, the amount of the outstanding debt, the mortgagor, the owner of the mortgaged property and their addresses (offices). The mortgage judge shall hand down a ruling of attachment of the mortgaged property and shall make an entry thereof in the Mortgage Register and shall warn the mortgagor and the owner of the mortgaged property in writing that in the event of failure to settle the debt within one month after the delivery of the ruling, the mortgaged property shall be sold by auction or handed over to the mortgagee for administration. A warning shall be served on the mortgagor and the owner of the mortgaged property in the manner specified in Part I, Section II of Chapter XI of this Code.

2. If the debt is not repaid within one month following the day of service of the warning to the mortgagor and the owner of the mortgaged property, the mortgagee shall repeatedly file his petition for foreclosure to the mortgage office with the mortgage bond attached. Upon receiving the petition, the mortgage judge shall hand down a ruling for a foreclosure sale or handing over the mortgaged property to the mortgagee for administration, and shall notify the mortgagees secured by the mortgage of this property, the owner of the mortgaged property, the mortgagor and the Register (Registers) of Property that have registered the property. The ruling of the mortgage judge together with the mortgagee's petition for the recovery of the debt or handing the mortgaged property for administration shall be sent to the bailiff of the area where the property is located.

3. If two months after the day of service of the warning to the mortgagor and the owner of the mortgaged property the mortgagee did not apply for the recovery of the debt or for granting of the right to administer the mortgaged property, the mortgage judge shall pass a ruling to annul the attachment of the mortgaged property and shall de-register the ruling to attach the mortgaged property from the Register of Property Seizure Deeds.

4. If the mortgaged property item was handed over to the mortgagee for administration and it comes into light that the proceeds received from the property under administration are insufficient to satisfy the claim secured by mortgage, the mortgagee shall file his petition for a foreclosure sale of the mortgaged property to the mortgage office with the mortgage bond and the administrator's report attached. Upon receipt of the petition, the mortgage judge shall pass a ruling to sell the property mortgaged for a debt in a foreclosure sale and shall not later than on the following business day notify in writing the mortgagees secured by the mortgage of this property, the owner of the mortgaged property, the mortgagor and the Register (Registers) of Property that have registered the

property. The ruling of the mortgage judge together with the mortgagee's petition for the recovery of the debt shall be sent for enforcement to the bailiff of the area where the property is located.

5. If the mortgaged property was not sold at the second foreclosure sale and not conveyed to the ownership of the mortgagee, the mortgage judge may, upon the request of the mortgagee, transfer such property item for his (mortgagee's) administration. This shall not preclude the mortgagee from filing a repeated petition for a foreclosure sale of the mortgaged property according to the procedure specified in this Article.

**Article 559. Satisfaction of the petition for attachment of the mortgaged property and the conveyance of such property to the creditor**

1. If the object of pledge is a movable property item and the debtor fails to fulfil the debt obligation secured by pledge within the period specified in the pledge bond, and does not convey the property item to the creditor upon his request after the receipt of the creditor's warning about recovery, the creditor may file a petition to the mortgage judge to attach the pledged property and convey such property to it (the creditor).

2. If property rights are subject to pledge and the debtor fails to fulfil the debt obligation secured by pledge within the period specified in the pledge bond, and after the receipt of the creditor's warning about recovery, does not convey to the creditor at his request the claims arising out of the pledged right or a portion thereof corresponding to the amount of the debt obligation, the creditor may file a petition to the mortgage judge to obligate the pledgor to convey such right of claim to him (the creditor).

3. If funds in the bank account of the pledgor are subject to pledge and the debtor fails to fulfil the debt obligation secured by pledge within the period specified in the pledge bond, and after the receipt of the creditor's warning about recovery does not convey to the creditor at his request the right to operate the bank account, the creditor may address the mortgage judge with a petition to transfer him the right to operate the bank account of the pledgor.

4. In the cases indicated in paragraphs 1, 2 and 3 of this Article the petition filed to the mortgage judge shall contain the pledge code in the Mortgage Register, the amount of the outstanding debt, the debtor, the owner of the pledged property and their addresses (offices). Upon receipt of the petition, the mortgage judge shall hand down a ruling regarding satisfaction of the claims stated therein, make an entry thereof in the Mortgage Register and notify all the creditors recorded in the Mortgage Register to whom property, with respect to which the ruling was passed, was pledged, the owner of the pledged property and the debtor. The ruling of the mortgage judge to attach the pledged property and convey the claims arising out of the pledged right, shall be mailed for execution to the competent bailiff.

**Article 560. The Right to acceleration of the claim secured by mortgage or pledge**

1. The mortgagee shall have the right to demand the acceleration of the claim secured by mortgage or pledge on the grounds and in the procedure prescribed by the Civil Code.

2. If the mortgagor fails to fulfil the mortgagee's claim secured by mortgage or pledge before the maturity date, the mortgagee shall have the right to apply to the mortgage office for the acceleration of the debt recovery in the same manner as at maturity.

3. In those cases when bankruptcy proceedings have been initiated against the mortgagor (the owner of the mortgaged property), the mortgaged property shall be sold and the claims of mortgagees shall be satisfied in the manner prescribed by the Enterprise Bankruptcy (Enterprise Restructuring) Law.

**Article 561. Accounting of the proceeds from the mortgaged property**

Proceeds from the mortgaged property following attachment of the said property shall be accounted separately and shall be used for the satisfaction of claims of all the mortgagees to whom such property has been mortgaged.

**Article 562. Ruling for closure of the mortgage or pledge upon foreclosure of the collateral or satisfaction of the mortgagee's claims from the proceeds of the property under administration**

Upon receipt of the property sale (transfer) deed or the report of the administrator certifying that the mortgagee's claims have been satisfied from the proceeds received from the collateral, the mortgage judge shall pass a ruling to close the mortgage or pledge.

**Article 563. Distribution of the proceeds from the foreclosure sale of the collateral**

1. The proceeds from the foreclosure sale of the collateral shall be paid into a deposit account of the mortgage office and by a ruling of the mortgage judge shall be distributed among the mortgagees in accordance with the priority of satisfaction of their claims.

2. If the property is mortgaged under the mortgage rules, the mortgage judge shall hand down a ruling on the distribution of the amounts to mortgagees within three business days after the receipt of the property sale deed approved in the manner specified by this Code. If the movable property the pledge whereof was registered at the Mortgage Register has been sold coercively, the ruling of the mortgage judge shall be passed within five business days after the purchase and sale agreement; in the event the pledge has not been registered in the Mortgage Register – after both the day of submission of the pledge agreement and remission of the funds from the sale of the pledged property to the deposit account of the mortgage office.

3. A copy of the ruling of the mortgage judge regarding the distribution of the proceeds shall be mailed to all mortgagees to whom such property has been pledged.

**Article 564. Settlement of disputes over the distribution of the proceeds and the procedure of their payment**

1. If within 10 days after receipt of a copy of the ruling the mortgagees declare their disagreement with the distribution of the proceeds, the repayment of debts shall be postponed. The dispute between the mortgagees, between the mortgagees and the mortgagors over the distribution of the proceeds shall be settled through action proceedings upon a claim submitted by anyone of them. In this case the debts shall be repaid pursuant to a writ of execution issued after the judgment becomes effective.

2. In the absence of a dispute, the proceeds for the sold property shall be paid to the mortgagees as specified in the ruling of the mortgage judge. The remaining sum shall be returned to the owner of the sold property; in those cases when the recovery was joined by other mortgagees the remaining sum shall be remitted to the deposit account of the bailiff and shall be distributed and paid to the creditors pursuant to the manner stipulated in this Code.

3. The provisions of Articles 563 and 564 of this Code shall also be applied in case the mortgage judge distributes the insurance benefits transferred to the deposit account to the mortgagees.

**Article 565. Right of the mortgagor and the debtor to demand closing of the mortgage or pledge**

1. The pledgor and the debtor may apply in writing for the closure of the mortgage or pledge in case there are grounds for closing the mortgage or pledge specified in the Civil Code. The mortgage judge shall de-register the mortgage or pledge from the Mortgage Register upon receipt of the mortgage or pledge bond with an inscription to the effect that all the mortgage or pledge claims have been fulfilled or that there are other grounds for closing the mortgage or pledge.

2. If the creditor on mortgage or pledge refuses returning the mortgage or pledge bond to the mortgagor or debtor or presenting such bond to the mortgage office when there are grounds for closing the mortgage or pledge, the mortgage or pledge may be de-registered from the mortgage office under the ruling of the mortgage judge. In such case the funds paid by the mortgagee to the deposit account of the mortgage office shall be disbursed to the mortgagee upon presentation of the mortgage or pledge bond to the mortgage office.

**Article 566. Rights of the owner of the property subject to a compulsory mortgage or pledge to demand changing or closing of the compulsory mortgage or pledge**

1. The owner of the property which was subject to a compulsory mortgage or pledge by the decision of the mortgage judge shall have the right to file an application to the mortgage judge requesting to reduce the number of the pledged property items, replace the pledged property item by another item which has never been pledged (except when the compulsory mortgage or pledge was created on the basis of laws), as well as close the compulsory mortgage or pledge in case the grounds for closure exist or the value of the pledged property item becomes in fact higher than the amount of the secured claims.

2. A compulsory mortgage or pledge may be varied on the basis of the court decision. The mortgage judge shall pass a ruling on the closure of the mortgage or pledge ordered by the court decision, if the grounds for closing the mortgage or pledge as specified in the Civil Code exist.

**Article 567. The Mortgagee's right to relinquish the mortgage or pledge**

1. The mortgagee shall have the right to relinquish the mortgage or pledge at any moment even though the mortgagor has not fulfilled the obligation. In this case, together with the mortgage or pledge bond the mortgagee must file with the mortgage office an application to close the mortgage.

2. Upon cancelling the entry in the register, the mortgage office shall communicate a written notice about closing of the mortgage or pledge to the debtor and the owner of the mortgaged property.

**Article 568. Closing of the mortgage upon declaring the mortgage or pledge contract void**

When the mortgage or pledge contract is declared void in the manner prescribed by law, the mortgage or pledge registered in the Mortgage Register shall be closed and shall be de-registered from the Mortgage Register upon filing with the mortgage office of the effective court ruling declaring the mortgage or pledge contract void.

**Article 569. Closing of the mortgage when the mortgagee or the whereabouts of the mortgagee are unknown for 10 years after the maturity**

When for 10 years after the maturity the mortgagee or the mortgagee's whereabouts are unknown the owner of the mortgaged property or the mortgagor may demand closing of the mortgage. Upon the receipt of the application from the interested party the mortgage judge shall publish a warning in the "*Valstybes Zinios*" that the mortgagee may assert his mortgage rights within 6 months. If the mortgagee does not respond within the specified period, the mortgage shall be closed by a ruling of the mortgage judge, the mortgage bond shall be declared void and the mortgagee shall forfeit the claim. The ruling of the mortgage judge on the declaration of the mortgage bond as void shall be announced in the "*Valstybes Zinios*" within 3 business days.

**CHAPTER XXXVII**  
**PROCEEDINGS FOR REPRODUCTION OF LOST CASE-FILES IN JUDICIAL OR**  
**ENFORCEMENT PROCEEDINGS**

**Article 570. Filing an Application**

1. The court may reproduce a lost case-file in judicial or enforcement proceedings upon the application of the participants in the proceedings or the bailiff who enforced the case, as well as on its own initiative.

2. If the case-file has been lost owing to a disaster, the court may reproduce it only on the basis of an application.

3. The application to reproduce a lost court case-file shall be submitted to the court of first instance which heard the proceedings, while the application to reproduce a lost enforcement case-file – to the district court of the enforcement area.

4. The application for reproduction of the lost case-file of the court proceedings which have been disposed of by virtue of an effective court judgment (ruling) or of the lost enforcement case-file may be entered within ten years after the day when the case-file was lost or the fact of losing came into light.

**Article 571. The Contents of the application**

An application for reproduction of the case-file shall contain the particulars of the lost case-file, the places known to the applicant where the case documents or their copies thereof may be held. The documents, which are retained by the applicant and are relevant to the proceedings, shall be attached to the application.

**Article 572. Preparation for the case**

1. The court, while getting ready to hear the case, shall address the persons indicated in the application and known to the court, requesting such persons, within the set period, to submit the documents held to the court or notify that they cannot be submitted.

2. If the person whom the court addressed cannot submit the documents due to the fact that they have been handed over to another person, he must indicate the person who has the documents in his possession.

3. In case of failure to satisfy the court's demand to submit the document within a specified period, as well as in case of failure to notify the court of the impossibility to present such document owing to reasons held by the court as invalid, the defaulters may be imposed a fine in the amount of up to LTL 1000. The imposition of a fine shall not release respective persons from presenting the requested document.

**Article 573. Hearing**

1. When hearing the case the court shall make use of the existing part of the case-file, documents removed from the case-file before it was lost, copies of such documents, other statements and letters relevant to the proceedings.

2. The court may question as witnesses the persons who were present during procedural actions, and, if necessary, also the judges who heard the case and the persons who enforced the court's judgment (ruling).

3. The persons participating in the proceedings shall have the right to submit for consideration of the court their draft of the judgment (ruling) to be restored.

**Article 574. A Court Decision**

1. On the basis of the material which was gathered and checked, the court shall render a decision to reproduce the whole case-file or a part thereof, which the court deems necessary to reproduce. The decision or ruling of the court to terminate the proceedings, if passed in the lost case-file, must be reproduced.

2. If the material gathered is insufficient to reproduce the lost case-file, the court shall leave the application unconsidered. In such a case the applicant shall have the right to file a complain *de novo* pursuant to the provisions generally applicable. A prescription period shall be resumed from the coming into effect of the decision of the court to leave the application unheard.

**Article 575. Litigation costs**

1. The costs incurred while hearing the case for the reproduction of the lost case-file shall be covered by the public budget.

2. In cases when the application is knowingly false, the litigation costs shall be recovered from the applicant.

**CHAPTER XXXVIII  
PROCEEDINGS FOR RESTORATION OF TIME LIMITS PRESCRIBED BY LAW**

**Article 576. Filing an application**

1. An application must meet the requirements generally applicable as to the contents and form of procedural documents. The evidence proving the circumstances constituting the ground to restore the time limit must be attached to the application.

2. An application for restoration of the time limit prescribed by law shall be filed to the district court within the area of the activities whereof the relevant action must be performed.

**Article 577. Consideration procedure**

An application for restoration of the time period prescribed by law for the carrying out of actions of legal significance elsewhere than in court shall be considered in oral proceedings.

**Article 578. Ruling of the court**

1. An application to restore the time limit prescribed by law shall be deliberated by a court ruling.

2. A separate appeal may be filed against the court ruling to repeal the application for restoring the time limit prescribed by law.

**CHAPTER XXXIX  
PROCEEDINGS REGARDING THE ISSUANCE OF COURT PERMISSIONS OR  
CERTIFICATION OF FACTS, PROPERTY ADMINISTRATION, APPLICATION OF  
SUCCESSION PROCEDURES AND OTHER CASES TO BE DECIDED IN SUMMARY  
PROCEEDINGS ACCORDING TO THE CIVIL CODE AND OTHER LAWS**

**Article 579. Admissibility**

In cases provided for in the Civil Code, applications for issuance of court permissions to carry out any actions, applications for certifications of facts, property administration, application of succession procedures (appointment of the inheritance administrator, property description,

announcement of wills, etc.) and other matters to be considered in a summary proceedings according to the Civil Code and other laws, shall be considered according to the procedure prescribed by this Chapter, unless other procedure for considering such applications is provided for by this Code.

#### **Article 580. Jurisdiction**

1. Applications to issue court permissions, certify facts and other petitions (applications) to be considered in summary proceedings according to the Civil Code and other laws shall be filed to the court of the place or residence or domicile of the applicant.

2. Applications regarding the application of succession procedures shall be filed to the district court of the place where the succession is opened.

3. Applications regarding the administration of property shall be filed to the court of the area where the immovable property is located, while in case of movable property – to the district court of the place of residence or domicile of the applicant.

#### **Article 581. The Contents of the petition**

In addition to the requirements generally applicable to the form and contents of procedural documents, the evidence relevant to resolving the question of issuing the permission, certifying the application or fact or any other question considered in the procedure prescribed in this Chapter must be attached to the petition.

#### **Article 582. Hearing of the case**

1. The case shall be heard in written proceedings, unless the court, taking into account the circumstances of the case, decides to hold the hearing of the case in writing. Where the proceedings are held in an oral proceeding, the minutes of the court hearing shall not be taken.

2. Petitions according to the procedure prescribed in this chapter shall be heard by the court within five days from the day of acceptance thereof.

3. The court may request from the applicant submission of additional evidence necessary for the deposition of the case. The court shall also have the right to collect such evidence on its own initiative.

4. When the matter relating to the rights of the child is heard, the court must decide on the issuance of a permission taking into account exclusively the interests of the child. When the issue of permitting to transfer the title to the family property, pledging or the family property or otherwise encumbering the rights thereto is considered, the court, taking into account the circumstances of the case, shall have the right to demand from the applicant to submit proof of the material situation of the family (income, savings, other property, liabilities), data on the family property being transferred, data from the Agency for the Protection of the Rights of the Child on the child's parents, as well as preliminary terms and conditions, performance possibilities of the future transaction, the possibilities of protection of the rights of the child in case of failure to perform the transaction and other proof.

5. The case shall be heard in the procedure prescribed in this Chapter, irrespective of the fact that the dispute is resultant from the right, save for the cases provided for in the Civil Code.

6. The court shall dispose of the case by rendering a ruling. The court's ruling to issue a permission, certify the application or facts shall not be subject to appeal and shall come into force as of the day of adoption thereof, while the court's refusal to issue permission, certify the application or fact shall not deprive the applicant of the right, in case there is an essential change in the circumstances, to repeatedly address the court for issuance of the permission, certification of the application or fact. Other rulings handed down in proceedings heard according to the procedure specified in this Chapter shall not be subject to cassation.

7. Litigation costs of the persons participating in the proceedings heard according to the procedure prescribed by this Chapter shall be irrecoverable.

## **PART VI ENFORCEMENT PROCEDURE**

### **CHAPTER XL GENERAL PROVISIONS**

#### **Article 583. Legal regulation of the enforcement procedure**

1. The procedure for applying the provisions of the enforcement procedure established in Part VI of this Code shall be prescribed by the Judgment Enforcement Instruction. Such instruction shall be approved by the Government or its authorised institution.

2. The requirements of the Judgment Enforcement Instruction shall be mandatory to all persons.

#### **Article 584. Documents subject to enforcement**

1. In accordance with the rules laid down in Part VI of this Code the following documents shall be subject to enforcement:

1) arbitration awards, court judgments, rulings, decisions and orders in civil proceedings, as well as in proceedings relating to administrative legal relations;

2) court sentences, rulings and decisions in criminal proceedings to the extent they relate to the exaction of possessions;

3) court decisions in administrative proceedings to the extent they relate the exaction of possessions;

4) peaceful settlements approved by the court;

5) foreign court decisions and arbitral awards – in the cases specified by international

agreements and laws.

2. In accordance with the rules laid down in Part VI of this Code the following documents shall also be subject to enforcement:

1) resolutions of institutions and officials in proceedings relating to administrative law violations to the extent they relate to the exaction of possessions;

2) other decisions of institutions and officials, when the enforcement thereof according to the civil procedure is prescribed by international agreements and laws.

**Article 585. Mandatory character of the bailiff's demands**

1. Demands of a bailiff to enforce judgments, furnish the information available on the property status of the debtor, to make oneself familiar with the documents necessary to enforce a judgment or to refrain from actions that can hinder the enforcements of judgments, save in the cases specified by law, shall be mandatory to all persons and complied with within the time period set by the bailiff.

2. A person who fails to comply with the demand of the bailiff or otherwise hinders the bailiff from executing enforceable instruments, may be imposed a fine in the amount of up to LTL 1000 by the court. If a bailiff is hindered from executing enforceable instruments, the bailiff may call the police to eliminate the hindrance. The presence of the police is necessary in such a case.

3. While carrying out execution actions, the bailiff shall not exceed the powers granted.

**CHAPTER XLI  
GENERAL RULES APPLICABLE TO EXECUTION ACTIONS**

**Article 586. Grounds for carrying out execution actions**

1. The ground for carrying out execution actions shall be an enforceable instrument delivered for enforcement under the procedure prescribed in this Chapter.

2. It shall be prohibited to carry out execution actions without an enforceable instrument.

**Article 587. Enforceable instruments**

Enforceable instruments shall be the following:

1) enforcement orders issued on the basis of court judgments, sentences, decisions, rulings;

2) court orders;

3) resolutions of institutions and officials in the proceedings regarding administrative law violations to the extent they relate to the exaction of possessions;

4) other decisions of institutions and officials, when the enforcement thereof according to the civil procedure is prescribed by international agreements and laws.

**Article 588. Enforcement of court judgments**

1. Court judgments, sentences, rulings, decisions and orders shall be enforced after they become effective, save when the court decides to enforce them without delay.

2. The fact of immediate enforcement of a procedural decision of the court shall be recorded in the enforcement order.

**Article 589. Construction of the procedural decision of the court and of enforcement thereof**

1. Where the procedure for enforcing the procedural decision of the court is unclear, a bailiff shall address the court, which has adopted the procedural decision, for the construction of the enforcement procedure.

2. A request of the bailiff provided for in paragraph 1 of this Article shall be considered by the court in accordance with the procedure prescribed in Article 593 of this Code.

**Article 590. Place of enforcement**

1. If a debtor is a natural person, a bailiff shall effect enforcement of the enforceable instrument in the person's place of residence, location of the property or occupation place thereof.

2. If a debtor is a legal person, a bailiff shall effect enforcement of the enforceable instrument in the debtor's place of domicile or location of the property thereof.

3. A bailiff shall carry out execution actions in the area where the bailiff provides services.

4. If execution actions are to be carried out in the service area of another bailiff, the bailiff shall return the enforceable instrument to the judgment creditor.

5. The Chairman of the County Court may refer any judgment for enforcement of any other bailiff in the area of the County, if the judgment creditor so requests.

**Article 591. Execution actions in the service area of another bailiff**

1. Commenced execution actions may be continued by the bailiff in the service area of another bailiff, if this is necessary in order to successfully enforce the judgment.

2. In such a case the bailiff shall draw up a reasoned direction to allow continuing the execution actions in the service area of another bailiff. This direction shall be approved by a resolution of a judge of the district court in the area whereof the bailiff who enforces the judgment is located.

3. Where there is real threat that the property under exaction may be concealed, the bailiff may continue commenced execution actions in the service area of another bailiff without an authorisation from a judge – attach the property and assign the custodian thereof. In this case the bailiff shall notify the judge of the district court, in the area whereof the bailiff is located, of the undertaken execution actions.

4. In all cases the bailiff shall, within three days following the day when such actions were carried out, inform about the execution actions performed in the service area of another bailiff the bailiff in whose service area such actions were performed.

**Article 592. Enforcement time**

A bailiff shall perform execution actions on business days not earlier than from 6 a.m. and not later than until 10 p. m. It shall be allowed to enforce judgments during night time or on days off only in urgent cases when the failure to enforce the judgment immediately may make the enforcement thereof more difficult or completely impossible.

**Article 593. Hearing of applications to the court during enforcement procedure**

1. In the cases provided for in this Code, the bailiff and other persons may address applications to the court.

2. Applications regarding responsibility for a lost enforceable instrument (Article 618 hereof), permission to enter the debtor's dwelling (Article 615 hereof), termination of the

enforcement proceedings in case of a peaceful settlement (Article 595 hereof), to recover the judgment enforcement costs from the debtor (Article 609 hereof), responsibility for lost property which was handed over for safekeeping (Article 619 hereof), imposition of fines in the cases provided for in Part VI of this Code, determining the manner of administrating the debtor's property (Article 744 hereof), as well as regarding other issues shall be decided by the district court within seven days after the receipt thereof. The bailiff shall attach other necessary documents to the application.

3. Applications regarding permission to enter the debtor's dwelling and regarding the recovery of the judgment enforcement costs from the debtor shall normally be considered without any notice to the parties.

4. The district court shall pass a ruling regarding the application. Its copies shall be mailed to the interested parties which were absent during the hearing.

5. A separate appeal may be filed against the court ruling which disposed the issues regarding termination of the enforcement proceedings, recovery of the judgment enforcement costs from the debtor, responsibility for lost property which was handed over for safekeeping, imposition of fines, the manner of administrating the debtor's property, as well as regarding other issues provided for in this Code.

#### **Article 594. Control over procedural activities of bailiffs**

1. Control over the procedural activities of a bailiff shall be carried out by a judge of the district court within the area whereof the bailiff operates. Documents of the enforcement procedure indicated in Part VI of this Code, which were drawn up by the bailiff, shall be inspected and approved during such control.

2. The instructions of a judge to eliminate violations in the enforcement procedure shall be binding upon the bailiff and not subject to appeal, unless otherwise prescribed by this Code.

#### **Article 595. Peaceful settlement in enforcement proceedings**

1. The judgment creditor and the debtor shall have the right to conclude a peaceful settlement during enforcement proceedings.

2. The parties shall conclude a peaceful settlement in writing and shall submit it to the bailiff who carries out the exaction. Upon receipt of a peaceful settlement, the bailiff shall stay the enforcement proceedings and, within three business days after the receipt of such settlement, shall forward it to the district court within the area hereof the bailiff operates.

3. Upon the receipt of the application to approve the peaceful settlement, the judge shall pass a ruling in accordance with the rules laid down in Article 140, para. 3 of this Code. A separate appeal may be filed against this ruling.

4. In case of failure to fulfil the terms and conditions of the peaceful settlement, the court shall hand down a ruling, upon a written application of the judgment creditor, to issue an enforcement order regarding performance of the peaceful settlement.

#### **Article 596. Succession to rights during enforcement proceedings**

1. Upon the request of the bailiff or interested parties, the court of first instance which has heard the case shall replace the judgment creditor or the debtor in the enforcement proceedings upon the natural person's death, reorganisation or liquidation of the legal person, in case of conveyance of the claim right or relocation of the debt and in other cases provided for by law. Where the enforcement is undertaken otherwise than on the basis of an enforceable instrument issued by the court, the judgment creditor or the debtor shall be replaced by the district court of the area where the enforcement proceedings take place. A separate appeal may be made against this ruling.

2. All the actions performed in the course of the proceedings before the legal successor joined the proceedings shall be binding on him to the extent they were binding on the person who participated in the proceedings.

#### **Article 597. Participation of the interpreter in enforcement proceedings**

If the parties to enforcement proceedings have no command of the Lithuanian language, the bailiff shall call an interpreter to take part during execution actions on the basis of a written request of the parties.

#### **Article 598. Challenge of the interpreter and the expert**

1. Challenge of the interpreter and the expert may be requested in enforcement proceedings in the same manner as the challenge of the bailiff.

2. The interpreter and the expert must withdraw when the grounds provided for in Article 67 of this Code exist.

3. The issue of challenge of the interpreter and the expert shall be decided by the bailiff by virtue of a direction thereof.

4. The bailiff's direction whereby the challenge is satisfied shall not be subject to appeal.

5. If the bailiff disagrees with the challenge filed against the interpreter or the expert, he shall immediately refer the issue of challenging such persons to the district court in the area of activities whereof the bailiff operates. The appeal shall be resolved by virtue of a resolution of the judge.

**Article 599. Representation in enforcement proceedings**

Advocates, associated advocates and other persons the powers whereof are processed in the manner prescribed in Articles 55 and 57 of this Code may act as representatives of the judgment creditor or the debtor in enforcement proceedings.

**Article 600. Participation of witnesses in judgment enforcement**

1. When undertaking enforcement proceedings, the bailiff may call a witness (witnesses).
2. The judgment creditor and the debtor shall also have the right each to invite not more than one witness in enforcement proceedings, provided that this does not cause postponement in the enforcement proceedings.
3. The participation of witnesses is necessary, if during the enforcement proceedings the entry into the dwelling of the debtor is made in the absence of the debtor or his family members or against the will of such persons. In this case the bailiff shall invite at least two witnesses.
4. The presence of witnesses shall be recorded in the documents drawn up in the course of the procedural actions. Such documents shall be signed by the witnesses.
5. Persons in majority age who have legal capacity and are not interested in the outcome of the enforcement proceedings may stand as witnesses.
6. A persons called by the bailiff to participate as a witness shall not refuse performing the duties of a witness without a valid reason. The court shall have the right to impose upon the person a fine in the amount of up to LTL 200 for an unreasoned refusal to act as a witness.

**Article 601. Appointment of a carer to the debtor in the course of enforcement proceedings**

1. In cases when the debtor's whereabouts are unknown and the debtor has property, the judgment creditor shall have the right to request the district court of the enforcement area to appoint a carer to the debtor.
2. The request to appoint the carer to the debtor shall be filed to the bailiff, who shall within three days forward the request, together with the enforcement case-file, to the district court within the area whereof the enforcement proceedings take place.
3. The court shall consider the request under the procedure specified in Article 593 of this Code within five days, normally in a written procedure. A person may be appointed as carer only upon the consent thereof.
4. A debtor's carer shall have the same rights in the enforcement proceedings as the debtor has, except for the right to have a representative.
5. The debtor's carer shall be entitled to receive remuneration for representation in the amount specified in the Judgment Execution Instructions. The remuneration shall be paid from the proceeds received during the exaction from the debtor's property.

**Article 602. Recognition of property foreclosure, transfer to the judgment creditor, real property sale without foreclosure deeds as invalid**

Upon request of the interested parties, the court may recognise the deeds of property foreclosure, transfer to the judgment creditor and real property sale without foreclosure as invalid:

- 1) if the property which is not owned by the debtor has been sold;
- 2) if the property has been sold to persons who have no right to take part in the foreclosure sale;
- 3) if any person has been unlawfully excluded from the foreclosure sale or a higher bid

offered by any of the persons has been unlawfully rejected;

- 4) if the property has been sold before the date indicated in the notices;
- 5) if the debtor's right provided for in Article 715 of this Code has been violated;
- 6) if the property has been sold for the price lower than that to be set in accordance with the procedure prescribed in Article 713, para. 4, Article 718 and Article 722, para. 1 of this code.

**Article 603. Protection of the rights of other persons in judgment enforcement**

1. Other persons may file a claim regarding their civil right if the claim relates to the ownership of the property subject to exaction. Such a dispute shall be heard by the court according to the rules of contentious proceedings.

2. Claims regarding the closure of attachment on the property may be also filed by both the owner of the property which is not owned by the debtor and by its lawful possessor.

3. Claims regarding the closure of attachment on the property shall be filed against the debtor and the judgment creditor. If the property has been attached for the purpose of seizure thereof, the persons whose property has been attached and the State Tax Inspectorate shall be called as defendants.

4. If the attached property has already been handed over to the judgment creditor or sold, the claim shall also be filed against the persons to whom the property is conveyed or who acquired such property. Once the claim regarding the restoration of sold property is satisfied, disputes of the property acquirer, the judgment creditor and the debtor shall be heard by the court in accordance with the rules of contentious proceedings.

**Article 604. Service of procedural documents in the course of enforcement proceedings**

Procedural documents sent by registered mail to the participants in the enforcement proceedings in the cases specified in Part VI of this Code shall be considered as duly served at the expiry of five days following the mailing day, save for the case provided for in Article 660 of this Code.

**Article 605. Procedure for sending bailiff's directions**

In the cases specified in this Code a bailiff shall serve his directions upon the interested parties immediately, if possible, or shall mail them by a registered letter not later than on the following business day.

**Article 606. Time limits for submitting enforceable instruments for enforcement**

1. Enforceable instruments regarding reinstatement to the previous job may be submitted for execution within one month following the day of the judgment.

2. Enforcement orders based on court judgments may be submitted for execution within ten days from the date of entry into effect of the court judgment. The time period for submitting

enforcement orders subject to immediate enforcement shall be calculated from the first day after the adoption of the judgment.

3. Time limits within which resolutions of other officials or institutions may be submitted for enforcement shall be prescribed by relevant laws.

4. If periodic payments are recovered on the basis of the judgment of the court, enforceable instruments shall be valid for the whole period of such payments; while the time period specified in paragraph 2 of this Article shall commence on the day of expiry of each disbursement.

**Article 607. Interruption of prescription to submit an enforceable instrument**

1. Prescription to submit an enforceable instrument shall be interrupted after such document is submitted for execution, unless otherwise prescribed by laws. The prescription period shall also be interrupted in case the debtor executes the judgment in part.

2. After interruption of the prescription period the prescription shall resume. The period that expired before the interruption shall not be included into the new time-limit of prescription.

3. In case an enforceable instrument, which has not been enforced either in full or in part, is returned, the new time period to submit the document for enforcement shall start to run from the day of returning the document to the judgment creditor.

**Article 608. Restoration of time limit to submit the document for enforcement**

The judgment creditor who has failed to observe a time limit for submission of the enforceable instrument due to reasons recognised by the court as valid, may have the time period restored in the manner prescribed in Articles 576-578 of this Code, unless otherwise prescribed by laws.

**Article 609. Enforcement costs**

1. Enforcement costs comprise:
- 1) costs relating to the inspection, attachment, valuation, transportation, safekeeping and disposal;
  - 2) remuneration to experts, interpreters and other persons participating in the enforcement proceedings;
  - 3) communication expenses;
  - 4) costs of the search for the debtor, his property or the child;
  - 5) travel or business trip expenses of the bailiff;
  - 6) expenses for announcements in the mass media and the Internet;

7) expenses relating to appointment of the carer;  
8) other expenses relating the execution of the judgment or costs of the actions undertaken in the manner prescribed by this Code.

2. The amount, the procedure of payment and exemption from enforcement costs shall be determined by the Judgment Execution Instructions.

**Article 610. Payment of enforcement costs**

All enforcement costs shall be covered by the judgment creditor. Exceptions to the payment of enforcement costs may be specified in the Judgment Execution Instructions. After the judgment has been enforced, such costs shall be recovered from the debtor.

**Article 611. Recovery of enforcement costs from the debtor**

1. In respect of the recovery of enforcement costs, the bailiff shall send to the debtor a written invitation wherein he shall indicate the amount of costs and shall suggest transferring such amount to the deposit account of the bailiff within a specified time period. If the debtor fails to remit such amounts, the bailiff shall file an application with the calculated amounts to be recovered to the district court of the area of location of the bailiff and request to adjudge such amounts.

2. A separate appeal may be filed against the ruling of the court awarding the enforcement costs.

**Article 612. Form of court decisions during enforcement proceedings**

The issues provided for in enforcement proceedings shall be decided by virtue of a ruling of the court or in the cases specified by this Code – by a resolution of the judge. A court ruling shall not be subject to appeal, unless otherwise provided for by this Code.

**Article 613. Direction of a bailiff**

1. The bailiff shall decide the issues arising during the enforcement proceedings by virtue of a reasoned direction.

2. The bailiff shall indicate in the direction the date of drawing up the direction, his name and surname, the reference number of the enforcement proceedings, parties to the proceedings, the

substance of the issue dealt with, the motives for adopting one or another decision. The substantive provisions of the direction shall state the adopted decision and the procedure for appealing against the direction. The bailiff shall sign the direction and shall set the bailiff's seal on it. Where appropriate, the direction shall also contain other data.

3. Copies of the direction shall, in the cases provided for in this Code and when deemed necessary by the bailiff, be mailed to the parties to the enforcement proceedings and other interested parties.

#### **Article 614. Procedure for making entries in an enforceable instrument**

1. The bailiff must record in the enforceable instrument the fact of mailing or serving a warning on the debtor, drawing up a statement where the person or property were not found, returning the enforceable instrument to the judgment creditor, execution of the enforceable instrument in whole or in part, payment of enforcement costs and other procedural actions relevant to the execution. Such entries shall be made immediately after undertaking the above-indicated actions.

2. Having made an entry in the enforceable instrument, the bailiff must indicate his name and surname, the date of the entry and certify the entry with his signature and the bailiff's seal.

3. The bailiff may change the entry in the enforceable instrument about the notified place of residence or domicile of the judgment creditor or the debtor only upon a written request of the judgment creditor or the debtor or when a new place of residence of the debtor is identified after the search.

#### **Article 615. Inspection of residential and other premises of the debtor**

1. While undertaking enforcement proceedings, the bailiff shall have the right, with the consent of persons resident in the premises, to inspect the residential premises if it is necessary to execute the exaction. The bailiff shall have the right to inspect other premises without the debtor's consent.

2. If the bailiff is refused entry into the residential premises, he shall have the right to get into such premises only on presentation of the court ruling authorising the entry into the residential premises, except for the cases provided for in paragraph 3 of this Article.

3. The court's judgment on eviction from residential premises or moving into them, court judgments on dividing the property contained in the debtor's residential premises, elimination of the violations relating to the usage of residential premises and other court decisions the execution whereof is impossible without entering the residential premises by the bailiff, shall grant the right to the bailiff to enter the residential premises without the consent of the persons residing therein and without the ruling of the court.

4. If the bailiff who presents the court ruling or the decisions referred to in paragraph 3 of this Article is refused entrance into the residential or other premises, the bailiff shall call a police officer and witnesses and shall open the residential or other premises in their presence. The officer call by the bailiff must appear and take part in the enforcement proceedings.

**Article 616. A fine and detention in custody during enforcement proceedings**

1. In the cases provided for in the enforcement procedure, the persons guilty of the violations of the procedure may be imposed a fine or detention in custody in the manner prescribed in Articles 106 and 108 of this Code.

2. A petition to apply the sanctions provided for in paragraph 1 of this Article may be filed to the court by the bailiff or the parties to the enforcement proceedings.

**Article 617. Consequences of failure by third persons to comply with bailiff's demands**

The judgment creditor shall have the right to file a claim to the court against the person,

through the fault of which the amounts due have not been recovered in the enforcement proceedings.

**Article 618. Liability for loss of the enforceable instrument**

1. The court may impose a fine in the amount of up to LTL 1000 upon the person who has lost the enforceable instrument. Such a person shall also cover the expenses relating to the issuance of a copy of the enforceable instrument.

2. In case money is subject to recovery, the amount of a fine shall not exceed the amount to be recovered as indicated in the enforceable instrument.

**Article 619. Liability of the property custodian (administrator)**

1. Embezzlement, transfer or concealment of property handed over for custody, or destruction or damage thereof shall incur criminal liability for the property custodian (administrator).

2. The custodian shall made redress for the loss, deficiency or damage of the property handed over to him for custody in accordance with the procedure prescribed by laws.

**Article 620. Search for the debtor or a child**

1. In proceedings regarding the recovery of maintenance, regarding compensation for damage caused by mutilation or other injury to health, as well as by depriving the life of the breadwinner, when the whereabouts of the debtor are unknown, the bailiff must announce the search for the debtor through the police.

2. In proceedings regarding the transfer of custody over the child when the whereabouts of the child are unknown, the bailiff must announce the search for the debtor or the child through the police.

3. While executing other judgments when the debtor's place of residence is unknown, the bailiff may pass a reasoned direction to announce the search for the debtor through the police upon

the judgment creditor's request, if the judgment creditor provides data that he has failed to find out the place of residence of the debtor and if she/he pays the search costs of the established amount.

**Article 621. Procedure for announcing the search**

1. Search shall be announced by a direction of the bailiff.
2. Search shall be announced by the bailiff of the last know place of residence of the debtor or the child.

**Article 622. Recovery of allowances after announcement search for the debtor**

In proceedings regarding the recovery of maintenance when underage children are paid allowances due to the fact that they receive no maintenance, the court, in accordance with the recommendation of institutions of guardianship and care, shall hand down a ruling to recover from the debtor the amount of disbursed allowances and to impose a fine of ten percent of the disbursed amount of the allowance.

**Article 623. Recovery of search expenses**

Upon a petition from the police of the judgment creditor, the court shall pass a ruling to recover from the debtor the expenses of the search.

**Article 624. Coercive enforcement measures**

1. If the debtor fails to execute the court judgement within the time limit specified in the warning to execute the judgment, the bailiff shall, within ten days after the date of expiry of the period to execute the judgment, commence the coercive enforcement thereof.

2. Coercive enforcement measures shall be the following:

- 1) exaction from the debtor's funds and property or from his property rights;
- 2) exaction from the debtor's property and pecuniary amounts placed with other persons;
- 3) prohibiting other persons from handing over to the debtor money, property or perform any other obligations for the debtor;
- 4) taking of the documents proving the debtor's rights;
- 5) exaction from the debtor's wage, pension, scholarship or other income;
- 6) taking of particular property items indicated in the court judgment from the debtor and conveyance thereof to the judgment creditor;
- 7) administration of the debtor's property and using the proceeds received therefrom to cover the debt;
- 8) obligating the debtor to carry out or refrain from specific actions;
- 9) set-off of the recoverable amounts in counterclaims;

- 10) other measures provided for by law.
3. Several coercive enforcement measures may be applied concurrently.

**CHAPTER XLII**  
**STAY AND DEFERRAL OF EXECUTION ACTIONS. RETURN OF ENFORCEABLE INSTRUMENTS TO THE JUDGMENT CREDITOR. TERMINATION OF ENFORCEMENT PROCEEDINGS**

**Article 625. Deferral of execution actions, stay of enforcement proceedings, return of the enforceable instrument**

1. The bailiff who executes an enforceable instrument may defer execution actions, stay the enforcement proceedings or return the enforceable instrument to the judgment creditor on his own initiative according to the procedure prescribed by this Code or upon petition of the participants in the enforcement proceedings by virtue of the direction thereof.

2. A direction regarding the deferral of execution actions, stay of the enforcement proceedings or returning the enforceable instrument shall be rendered immediately after the circumstances due to which the execution actions are deferred, the enforcement proceedings are stayed or the enforceable instrument is returned come into light.

3. A copy of the direction regarding the deferral of execution actions, stay of the enforcement proceedings or returning the enforceable instrument to the judgment creditor shall be mailed to the judgment creditor and the debtor.

**Article 626. Mandatory stay of enforcement proceedings**

The bailiff must stay the enforcement proceedings in the following cases:

1) upon the debtor's or the judgment creditor's death, reorganisation or liquidation of the legal person who stand as the debtor or the judgment creditor, if succession in rights and obligations is possible given the legal relations;

2) when the debtor loses legal capacity;

3) when bankruptcy proceedings are taken against the debtor, except for proceedings of property nature. In such a case the enforceable instrument shall be forwarded to the court which has initiated the bankruptcy proceedings;

4) when ownership rights are temporarily restricted with respect to the natural or legal person or the property thereof is attached under the procedure prescribed by laws of the Republic of Lithuania, if such rights are restricted or the property is attached under the procedure prescribed by the Criminal Code or with a view to securing the claims of creditors preceding the judgment creditor;

5) when the Bank of Lithuania appoints a temporary administrator to the commercial bank as the debtor;

6) when the pledgee does not join the recovery claim, if the recovery is effected for the pledged property;

7) upon receipt of the peaceful settlement between the judgment creditor and the debtor;

8) when the time periods for filing an appeal as restored, if the enforcement order has been issued on the basis of the judgment appealed against (except for judgments subject to enforcement without delay).

#### **Article 627. The right to stay enforcement proceedings or defer execution actions**

The bailiff may effect a full or partial stay of the enforcement proceedings or defer the execution actions in the following cases:

- 1) when requested so in writing by the judgment creditor;
- 2) if the debtor has developed a serious disease, provided that it is not chronic – upon receipt of the document from the treatment institution;
- 3) when the debtor undergoes in-patient treatment;
- 4) when the search for the debtor is announced (Article 620 of this Code);
- 5) in case of eviction proceedings, disease of the debtor or his family member – upon receipt of the document from the treatment institution, unless the disease is chronic;
- 6) when the court evokes the enforcement proceedings.

#### **Article 628. Time limits for staying enforcement proceedings**

1. The enforcement proceedings shall be stayed until the successor of the rights is identified in case of death of the debtor (judgment creditor) or the reorganisation (liquidation) of the legal person, a carer is appointed to a legally incapacitated person or the circumstances due to which the enforcement proceedings have been stayed expire.

2. The enforcement proceedings shall be resumed upon a petition of the judgment creditor or the debtor or upon initiative of the bailiff.

3. Where the enforcement proceedings are stayed on the grounds provided for in Articles 626 and 627 of this Code, the bailiff may only take measures to identify and attach the debtor's property.

#### **Article 629. Termination of enforcement proceedings**

1. The enforcement proceedings shall be terminated:

- 1) if the judgment creditor relinquishes the claim of recovery;
- 2) if the judgment creditor and the debtor enter into a peaceful settlement;
- 3) if upon the death of the person who stood as the judgment creditor or the debtor, the

claim or the obligation cannot devolve to the successor of the rights of the diseased person;

- 4) if the prescription period for recovery established by law has expired for this recovery;
- 5) if enforceable instruments, which served as the basis for execution, have been revoked;
- 6) upon reorganisation or liquidation of the legal person, if succession of the rights and obligations thereof is impossible;
- 7) if the debtor and the judgment creditor is one and the same person;

8) if the judgment creditor and the debtor have entered into the debt recovery agreement (Article 6.436 of the Civil Code);

9) if the enforceable instrument has been unlawfully accepted;

10) if the judgment creditor has refused accepting particular property items taken from the debtor, as specified in the court judgment.

2. Upon termination of the enforcement proceedings, all enforcement measures undertaken by the bailiff shall be annulled by virtue of the direction of the bailiff. If the debtor's property has been attached by a court ruling, the bailiff shall notify by his direction the court which attached the property of the termination of the enforcement proceedings and of the necessity to revoke the attachment of the property.

3. Terminated enforcement proceedings cannot be commenced *de novo*.

### **Article 630. Procedure for terminating enforcement proceedings**

1. The enforcement proceedings shall be terminated by a bailiff direction, save when it is terminated due to a peaceful settlement (Article 595 of this Code). Such direction shall be approved by a resolution of the judge.

2. A copy of the direction to terminate the enforcement proceedings shall be sent by the bailiff to the parties to the enforcement proceedings.

3. Upon termination of the enforcement proceedings, the enforceable instrument shall be mailed, together with the respective mark of the bailiff, to the institution that issued it.

### **Article 631. Returning of enforceable instruments**

1. The enforceable instrument according to which the recovery has not been effected or effected not in full shall be returned to the judgment creditor:

1) upon the judgment creditor's request;

2) if the debtor has no property or funds, wherefrom the recovery may be effected;

3) if the judgment creditor refuses to accept the debtor's property which has not been sold while executing the judgment;

4) if the debtor has no property and does not reside at the address indicated by the judgment creditor or does not work, with the exception of the cases provided for in Article 620, para. 1 of this Code, or if the office of the legal person is unknown;

5) if the judgment creditor makes by his actions the execution of the judgment impossible;

6) if the debtor has no other property except for the dwelling wherein he resides and the amount under recovery does not exceed LTL 3000 (Article 663, para. 2 of this Code);

7) if the bailiff has withdrawn or has been challenged and the judgment creditor failed to enter his petition to refer the enforceable instrument to another bailiff;

8) if the execution actions are to be undertaken in the service area of another bailiff (Article 590, para. 4 of this Code);

9) having identified that the judgment creditor does not reside, holds no employment and income in the territory of the Republic of Lithuania.

2. In the cases indicated in paragraph 1, sub-paragraphs 2, 3, 4 and 5 of his Article the bailiff shall draw up a statement in the form prescribed in the Judgment Execution Instructions.

3. Returning of the enforceable instrument to the judgment creditor within the period prescribed by laws shall not prevent this document from being submitted for enforcement *do novo*. The enforceable instrument may be repeatedly submitted for enforcement not earlier than at the expiry of three months after it was returned to the judgment creditor, with the exception of the cases specified in paragraph 1, sub-paragraphs 7 and 8 of this Article, when there are data that the debtor has acquired property or that he receives income.

4. When returning the enforceable instrument, the bailiff shall cancel all the measures undertaken to effect the recovery.

5. When there are grounds indicated into this Code to return the enforceable instrument to the judgment creditor, however when his whereabouts are unknown, the enforceable instrument shall be returned to the institution that issued it.

6. Enforced enforceable instruments shall be returned to the institution that issued them.

**Article 632. Closure of enforcement proceedings**

The enforcement proceedings shall be closed:

- 1) after the enforceable instrument has been completely executed;
- 2) after the enforceable instrument has been returned to the judgment creditor in the manner prescribed in Article 631 of this Code;
- 3) after the enforcement proceedings have been terminated;
- 4) after the enforceable instrument has been referred to another bailiff for enforcement;
- 5) after the enforceable instrument has been sent for deductions to the debtor's employment place, education institution, social security institution, etc.;
- 6) after the enforceable instrument has been sent to the court that hears the bankruptcy proceedings.

**CHAPTER XLIII  
PARTIES TO AN ENFORCEMENT PROCEEDING**

**Article 633. Parties to an enforcement proceeding and interested parties**

1. The judgment creditor and debtor shall be considered parties to the enforcement proceeding.
2. Any persons, for whom execution actions are causing or may cause legal consequences, shall be considered interested parties to the enforcement proceeding.

**Article 634. Procedural actions performed by a bailiff**

1. A bailiff shall execute the enforceable instruments referred to in Article 587 of this Code, state the factual circumstances, and, by court order, serve court summons and other court documents.
2. A bailiff must on his own initiative undertake every legal measure to ensure that a judgment is satisfied as quickly and realistically as possible and actively help the parties to defend their rights and legally protected interests.
3. Other actions can also be entrusted to a bailiff to perform by the procedure established by this Code.
4. The serving of court summons and other court documents, the stating of the factual circumstances, and the execution of court commissions shall be paid by the procedure established in the Judgment Execution Instruction.

**Article 635. Stating the factual circumstances**

1. The stating of the factual circumstances shall mean the detailed description of the factual circumstances objectively seen by the bailiff and recorded in a statement of the factual circumstances. The factual circumstances being stated can be additionally recorded using video or audio recording equipment. Such an audio and video record shall be considered an integral part of the statement of the factual circumstances.
2. The Judgment Execution Instruction shall establish the form of the statement of the factual circumstances.

3. The bailiff shall state the factual circumstances at the order of a court. A bailiff shall send the statement of the factual circumstances to the court that gave him the order no later than the next business day after it is drawn up.

4. A statement of the factual circumstances drawn up by a bailiff shall be considered official documentary evidence and shall have greater evidentiary force.

#### **Article 636. Grounds and procedure for the removal of a bailiff**

1. A bailiff can be removed on the grounds referred to in Article 65 of this Code. The debtor and judgment creditor may remove a bailiff. A challenge against a bailiff shall be submitted in writing.

2. A challenge must be filed before any compulsory execution actions are begun. It is permissible to file a challenge later only if the party filing the challenge learned about the grounds for the challenge after the execution actions had begun.

3. The challenge application shall be submitted to the bailiff to be removed. If the bailiff does not remove himself, the challenge application shall be given together with the enforcement proceedings to a judge no later than the next business day so that he can decide the question of the removal.

4. A bailiff may not execute judgments and must remove himself when the grounds provided in Article 65 of this Code exist.

5. The self-removal or removal of a bailiff must be immediately reported in writing to the judgment creditor. The judgment creditor within 10 business days shall be entitled to select another bailiff to execute the recovery pursuant to the enforceable instrument.

#### **Article 637. Procedure for deciding the removal of a bailiff**

1. A judge of the district court of the location of the bailiff shall settle the question of a challenge filed against a bailiff no later than within three business days.

2. If necessary, a judge may call and hear the party who filed the challenge, the bailiff, or other parties to the enforcement proceeding.

3. The judge shall decide the question of the removal by recording a resolution in the challenge application.

#### **Article 638. Judgment creditor**

1. A judgment creditor is a person, in whose favour the enforceable instrument is issued.

2. If recovery must be made into the public budget pursuant to the enforceable instrument, the state tax inspectorate shall represent the state.

#### **Article 639. Rights of a judgment creditor**

A judgment creditor shall be entitled:

1) to participate himself or through his representatives in performing compulsory execution actions;

2) to become familiar with all the material of the enforcement proceedings;

3) to receive certificates about the course of the execution;

4) to conclude out-of-court settlements;

5) to dispute the ownership of property and its valuation;

6) to appeal the actions of a bailiff;

7) to file petitions and challenges;

8) to waive recovery;

9) other rights provided in this Code.

#### **Article 640. Duties of a judgment creditor**

A judgment creditor must:

- 1) work with the bailiff during the enforcement proceeding;
- 2) take an interest in the course of the execution;
- 3) not create any obstacles for the bailiff in executing a judgment;
- 4) immediately inform the bailiff in writing of any change in his place of residence or registered office. If such a change is not reported and the judgment creditor's new place of residence or registered office is unknown, any notices shall be sent to the judgment creditor at the address indicated in the enforceable instrument and it shall be considered that he was properly notified;
- 5) carry out any other duties provided in this Code.

#### **Article 641. Waiver of recovery by a judgment creditor**

1. An application to waive recovery shall be submitted by a judgment creditor in writing to the bailiff, who is executing the judgment.
2. A bailiff, after receiving an application to waive recovery, shall by his warrant decide the question of terminating the enforcement proceedings.

#### **Article 642. Debtor**

The debtor is the person, who must carry out the actions referred to in the enforceable instrument or refrain from carrying out the actions referred to in the enforceable instrument.

#### **Article 643. Rights of a debtor**

A debtor shall be entitled:

- 1) to participate himself or through his representatives in performing execution actions;
- 2) to become familiar with all the material of the enforcement proceedings except any documents, with which familiarisation would hinder the execution of the recovery;
- 3) to receive certificates about the course of the execution;
- 4) to dispute the ownership of property and its valuation;
- 5) to appeal the actions of a bailiff;
- 6) to file petitions and challenges;
- 7) to conclude out-of-court settlements;
- 8) other rights provided in this Code.

#### **Article 644. Duties of a debtor**

A debtor must:

- 1) not create any obstacles for the bailiff in executing a judgment;
- 2) immediately inform the bailiff in writing any change in his place of residence, registered office, or work place. If such a change is not reported and the debtor's new place of residence or registered office is unknown, any notices shall be sent to the debtor at the address indicated in the enforceable instrument and it shall be considered that he was properly notified except in the cases referred to in Article 660, paragraph 1 of this Code;
- 3) when called, go to the bailiff's office;
- 4) take an interest in the course of the execution;
- 5) carry out any other duties provided in this Code.

#### **Article 645. Duty of a debtor to supply information about the property he possesses**

1. A debtor must, upon the demand of a bailiff, supply data in writing about the property he possesses and its location, any of his property in the possession of third parties, and any of his funds in credit institutions.

2. If a demand to supply data about the property he possesses and its location is presented to a legal person, the head of the legal person shall be liable for the satisfaction of the demand.

3. For a failure to satisfy the demands referred to in this Article or for supplying false data, a court may impose a fine of up to two thousand litas on the party, who failed without good cause to satisfy a warrant served by a bailiff, or incarcerate him for up to thirty days.

## **CHAPTER XLIV PROCEDURE FOR ISSUING WRITS OF EXECUTION**

### **Article 646. Procedure for issuing a writ of execution**

1. After an executory judgment becomes *res judicata*, the court of first instance shall issue a writ of execution to the judgment creditor pursuant to his written application. In these cases where property is to be confiscated, where an amount of money is to be recovered into the public budget, where damages created by a criminal act are to be recovered, or where maintenance or reimbursement of damages created by bodily harm, otherwise harming a person's health, or taking the life of the breadwinner is to be recovered, the court shall issue a writ of execution to the judgment creditor even without his petition.

2. In cases of expeditious execution, the court of first, appeal, or cassation instance, which passed the judgment to be executed expeditiously, shall issue a writ of execution to the judgment creditor pursuant to the judgment creditor's written application no later than the next business day after the judgment is passed.

3. The writ of execution shall be delivered to the judgment creditor with signature confirmation or sent by registered letter. The issuance of a writ of execution shall be noted in the case.

4. In issuing a writ of execution, copies of the property attachment documents and other documents in the case, which are necessary to satisfy the judgment, shall be attached to it.

### **Article 647. Issuance of several writs of execution pursuant to one judgment**

1. One writ of execution shall be issued pursuant to each judgment. If a judgment must be executed in different places as well as if a judgment is passed in favour of several plaintiffs or several defendants or if it is decided to recover from joint and several defendants, a court may issue several writs of execution precisely indicating the place of execution or part of the judgment, which must be executed pursuant to that writ of execution.

2. On the basis of the sentence or judgment to recover from defendants who are jointly and severally liable, a court shall issue as many writs of execution as there are defendants who are jointly and severally liable.

3. Each writ of execution concerning joint and several liability must indicate the total amount of the recovery, list all the defendants, and indicate that their liability is joint and several.

4. In the event of joint and several recovery, a judgment creditor, when the amount awarded him has been entirely recovered, must inform the bailiff, in whose territory the recovery is being executed, that the recovery be terminated. If an amount is recovered in excess of that which was joint and severally awarded, the court, pursuant to the bailiff's application and by the procedure established in Article 593 of this Code, shall recover by a ruling the excess amount from the judgment creditor and decide the question of its refund to the defendants who are jointly and severally liable.

### **Article 648. Content of an enforceable instrument**

1. A writ of execution must indicate:

- 1) the name of the court that issued the writ of execution;
- 2) the case, in which the writ of execution has been issued;

- 3) the date the judgment was passed;
  - 4) the judgment's verbatim resolution, which is connected with the judgment creditor;
  - 5) the date the judgment became *res judicata* or an instruction that the judgment should be executed expeditiously;
  - 6) the date the writ of execution was issued;
  - 7) the full name of the debtor and judgment creditor and their addresses, personal number (registration code for a legal person), and banking information. A writ of execution for the recovery of maintenance made in periodic payments shall in addition show the place of birth of the debtor and the date of birth of the children.
2. If necessary, a writ of execution shall indicate that pursuant to the court ruling the bailiff is allowed to enter the debtor's home without his permission.
  3. A writ of execution shall indicate the name and surname of the judge who signed it. A writ of execution signed by a judge shall be confirmed by the court's official seal.
  4. If several writs of execution are being issued to execute the same judgment, then a note shall be made in the writ of execution indicating which writ of execution is primary, which secondary, tertiary, etc.
  5. Other laws shall establish the content of any other enforceable instruments but those documents in every case must indicate the information referred to in paragraph 1, subparagraph 7 of this Article and on the basis of what law the instrument must be executed by the procedure established by this Code. An enforceable instrument must contain an indicated place for a bailiff's note about any execution actions performed.
  6. If, in issuing an enforceable instrument, an error is made in writing it or another error is made, at the request of a person interested in it, the institution, which issued the document, shall correct it.

**Article 649. Procedure for issuing a duplicate of a writ of execution**

1. If a writ of execution is lost, then at the request of the judgment creditor or bailiff a duplicate of the writ of execution shall be issued. A request to issue a duplicate of a writ of execution shall be submitted to the court of first instance that heard the case.
2. A duplicate of a writ of execution shall be issued by the same procedure as a writ of execution; only the upper right side of its title page shall bear the inscription, 'duplicate'.

**CHAPTER XLV**

**PROCEDURE FOR SERVING AND ACCEPTING ENFORCEABLE INSTRUMENTS**

**Article 650. Service of an enforceable instrument to be executed**

1. A judgment creditor or his representative may serve a writ of execution or court order to a bailiff to execute.
2. The institution or official that issued them as well as the judgment creditor may serve any other enforceable instruments to be executed.

**Article 651. Acceptance of an enforceable instrument to be executed**

1. A bailiff, after receiving an enforceable instrument to be executed, within three days or, in the event of expeditious execution, immediately shall verify whether there are any obvious obstacles to accepting the enforceable instrument and beginning to perform the actions. If there are obstacles to accepting the enforceable instrument to be executed, the bailiff by his warrant shall refuse to accept it for execution and shall return it to the person who served it, indicating the reasons for returning it.
2. In deciding whether there are any obvious obstacles to accepting an enforceable instrument and beginning the execution actions, he shall verify:

- 1) whether the person who served the enforceable instrument to be executed was entitled to do so (Article 650 of this Code);
  - 2) whether the enforceable instrument should be executed by that bailiff (Article 590 of this Code);
  - 3) whether the content of the enforceable instrument meets the requirements of Article 648 of this Code and whether any annexes need to be attached to the writ of execution (Article 646, paragraph 4 of this Code);
  - 4) whether the enforceable instrument was served for execution prior to the expiry of the term of prescription for serving them for execution (Article 606 of this Code);
  - 5) if an heir serves the enforceable instrument for execution after the judgment creditor or debtor has died, whether the assumption of the rights and duties occurred after the death of the judgment creditor or debtor;
  - 6) if, after the liquidation or reorganisation of a judgment creditor or debtor who is a legal person, the assumer of his rights served an enforceable instrument to be executed, whether the assumption of the legal person's rights and duties occurred;
  - 7) whether there are any other obstacles to accepting the enforceable instrument for execution.
3. If none of the obstacles referred to in paragraph 2 of this Article are established, the bailiff shall be accept the enforceable instrument and begin executing it.

**Article 652. Peculiarities of accepting decisions for execution concerning the recovery of fines imposed in cases of infractions of administrative law**

1. A bailiff, after receiving a decision for execution in cases of infractions of administrative law, shall first of all check whether the institution or official who passed the decision, if the debtor has not voluntarily paid the fine, has sent the decision to be executed to the debtor's workplace, the state social insurance board area department, or education institution to deduct the fine from the offender's wages or other earnings, pension, or scholarship.
2. If the person who served the enforceable instrument fails to satisfy the requirements referred to in paragraph 1 of this Article, the enforceable instrument shall be returned to the person who served it and the reasons for returning shall be indicated.
3. If the judgment creditor has satisfied the requirements referred to in paragraph 1 of this Article but it is discovered that the debtor is unemployed or if it is impossible to recover the fine from the debtor's wages or other earnings, pension, or scholarship due to other reasons, the bailiff shall accept the enforceable instrument to be executed.

**Article 653. Terms for beginning the execution actions**

A bailiff must begin the execution actions: in expeditious enforcement proceedings, no later than the next day after accepting the enforceable instrument for execution and in other cases, no later than within five days of accepting the enforceable instrument for execution.

**Article 654. Initial execution actions**

A bailiff, after accepting an enforceable instrument for execution, may call the debtor and judgment creditor to his office to explain to them their rights and duties provided in Articles 639, 640, 643, and 644 of this Code, to hear their suggestions concerning the satisfaction of the enforceable instrument, to serve the debtor with a warning to satisfy the judgment, to hear any persons he requires concerning the debtor's property, and to perform any other preliminary actions necessary for fast and effective recovery.

**CHAPTER XLVI  
WARNING TO SATISFY A JUDGMENT**

### **Article 655. Warning to satisfy a judgment**

1. A warning to satisfy a judgment shall mean a document, by which a bailiff notifies a debtor about the fact that an enforceable instrument has been served on him for execution and that if the actions referred to in this document are not accomplished within the term established by the bailiff, compulsory enforcement proceeding shall be begun.

2. A debtor shall be warned to satisfy a judgment after the first service of an enforceable instrument to be executed, except in cases provided in Article 661 of this Code.

3. In executing the same enforceable instrument, a warning shall be served on a debtor only the first time except in cases where the enforceable instrument was returned to the judgment creditor at his own request (Article 631, paragraph 1, subparagraph 1 of this Code) and served a second time for execution.

### **Article 656. Content of a warning to satisfy a judgment**

A warning to satisfy a judgment shall indicate:

1) the name and surname of the bailiff;  
2) the name of the court or institution, the judgment of which is being executed, as well as issue date and number of the enforceable instrument;

3) the name (for a legal person) or name and surname of the judgment creditor and debtor as well as the amount of money or property to be recovered from the debtor or the actions the debtor needs to perform;

4) the term, within which the debtor must satisfy the judgment, as well as, where necessary, the deposit account number of the credit institution and bailiff or the settlement account number of the judgment creditor;

5) a statement that if the judgment fails to be satisfied, the bailiff shall execute the judgment by force and the execution expenses established in the Judgment Execution Instruction shall be recovered from the debtor;

6) the debtor's rights and duties in the enforcement proceeding, which are referred to in Articles 643 and 644.

### **Article 657. Procedure for serving a warning to satisfy a judgment**

1. A warning to satisfy a judgment shall be sent to a debtor by registered letter or served on the debtor in person.

2. In sending a warning, a bailiff shall make a notation about this in the enforceable instrument and indicate the date the warning was sent out.

3. When signing an enforceable instrument, a debtor shall confirm that the warning was served on him personally.

### **Article 658. Execution actions after a warning to satisfy a judgment has been served or sent to a debtor**

1. After serving or sending a warning to satisfy a judgment, a bailiff may obligate the debtor by the procedure established in Article 645 of this Code to supply data about the property he possesses.

2. In those cases where there is a danger that the debtor may conceal his property, a bailiff shall be entitled, after serving or sending a warning, to attach the debtor's property.

3. In cases concerning the recovery of amounts to reimburse damages caused by a criminal act, a bailiff, when serving or sending a warning, shall attach the debtor's property.

### **Article 659. Term for satisfying a judgment**

1. If no satisfaction term is established in the enforceable instrument, a bailiff shall set a term of ten days, calculating from the day the warning is served, for the debtor to satisfy the judgment.

2. When evicting someone from their dwelling, a term for satisfying the judgment of no shorter than fifteen days and no longer than thirty days shall be set.

3. In executing judgments obligating a debtor to refrain from certain actions, no term shall be set for satisfying the judgment and it shall be indicated to execute the judgment immediately from the day the warning to satisfy the judgment is served if the enforceable instrument does not indicate otherwise.

**Article 660. Service of a warning to satisfy a judgment when the location of the debtor is unknown**

1. In those cases where the location of a debtor is unknown, the debtor has concealed himself, or due to other objective reasons it is impossible to serve a warning to satisfy a judgment on him, at the request of the judgment creditor and using his funds, the warning to satisfy a judgment shall be published in a newspaper of the place where the execution actions are to be performed.

2. The day the warning is published in the publication provided in paragraph 1 of this Article shall be considered the day of its service.

**Article 661. Cases where a warning to satisfy a judgment is not sent to a debtor**

1. If the satisfaction terms are indicated in the laws or enforceable instrument, a warning to satisfy a judgment shall not be sent out and the bailiff, after the expiry of the indicated term for the satisfaction of the judgment, shall immediately begin compulsory execution actions.

2. No warning shall be sent in expeditious enforcement proceedings, cases concerning the recovery of periodic payments and the confiscation of property, in executing interlocutory court judgments, court orders, and a mortgage judge's rulings concerning the realisation of a debtor's property.

3. In the event of the expeditious execution of a judgment, a bailiff shall transmit a warning to satisfy a judgment, if possible, to a debtor orally and shall suggest executing the judgment immediately.

**CHAPTER XLVII**

**GENERAL RULES FOR THE RECOVERY OF PROPERTY FROM A DEBTOR**

**Article 662. Order for the recovery of income or property from a debtor**

1. A judgment creditor, pursuant to the order established in Articles 664 and 665 of this Code, prior to the beginning of the compulsory execution may indicate in writing from which of the debtor's property or income recovery shall be made first.

2. If the judgment creditor has indicated from which property recovery is to be made, this instruction shall be mandatory for the bailiff.

3. If the judgment creditor within the term referred to in paragraph 1 of this Article fails to indicate from which property to make the recovery, a bailiff, pursuant to the order established in Articles 664 and 665 of this Code, shall himself establish from which of the debtor's property or income to make the recovery.

4. Recovery can be made from property further down in the order only if the bailiff is unaware of the existence of any property prior to it in the order, this property may be insufficient to cover the amount to be recovered and the execution expenses, this property has been liquidated, or if the debtor so requests in writing.

5. The requirements concerning the order of recovery shall not be applicable if recovery is being made from mortgaged property.

**Article 663. Restrictions applicable when recovering from a natural person's property**

1. The recovery of money cannot be directed to a debtor's property if the debtor submits evidence to the bailiff that it is possible to recover the amount of money being recovered within six months by making deductions of the size referred to in Article 736 of this Code from the debtor's wages, pensions, scholarships, or other income. In this case, at the request of the judgment creditor a bailiff may attach the debtor's property, the selling of which has begun, if it is revealed that in making the deductions from the debtor's wages, pension, scholarship, or other income, the judgment will not be satisfied.

2. Periodic payments shall also be recovered directly from the debtor's wages, pension, scholarship, or other income if it is possible to recover them by the making the deductions of the size referred to in Article 736 of this Code.

3. It is possible to recover from a dwelling belonging to a debtor, in which he lives, only if the amount being recovered exceeds three thousand litas.

4. A court on the petition of the debtor or his family members, after a flat or residential home has been attached when recovering amounts outstanding for energy resources consumed, utilities, and other services, may establish that recovery should not be made from the last flat, residential home, or a part thereof, which is necessary for these persons to live. A court may establish this by taking into consideration the material situation and interests of the children, disabled persons, and welfare beneficiaries. A petition concerning this shall be filed and heard in a district court by the procedure established in Article 593 of this Code.

5. The restrictions established in this Article shall not be applicable when recovering from pledged property.

**Article 664. Order of recovery from the property of a debtor who is a natural person**

1. Recovery shall be made firstly from any mortgaged or pledged property if recovery is being made in favour of the mortgage creditor or mortgagee.

2. Recovery shall be made secondly from the money, property rights, securities, wages, scholarship, or other income belonging to the debtor or from his moveable property.

3. Recovery shall be made thirdly from the real property belonging to the debtor except that referred to in paragraphs 4 and 5 of this Article.

4. Recovery shall be made fourthly from any land designated for agriculture that belongs to the debtor if the debtor's principal business is farming.

5. Recovery shall be made fifthly from the dwelling, which belongs to the debtor and in which he is living.

**Article 665. Order of recovery from the property of a debtor who is a legal person**

1. Recovery shall be made firstly from his mortgaged or pledged property if the recovery is being made in favour of the mortgage creditor or mortgagee.

2. Recovery shall be made secondly from the money, securities, and production (goods) produced, which belong to the debtor as well as from any other moveable or immovable property not directly being used and not adapted to direct use in production except administration premises.

3. Recovery shall be made thirdly from any other property except that referred to in paragraph 4 of this Article.

4. Recovery shall be made fourthly from any real property objects necessary for production as well as from raw materials and materials, milling equipment, facilities, and other principal equipment directly intended for production.

**Article 666. Recovery from a natural person's property**

1. Recovery from natural persons shall be directed to their property, the part of it in joint ownership, as well as the part of it in joint community ownership.

2. The recovery of damages caused by a criminal act can be directed as well to any property, which is in joint ownership, if in the court sentence it is established that the property was acquired through funds obtained by criminal means.

**Article 667. Establishment of the share of the property of a debtor who is a natural person, which property he owns in common with other persons**

1. If the share of the property belonging to the debtor, which property is commonly owned with other persons, has not been established, a bailiff shall distraint and attach the common property and suggest to the judgment creditor, and where necessary also the participants in the common ownership, that a court be petitioned concerning the establishment of the debtor's share of the property held in common ownership with other persons. If said petition is not filed within the term set by the bailiff, the bailiff shall terminate the recovery from this property. It is possible to direct a recovery a second time to this property pursuant to the same enforceable instruments no earlier than when one year has passed since the day the recovery from this property was terminated.

2. The debtor's share held in common ownership shall be determined by a court ruling. When determining the debtor's share of a real property object, a court must simultaneously determine the procedure of its use by the share of the real property object belonging to the debtor.

3. After the court ruling, which establishes the debtor's share of the property held in common ownership, becomes *res judicata*, the recovery shall be directed to the debtor's share of the property.

4. A judgment creditor shall be entitled to demand the debtor's share be established so that it is possible to recover from it.

**Article 668. Property, from which it is impossible to recover**

1. In performing a recovery from a natural person, the recovery cannot be directed to any necessary clothing, home furnishings, and household items. Recovery also cannot be directed to any of the children's things, one radio set, the fuel necessary for one heating season, the foodstuffs necessary for the debtor's family to survive, an amount of money not exceeding the minimum wage for one month (MMW) established by the Government, and personal inexpensive tools necessary for the debtor's professional work except in cases where the debtor has used these tools for an illegal business.

2. In performing a recovery from a person, with whom his minor children live, recovery also cannot be directed to the only television set and refrigerator.

3. In performing a recovery from a person, whose principal business is farming, the recovery cannot be directed to the feed necessary for the winter for his animals, to which a recovery cannot be directed, the seed necessary for ordinary sowing, one cow, and if he has none, one heifer.

4. In performing a recovery from state, municipal, or budgetary institutions, recovery can be directed only to the monetary funds belonging to them.

**Article 669. Recovery procedure in liquidating enterprises, institutions, and organisations**

When an enterprise, institution, or organisation is in liquidation, recovery can be directed to all of its property without following the order established in Article 665, paragraphs 2-4 of this Code.

**Article 670. General procedure for recovery from all kinds of legal persons or other organisations**

1. Recoveries from all kinds of legal persons or other organisations, including from foreign entities, shall be carried out pursuant to the general rules except the exceptions established in the laws regulating the activities of these persons.

2. The heads of these entities shall be liable for the performance of a bailiff's demands when recovery is being made from the entities provided in paragraph 1 of this Article.

**Article 671. Establishment of the share of the property of a debtor who is a legal person or another organisation, which property is commonly owned with other persons**

The share of the property of a debtor who is a legal person or another organisation, which property is commonly owned with other persons, shall be established by the procedure established in Article 667 of this Code.

**Article 672. Peculiarities of recovery from the property of partnerships**

1. If a partnership lacks sufficient funds to cover the amounts being recovered, recovery shall be directed jointly and severally to the property of its members.

2. Recovery cannot be directed jointly and severally to the property of all the members of a general partnership pursuant to its members' liabilities, which are not connected with the partnership's activities.

3. Recovery shall be directed to the property of a commandite (trust) partnership:

1) jointly and severally to all the property of the members of the members of the commandite (trust) partnership;

2) to the share of the property of the commanditaires, which they transferred or had to have transferred to the commandite (trust) partnership but failed to transfer within the terms provided in the agreement.

**Article 673. Recovery from the property of individual (personal) enterprises**

If an individual (personal) enterprise lacks sufficient funds to cover the amounts being recovered, a bailiff shall direct the recovery to its other property and the owner's property.

**Article 674. Recovery from a state or municipal enterprise, which has no property**

1. If a state or municipal enterprise has no property, from which it is possible to recover, the demands of the judgment creditor shall be satisfied from the state or municipal budget respectively but for no more than the value of the property possessed by right of trust by the state or municipal enterprise, to which property it is impossible to direct a recovery.

2. A court shall decide, on the petition of the judgment creditor, a question of the satisfaction of demands from the state or municipal budget by passing a ruling. This ruling can be appealed by a separate appeal.

**CHAPTER XLVIII  
PROPERTY ATTACHMENT**

**Article 675. Attachment of a debtor's property**

1. The attachment of a debtor's property is the compulsory temporary prohibition or restriction of the right of ownership to the debtor's property or of the separate constituent parts of this right, i.e. its possession, use, or disposition.

2. A bailiff shall attach a debtor's property by drawing up a property attachment deed. A bailiff shall be entitled to revoke the attachment of property only if the property was attached by the bailiff. A bailiff may not attach significantly more of a debtor's property than is necessary to cover the amount to be recovered and the execution expenses.

3. In executing the ruling of a court (judge) to attach property, a bailiff shall create distraint of the attached property by the procedure established in Article 677 of this Code. In this case, the bailiff shall not draw up a property attachment deed.

4. A property attachment shall come into force upon the delivery of the property attachment deed to the debtor and if there is no possibility of delivering it, upon the registration of the property attachment deed in the property attachment deed register. In those cases when products, other highly perishable articles, or animals are attached and these are seized by the procedure established in this Code and immediately handed over to be realised, the attachment of the property shall come into force at the moment of the distraint of the property.

5. A bailiff shall immediately report the attachment of pledged property to the mortgagee.

#### **Article 676. Marking attached property**

A bailiff shall mark each attached object, if this is possible, on the outside, with a sign indicating the attachment. That the attached property has been marked shall be indicated in the property attachment deed.

#### **Article 677. Distraint of a debtor's property**

1. In those cases where all the rights of ownership to a debtor's property have been restricted, the property has been handed over to the safekeeping or administration of other persons, the documents confirming the debtor's property rights have been seized, or the rights to moveable property not registered in the property register have been restricted, a distraint of this property must be made.

2. A bailiff may not distraint significantly more of a debtor's property than is necessary to cover the amount to be recovered and the execution expenses.

3. The distraint of a debtor's property shall be made with the participation of the debtor. If the debtor is himself absent, the distraint of the property shall be made with the participation of any adult member of his family and if there are none, with the participation of a property keeper (administrator) appointed by the court or bailiff.

4. The distraint of the property of a debtor who is a legal person shall be made with the participation of a representative or executive officer of the debtor.

#### **Article 678. Content of a property attachment deed**

1. A property attachment deed must indicate:

1) the time and place the deed was drawn up;  
2) the names and surnames of the bailiff drawing up the deed and persons participating in drawing up the deed;

3) the name of the enforceable instrument;

4) the name, surname, personal number, and place of residence of a judgment creditor and debtor who are natural persons or the name, registered office, and code of those who are legal persons;

5) the name, unique number (if the object is registered in a public register), distinctive marks of the object (weight, dimensions, degree of wear and tear, etc), and value of each attached object and the value of all the attached property. If a bailiff during the attachment is unable to evaluate property being attached, he shall indicate in the property attachment deed that an expert shall be requested to establish the value of the property;

6) the owner (co-owner) of each attached object: the name, surname, personal number, and place of residence of a natural person or the name, registered office, and code of a legal person;

7) the manner (restriction of the right of ownership or its separate constituent parts) and extent of the attachment of the property;

8) other restrictions of the rights connected with the attachment of the property, if these are employed;

9) that the object has been marked if this was done;

10) list of the objects seized to hand over to the safekeeping or administration of another person;

11) the name, surname, personal number, and address of the person, to whose safekeeping (administration) the property is being handed over if the property is not being entrusted to the safekeeping (administration) of the debtor himself;

12) that the procedure and term for appealing the actions of a bailiff have been explained to the debtor and the other parties as well as that their duties and responsibility, provided in Articles 619 and 683 of this Code, in connection with its safekeeping have been explained to the debtor and property keeper (administrator);

13) any comments and statements, made when the property distraint is drawn up, by the judgment creditor, debtor, and other persons participating in the distraint of the property as well as the bailiff's warrants concerning them.

2. If necessary the objects found, to which is impossible to direct recovery pursuant to the laws, as well as any other objects, which are not being attached, shall be listed in the property attachment deed.

3. If distraint of the property is drawn up in attaching the property, the data referred to in paragraph 1, subparagraphs 5, 6, and 10 of this Article shall be recorded in the property distraint, which shall be an annex to the property attachment deed.

4. If the composition and location of the property of the debtor, whose property is being attached, is unknown at the moment the property attachment deed is drawn up, complete data for all or a part of the property being attached need not be included in the property attachment deed. In this case, a bailiff must take measures, after ascertaining the complete data for the property, to draw up a property attachment deed, replacing the previous property attachment deed.

5. The bailiff, property keeper (administrator), judgment creditor, debtor, and any other persons, who have been participated in describing the property, shall sign the property attachment deed and the distraint of the property. If a debtor fails to participate in making the distraint of the property or refuses to sign the property distraint, this shall be noted in the property distraint.

#### **Article 679. Procedure for serving the property attachment deed and property distraint on the judgment creditor and debtor**

The property attachment deed and property distraint, if it has been created, shall be served on the judgment creditor and debtor with signature confirmation. If it is impossible to serve the property attachment deed or property distraint, it shall be sent by registered letter.

#### **Article 680. Procedure for delivering the property attachment deed and property distraint to the manager of the property attachment register**

1. The property attachment deed and property distraint, if it is drawn up, shall be immediately delivered to the manager of the property attachment deed register.

2. No property attachment deed and property distraint shall be sent to the manager of the property attachment deed register if attached moveable property (products, highly perishable articles, or animals) have been seized by the procedure established by this Code and immediately handed over to be realised as well as if objects of little value, which are used for personal and household needs, are attached.

3. A bailiff, after amending a property attachment deed or revoking the attachment of property, as well as after realising attached property by the procedure established by this Code, shall immediately report this to the property attachment deed register and submit documents confirming this.

### **Article 681. Valuating attached property**

1. When attaching a debtor's property, a bailiff shall value it at market prices, taking into consideration the depreciation of the property and the opinions of the judgment creditor and debtor who are participating during the attachment. If the debtor or judgment creditor objects to the valuation made by the bailiff or if the bailiff has doubts about the value of the property, the bailiff shall assign an examination to establish the value of the property.

2. If the value of the valuated property changes during the enforcement proceeding, by a bailiff's warrant the property may be revaluated pursuant to the procedure established in this Article.

3. A debtor or judgment creditor, who has participated in attaching property, may file objections concerning the valuation of the property no later than within five days, calculating from the day the property was valuated. A debtor or judgment creditor, who has not participated in attaching the property, may file objections concerning the valuation of the property no later than within five days of the day on which he received the property attachment deed.

4. If an expert has established the value of property by the procedure established in this Article, then the property value established by the expert shall be considered the value of the attached property.

### **Article 682. Procedure for assigning an examination during an enforcement proceeding**

1. A bailiff shall assign an examination to establish the value of property by passing a warrant. The warrant must indicate the expert or expert institution, which is being charged with performing the examination. A copy of the warrant shall be sent to the parties to the enforcement proceedings. A party (parties) to the enforcement proceedings no later than within five days of the day, on which he received the bailiff's warrant to assign an examination, may file a challenge against the expert by the procedure established in Article 598 of this Code.

2. If a judgment creditor or debtor files reasoned objections concerning the examination opinion, at their request a bailiff may by his warrant assign an additional or second examination. No appeal shall lie against a bailiff's warrant to refuse to assign an additional or second examination.

3. A debtor or judgment creditor who objects concerning the property value established by a bailiff must, prior to the assignment of an examination, pay into the bailiff's deposit account the amount necessary to pay the experts and expert institutions. If the debtor or judgment creditor files objections concerning the property value established by a bailiff but fails to pay the amounts necessary for the performance of the examination and there are no grounds to release him from the payment of these amounts, a bailiff on his own initiative may assign an examination to establish the value of the property. In this case, the examination shall be paid for from the bailiff's account. The expenses incurred shall be recovered from the debtor by the procedure established in Article 611 of this Code. In the instance established in this paragraph, no appeal shall lie against the bailiff's refusal to assign an examination and it shall be considered that the property has been valuated by the value indicated by the bailiff in the property attachment deed.

4. A debtor or judgment creditor on a reasoned petition may petition a bailiff to defer the payment of the amounts referred to in paragraphs 2 and 3 of this Article and the judgment creditor may petition to be released in full or in part from payment and these amounts shall be paid from the bailiff's funds. Any evidence confirming that it is necessary to defer the payment of these amounts or to be released in full or in part from it shall be annexed to the petition. The bailiff, taking into consideration the property situation of the petitioner, by his warrant may defer the payment of the expenses until the conclusion of the realisation of the property, release him in full or in part from the payment of the amounts necessary for the experts and expert institutions, or dismiss the petition.

5. The expenses referred to in this Article, the payment of which is deferred until the conclusion of the realisation of the property, shall be recovered by the bailiff from the debtor by the procedure established in Article 611 of this Code.

6. An examination shall be performed pursuant to the general rules of this Code taking into consideration the exceptions provided in Part VI of this Code.

### **Article 683. Safekeeping and administration of attached property**

1. A bailiff shall ordinarily leave attached property in the possession of the person, who possessed it was when he attached the property. However, if necessary, a bailiff at any stage of the proceeding may hand the attached property over to the safekeeping of another person as well as to the judgment creditor. These persons shall perform the duties of its keeper. The bailiff shall serve the property attachment deed on the property's keeper. The bailiff may also safeguard the property.

2. In cases concerning the reimbursement of damages created by a criminal act, the debtor or his relatives may be appointed the keepers of the property only in exceptional cases.

3. A person may use property given to him for safekeeping if the use of the features of the property will not thereby cause its destruction or a reduction in its value.

4. A keeper, if he is not debtor or a member of his family, shall receive remuneration for the keeping it. In addition, any necessary expenses actually incurred from the safekeeping of the property shall be reimbursed taking into consideration any benefit obtained from it.

5. Book Four, Chapter XIV of the Civil Code shall establish the rights and duties of the administrator of attached property.

### **Article 684. Safekeeping of valuables seized from a debtor**

A bailiff shall hand over material securities, precious metal (gold, platinum, and silver) bullion and nuggets, semi-finished products and finished articles intended for manufacturing and laboratories, diamonds, jewellery, and other articles made of gold, silver, platinum, metals of the platinum group, precious stones, and pearls, and their scrap seized from a debtor to the safekeeping of a bank that serves the bailiff of the area where the court is located.

### **Article 685. Safekeeping of money seized from a debtor**

A bailiff shall seize from a debtor any amounts of money, found with a debtor and necessary to cover the amount being recovered and the execution expenses, issuing a receipt of the form established in the Judgment Execution Instruction and no later than the next business day pay it into the bailiff's deposit account.

### **Article 686. Lease (use) of attached real property**

1. The attachment of leased real property shall not alter a lease (use agreement) for it. However a bailiff may demand the lease (use agreement) be terminated on the grounds provided in the Civil Code.

2. A bailiff shall be entitled to give a lessee a warrant that the rent due the lessor should be deposited into the bailiff's deposit account. The lessee must execute such a warrant.

3. A bailiff shall be entitled to lease out attached real property that is not being used. Such a lease shall be in force only until the end of the enforcement proceeding, during which the property was attached.

4. An attached property lease concluded without following the procedure established in paragraph 3 of this Article shall not be valid.

### **Article 687. Writing off counter amounts to be recovered**

1. If enforceable instruments concerning the recovery of counter amounts of money of the debtor and the judgment creditor, which are in the same sequence of recovery, a bailiff by his warrant shall perform the mutual writing off of these amounts.

2. If there are several judgment creditors and debtors of the same sequence, a write off is possible only in proportion to the parts of the debt or recovery falling to them.

3. If the grounds provided in paragraph 1 of this Article exist to recover the entire amount by means of mutually writing off the amounts of money, no other compulsory means of execution shall be employed.

4. No writing off is possible when recovering maintenance.

**Article 688. Direction of recovery to amounts of a debtor's money and other property in the possession of other persons or due the debtor from other persons**

1. Recovery can be directed to amounts of a debtor's money and other property in the possession of other persons as well as to amounts of money and other property due the debtor from other persons.

2. The persons referred to in paragraph 1 of this Article at the demand of a bailiff must, within the period established by him, report whether they are in possession of the debtor's money and other property as well as whether they must pay the debtor amounts of money or give him other property; if they must, then on what grounds and within what term.

3. After establishing that other persons are in possession of the debtor's property, a bailiff shall distrain it or draw up a property attachment deed.

**Article 689. Attachment of pecuniary means located in credit institutions and in the possession of other persons**

1. In directing a recovery to pecuniary means, a bailiff shall send a warrant of the form established in the Judgment Execution Instruction to the banks, other credit institutions, or persons to verify whether there are pecuniary means in the debtor's name and to suspend the payment of that amount of the pecuniary means which is necessary to cover the amount to be recovered and the execution expenses.

2. A bank, credit institution, or other persons, from the moment they receive the bailiff's warrant, shall suspend the payment of the debtor's pecuniary means in so far as this is necessary to satisfy the bailiff's demands, immediately informing the bailiff about this. If, within five days of the day the information was sent to the bailiff about the pecuniary means possessed by the debtor, the credit institution or other persons do not receive the warrant referred to in paragraph 4 of this Article to attach the debtor's funds, all the payment restrictions on the means shall be revoked.

3. A bailiff, after establishing that the total amount of the pecuniary means, which have been found and belong to the debtor, are greater than what is necessary to cover the amount to be recovered and the execution expenses must immediately by a warrant revoke the suspension of the payment of any pecuniary means that should not be attached and send this warrant to the appropriate bank or credit institution.

4. A bailiff, after receiving a notice from a credit institution or other person that the demand to suspend the payment of a debtor's pecuniary means has been satisfied, shall within three days send to the bank, credit institution, and the debtor a warrant, which shall be the equivalent of a property attachment deed, to attach the debtor's means and to deposit them in the bailiff's deposit account. The warrant shall indicate:

- 1) the grounds for the attachment of the pecuniary means;
- 2) the name of the credit institution or other person;
- 3) the amount of the pecuniary means attached;
- 4) the bailiff's deposit account information;
- 5) the procedure for appealing the bailiff's actions.

5. If the means in a debtor's bank account are insufficient to satisfy all the demands filed, the means shall be written off pursuant to the enforceable instruments in the following order:

1) firstly shall be written off means to recover for maintenance and demands to reimburse damages done bodily harm, other harm to a person's health, or loss of life;

2) secondly shall be written means to satisfy worker demands arising due to work legal relations.

6. The credit institution or other person shall safeguard the attached pecuniary means until there is a separate bailiff's warrant. On the basis of a bailiff's warrant, a credit institution or other person must transfer the indicated amount of money into the bailiff's deposit account.

#### **Article 690. Establishment of the property belonging to a debtor**

1. If recovery is being directed to real property or other property registered by the established procedure, a bailiff shall establish whether all this property belongs to the debtor, what is the true value of the property, whether the property has been used as collateral to a mortgage institution, whether it has been attached, and what restrictions have been established for it.

2. Prior to beginning to realise the property referred to in paragraph 1 of this Article, written data about the debtor's ownership of the property to be realised and the restrictions placed on this property must be obtained in the enforceable instrument from the appropriate register office.

### **CHAPTER XLIX PROPERTY REALISATION PROCEDURE**

#### **Article 691. Realisation of attached property**

1. The realisation of property shall mean the foreclosure sale of attached property, belonging by right of ownership to the debtor or mortgagor, forced sale through enterprises, which engage in the sale or processing of property, its transfer to the judgment creditor, or its realisation by another procedure established in this Code.

2. A bailiff, state tax inspectorate institutions, public trading intermediaries, or commercial enterprise shall realize attached property by the procedure established by the laws, taking into consideration the grounds for the attachment and the kind of property.

#### **Article 692. Realisation of property transferred to the state**

A bailiff shall give any property, confiscated by a court or to be given to the state, to the state tax inspectorate institution for it to realise, if the laws do not establish otherwise.

#### **Article 693. Consequences of the realisation of attached property**

The realisation of attached property by the procedure established in Part VI of the Code shall revoke all attachments on this property.

#### **Article 694. Ways to realise a debtor's property**

1. Real estate belonging to a debtor and other property registered by the procedure established by laws as well as other moveable property, the value of a unit of which exceeds one hundred thousand litas, shall be realised by foreclosure sale.

2. Any property not referred to in paragraph 1 of this Article may also be realised in other ways by the procedure established in this Code.

#### **Article 695. Right of a judgment creditor to select the manner of realising property**

1. If property can be realised in several ways pursuant to this Code, the right of selecting the manner of realising the property shall belong to the judgment creditor.

2. If a judgment creditor within the term established by a bailiff fails to report the manner he selected for realising the property, a bailiff shall establish it by his warrant. No appeal may lie against this bailiff's warrant.

**Article 696. Procedure for the realisation of precious metals and stones**

Precious metal (gold, platinum, and silver) bullion, nuggets, semi-finished and finished articles intended for manufacturing and laboratories, precious stones, jewellery, and other articles made of gold, silver, platinum, and metals of the platinum group and their scrap shall be realised through commercial enterprises, which engage in the sale of this property.

**Article 697. Realisation of animals, products, and other property that is highly perishable or quickly loses its commercial value**

1. Attached products and other property, which is highly perishable or able to quickly lose its commercial value, shall be seized immediately and given to a commercial enterprise to realise. If there is no possibility of realising this property through a commercial enterprise, it can be sold in another manner established in a bailiff's warrant.

2. The amounts, which are received by the enterprise that sold the debtor's property given to it, after deducting the realisation expenses, shall be transferred into the bailiff's deposit account within three days of the day it was sold.

3. Livestock and poultry as well as other animals, if the debtor or person to whom they are given for safekeeping is unable or refuses to take care of them, shall be realised by a bailiff's warrant for the highest possible price.

**Article 698. Notice about the realisation of property having historical, scientific, or artistic value**

A bailiff shall inform the Ministry of Culture in writing about the attachment and realisation of any property having historical, scientific, or artistic value.

**Article 699. Procedure for the realisation of property, which has been removed from civilian circulation or the civilian circulation of which is restricted**

Any property, which has been taken out of civilian circulation or the civilian circulation of which is restricted, shall be sold by the procedure established by legal acts.

**Article 700. Legal significance of foreclosure sale of property, transfer of property to a judgment creditor without foreclosure, and the sale of property by a debtor to a proposed buyer**

The foreclosure sale of property, the transfer of property to a judgment creditor without foreclosure, and the sale of property by a debtor to a proposed buyer by the procedure established in Part VI of this Code is a special procedural form for the realisation of property.

**Article 701. Sequence for the transfer of property not sold at auction to judgment creditors if several judgment creditors participate in the recovery proceeding**

1. If several judgment creditors participate in carrying out a recovery, any property not sold at auction shall first of all be offered to the primary judgment creditors established in Article 754 of this Code, pursuant to the principle of proportion and the sequence.

2. If the primary judgment creditors refuse to take the property, it shall be offered to the judgment creditors next in line, pursuant to the principle of proportion and the sequence.

**Article 702. Deed for transferring property to a judgment creditor**

1. Property shall be transferred to a judgment creditor, who has expressed a desire to take the property in kind, by drawing up a deed of the form established in the Judgment Execution Instruction. This deed together with the enforcement proceedings shall be given to a judge to approve.

2. If there are other judgment creditors, the property shall be transferred to a judgment creditor, who has expressed a desire to take the property in kind, only after he has paid the bailiff the difference between the initial price of the property to be sold and the amount of the means falling to him.

3. A judge shall approve the deed by the procedure established in Article 725 of this Code.

#### **Article 703. Right of a bailiff to cancel an auction**

1. If circumstances causing doubts concerning the legality of a future auction are revealed prior to the beginning of the auction, a bailiff by his warrant may cancel the auction. In this case the auction participant fee shall be refunded any persons who paid it.

2. A repeated auction shall be published by the same procedure as the earlier auction, which was cancelled.

#### **Article 704. Right of a debtor prior to an auction to suggest a buyer for the property to be exposed to foreclosure sale**

1. A debtor prior to the beginning of an auction may himself or charge other persons to find a buyer for the property to be exposed to foreclosure sale.

2. If an amount of money no less than the property's realisation value shown in the property attachment deed or a smaller amount, which is sufficient to cover in full the debt and execution expenses is paid into the bailiff's deposit account prior to the beginning of the auction, the foreclosure sale of the property shall be cancelled. In this case, the attachment of the property shall be revoked and the property shall be returned to the debtor.

3. Attached property shall be sold to a buyer proposed by the debtor by drawing up a deed of the form established in the Judgment Execution Instruction. This deed together with the enforcement proceedings shall be given to a judge to approve.

4. A judge shall approve the deed by the procedure established in Article 725 of this Code.

#### **Article 705. Information on the Internet about an auction**

All property to be sold at auction shall be publicly placed on a special website on the Internet by the procedure established in Article 706 of this Code.

#### **Article 706. Announcement of a future auction**

1. If real property, other property registered by the procedure established by the laws, and moveable property, the value of a unit of which exceeds one hundred thousand litas, which belongs to the debtor, is to be exposed to foreclosure sale, a bailiff shall publish the future auction on the notice board of the bailiff's office, in the local newspaper of the location of the property, and on a special Internet website no later than when one month remains until the day of the auction. In any other cases, a bailiff shall publish a future auction by the same procedure no later than when twenty days remain until the day of the auction.

2. When real property is to be sold, if possible, the notice shall also be posted on the real property itself.

3. A bailiff shall report the time and place of the foreclosure sale of the property to the judgment creditor and debtor in person with signature confirmation or by registered letter.

4. A debtor and judgment creditor may take measures so that as many buyers as possible learn about the property to be exposed to foreclosure sale.

**Article 707. Content of an announcement about property to be exposed to foreclosure sale**

An announcement about an auction shall indicate:

- 1) the name and surname of the owner of the property (name of the legal person);
- 2) the name, surname, location, and contact telephone, where it is possible to enquire about inspecting the property, of the bailiff selling it at auction;
- 3) the location and a brief description of the property;
- 4) the time and place of the auction;
- 5) the size of the monetary contribution of an auction participant;
- 6) the initial selling price;
- 7) any restrictions on the ownership of the property;
- 8) an announcement about the fact that all interested persons who have rights to the property to be sold, prior to the auction should submit to the bailiff any documents confirming their rights.

**Article 708. Right to inspect property to be exposed to foreclosure sale**

Prior to the beginning of an auction, all persons who so wish may, by the procedure established by the bailiff, inspect property to be exposed to foreclosure sale.

**Article 709. Persons not entitled to participate in auctions**

Judges, bailiffs, bailiff office employees, and the close relatives of the persons enumerated in this Article shall not be entitled to participate in auctions.

**Article 710. Conditions for participation in an auction**

1. Any persons wishing to participate in an auction must prior to the beginning of the auction sign a statement that none of the obstacles provided in Article 709 of this Code for their participation in the auction exist and must deposit in the bailiff's deposit account or pay pursuant to the bailiff's receipt the auction participant fee, which shall consist ten percent of the initial price of the property to be sold.

2. The auction participant fee paid by the person who bought the property at auction shall be included in the purchase price.

3. After the conclusion of the auction or if the auction is declared to be void, the auction participant fee shall be refunded within three days to any person who paid it except in cases where the buyer of the property within the established term fails to pay the entire amount or it is revealed that he is not entitled to participate in the auction.

**Article 711. Use of the auction participant fee in those cases when the buyer of the property within the established term fails to pay the entire amount or it is revealed that he is not entitled to participate in the auction**

1. In those cases where the buyer of the property within the established term fails to pay the entire amount or it is revealed that he is not entitled to participate in the auction, the auction participant fee shall go towards covering the debtor's debt and any execution expenses that arose prior to auction pursuant to the principle of proportionality.

2. If a buyer, who knew he was not entitled to participate in the auction, paid the entire price for the property purchased, the amount of money paid shall be used to cover the debts and the property shall pass to the ownership of the state.

**Article 712. Written participation in auctions**

1. A person may participate in writing in an auction while following the other auction participation conditions referred to in this Code with the exceptions referred to in this Article.

2. A person participating in writing in auctions must pay the participant fee prior to the beginning of the auction, sign a statement that the obstacles for participating in the auction that are provided in Article 709 of this Code do not exist, and submit his bid, at the same time indicating his name, surname, personal number, and address (legal person's name, code, and registered office, or address) to the bailiff in a sealed envelope. Any envelopes, which contain bids submitted by persons participating in the auction in writing, shall be registered by the procedure established by the Judgment Execution Instruction. After the auction begins, the bailiff shall publicly open the envelope and announce the buyer's name, surname (legal person's name), and the purchase price he has bid. If the price submitted in writing meets the requirements referred to in Article 713, paragraph 4 of this Code, it shall be considered the initial price of the property to be sold at auction.

3. If other auction participants do not bid a higher price, the person who submitted the written bid shall be declared the winner of the auction.

4. If several persons, who are participating in the auction in writing, bid the same price, the buyer registered first shall have the right of pre-emption to the property being sold.

### **Article 713. General procedure for conducting an auction**

1. An auction shall be carried out at the place and time indicated in the announcement. The bailiff, prior to beginning the auction, by a written warrant may no longer than three hours defer the beginning of an auction.

2. A bailiff shall conduct an auction.

3. When beginning an auction, the bailiff shall announce the initial price of the property to be sold and ask, "Who bids more?" The bailiff shall orally announce the prices bid by the buyers. If no one bids a higher price, the bailiff shall ask three times, "Who bids more?" If no one bids a higher price after the third announcement, the bailiff shall announce that the property has been sold.

4. When selling property at auction, the increase in the initial price must consist of no less than five percent of the initial selling price of the property if the initial price of the property being sold is up to fifty thousand litas, by no less than four percent if the initial price of the property being sold is over fifty thousand litas, and by no less than three percent, if the initial price of the property being sold exceeds one hundred thousand litas.

5. The property shall be considered to have been sold to the person who bid the highest price at the auction.

6. Prior to the conclusion of the auction, a bailiff shall orally explain to all the persons participating in the auction the procedure for appealing the actions of a bailiff that are established in Part V, Chapter XXXI of this Code.

### **Article 714. Auction minutes**

1. Auction minutes shall be taken during an auction.

2. A clerk appointed by the bailiff or another bailiff shall take the minutes.

3. The entire course of the auction shall be shown in the minutes. Besides the data about the course of the auction, the minutes shall indicate the place and time of the auction, when the auction began and ended, the name and surname of the bailiff, in which enforcement proceedings the property was sold, who registered to participate in the auction, who participated in the auction, what was the initial price of the property being sold, who bid a higher price, and to whom the property was sold. If someone was not allowed to participate in the auction, the reason for not allowing him to do so, which was indicated by the bailiff, must be noted in the minutes. Any comments expressed by the persons participating in the auction must also be noted in the minutes.

4. The minutes must be signed by the bailiff who conducted the auction, the person who took the minutes, and the person who bought the property at the auction (if he participated during the auction). The judgment creditor, debtor, and other auction participants may sign the minutes.

**Article 715. Right of a debtor to indicate which property shall be sold first at an auction**

A debtor participating in an auction shall be entitled to indicate which of the objects to be sold at auction should be sold first. The bailiff must comply with this instruction from the debtor.

**Article 716. Procedure for the payment of money after buying property at an auction**

1. A buyer must pay the entire amount for an object purchased at an auction with five days of the end of the auction.

2. At the request of the buyer, a bailiff by his warrant may extend the term for the payment of the entire amount up to one month.

**Article 717. Declaration of an auction to be void**

A bailiff by his warrant may declare an auction to be void:

- 1) if not one buyer participated in the auction or only one buyer participated;
- 2) if the price bid at the auction does not meet the conditions established in Article 713, paragraph 4 of this Code;
- 3) if the buyer fails to pay the entire amount for the property bought at the auction within the term established;
- 4) if prior to a judge confirming the auction memorandum of sale, it is revealed that the buyer was not entitled to participate in the auction (Article 709 of this Code);
- 5) if a judge refuses to confirm, due to a violation of the laws, the memorandum of sale at auction for the property.

**Article 718. Initial price of property to be sold at an auction organised for the first time**

The initial price established for property to be sold at the first auction shall consist of eighty percent of the price of the property established by the procedure provided in Article 681 of this Code.

**Article 719. Consequences of a failure to sell property at the original auction**

1. If an auction is declared to be void because only one buyer participated in it, no buyers participated in it, or the price was not raised at the auction as provided in Article 713, paragraph 4 of this Code (Article 717, paragraphs 1 and 2 of this Code), the property shall be transferred to the judgment creditor for the initial price for the sale of the property at the auction.

2. If an auction is declared to be void because a buyer failed to pay the entire amount for the property bought at the auction within the established term, it was revealed that the buyer was not entitled to participate in the auction, or the judge refused to confirm the memorandum of sale at auction for the property due to a violation of the laws (Article 717, paragraphs 3, 4, and 5 of this Code), the property shall be transferred to the judgment creditor for the price, for which it was bought at the auction that was declared to be void.

3. After an auction has been declared to be void, the bailiff shall offer the judgment creditor in writing the property not sold at auction under the conditions referred to in Article 720, paragraph 1 of this Code and shall establish a term, within which the judgment creditor must inform the bailiff in writing about his consent to take the property.

**Article 720. Consent of a judgment creditor to take property not sold at auction**

1. After expressing his consent to take the property, the judgment creditor must within five days pay into the bailiff's deposit account the difference between the price of the property being transferred and the amount of the means falling to his share, calculated for each judgment creditor pursuant to the sequence established for satisfying the demands.

2. At the request of the judgment creditor, a bailiff by his warrant may extend the term for the payment of the entire amount up to one month.

**Article 721. Consequences of the refusal of a judgment creditor to take property not sold at the first auction**

1. If a judgment creditor refuses to take the property being transferred to him by the procedure established in Article 719, paragraph 1 of this Code, fails to report within the term established by the bailiff his consent to take the property being transferred, or fails to pay within the established term the difference between the initial price of the property to be sold and the means falling to his share, the bailiff shall announce a second auction no later than one month after the declaration of the auction to be void.

2. If a judgment creditor refuses to take the property being transferred to him by the procedure established in Article 719, paragraph 2 of this Code, fails to report within the term established by the bailiff his consent to take the property being transferred to him, or fails within the established term to pay the difference between the initial price of the property to be sold and the means falling to his share, the bailiff shall announce a repeat auction no later than after one month after the declaration of the auction to be void.

3. A repeat auction shall take place under the same conditions as the previous auction, which was declared to be void.

**Article 722. Second auctions**

1. A second auction shall take place under the same conditions and procedure as the first auction with the exception that the initial price established for the property to be sold at the second auction shall consist of sixty percent of the price of the property established by the procedure established in Article 681 of this Code.

2. If a second auction is declared to be void on the grounds provided in Article 717, paragraphs 1 and 2 of this Code, the bailiff shall offer the judgment creditor the unsold property for the initial price of the property to be sold, which price was announced in the nullified second auction, pursuant to the conditions established in Article 720, paragraph 1 of this Code. If a judgment creditor refuses to take the unsold property, the consequences provided in Article 723 of this Code shall be applicable.

3. If a second auction is declared to be void on the grounds provided in Article 717, paragraphs 3, 4, and 5 of this Code, the bailiff shall offer the judgment creditor the unsold property for the price, for which the property was bought at the nullified auction, pursuant to the conditions established in Article 720, paragraph 1 of this Code.

4. If a judgment creditor refuses to accept the property under the conditions provided in paragraph 3 of this Article, a repeat auction shall be announced. This shall take place under the same conditions as the auction, which was declared to be void.

**Article 723. Consequences of the refusal of a judgment creditor to take property not sold at a second auction**

1. If a judgment creditor refuses to take the property being transferred to him by the procedure established in Article 722, paragraph 2 of this Code, fails to report within the term established by the bailiff his consent to take the property being transferred, or within the established term fails to pay the difference between the initial price of the property to be sold and the means falling to his share, the property shall be returned to the debtor.

2. In returning the property to the debtor, the bailiff shall revoke the attachment of the property by his warrant. If the property has been attached pursuant to a court ruling, the bailiff by his warrant shall propose that the court, by the ruling of which the property was attached, decide the question of the revocation of the attachment of the property.

3. A second recovery may be directed to the same property pursuant to the same enforceable instruments when no less than one year has passed since the property has been returned to the debtor.

4. After property that failed to be sold at auction is returned to a debtor, recovery can be directed by general procedure to other property belonging to the debtor.

**Article 724. Memorandum of sale at auction for the property**

1. A bailiff shall draw up a memorandum of sale at auction for the sale of each object at auction. This memorandum shall indicate:

- 1) who carried out the auction when and where;
- 2) the name of the property sold, the property's unique number, if it has one, and a description of the property;
- 3) the buyer's precise name, surname, personal number, and address; if he is a legal person, its name, code, and registered office (address); and the amount paid for the property bought.

2. The bailiff and buyer shall sign the memorandum.

3. The minutes of the auction and the notice about the auction shall be annexed to the memorandum.

4. When a buyer pays the entire amount, for which he bought the property, the bailiff no later than the next business day shall submit the memorandum of sale at auction for the property to the judge of the district court, in the territory of the activities of which the bailiff is located.

**Article 725. Procedure for confirming an auction memorandum of sale**

1. A judge shall confirm by a resolution a memorandum of sale at auction for the property when no less than twenty days have passed since the day of the auction.

2. If an appeal is lodged concerning the actions of the bailiffs in connection with an auction or if a judge has doubts about the legality of an auction, the question of the confirmation of the memorandum of sale at auction for the property shall be heard in a court hearing. Any appeals concerning the actions of a bailiff in selling the property at auction shall be heard at the same hearing. The question of confirming the auction memorandum of sale and appeals concerning the actions of a bailiff shall be decided by the same court ruling.

3. The place and time of the hearing shall be reported to the bailiff, judgment creditor, debtor, person who bought the property at auction, and any persons who lodged appeals but their absence shall not prevent the hearing of the case.

4. A judge, after establishing significant violations committed in selling the property at auction, by a ruling shall refuse to confirm the auction memorandum of sale and shall declare the auction to be void.

5. A copy of the ruling, by which the question of confirming the auction memorandum of sale was decided, shall be sent to any persons absent from the hearing. A separate appeal may be lodged concerning this ruling.

6. After a ruling, by which the auction memorandum of sale was confirmed, becomes *res judicata*, it shall be considered that the property was sold.

7. After a ruling, by which the confirmation of an auction memorandum of sale was refused, becomes *res judicata*, the amount paid shall be returned to the buyer and, by the procedure established by this Code, the property shall be transferred to the judgment creditor or a repeat auction shall be announced. The amount paid shall not be refunded in the cases provided in Article 711, paragraph 2 of this Code.

8. The memorandum of sale at auction for the property, which has been confirmed by a resolution or ruling of a judge, shall be a document confirming the right of ownership.

**Article 726. Sale of property through a commercial enterprise**

1. When the property established in Article 694 of this Code is transferred to be realised through a commercial enterprise on a commission basis, the initial price of the property to be realised shall be established as eighty percent of the price of this property established by the procedure referred in Article 681.

2. The amounts, which are received by the enterprise, which sold the debtor's property transferred to it, after its commission has been deducted, shall be transferred into the bailiff's deposit account within three days of the day of its sale.

**Article 727. Realisation of property not sold through a commercial enterprise**

1. A judgment creditor may take the debtor's property, which has not been sold within one month of the day of its transfer to a commercial organisation, for its sales price. If the judgment creditor refuses this property, it shall be revalued.

2. A bailiff shall revalue property by a warrant. A representative of the commercial organisation shall participate in revaluing the property. The time and place of the revaluation shall be reported five days in advance in writing to the judgment creditor and the debtor but their absence shall not prevent the revaluation from being performed. In this case, a copy of the warrant shall be sent to the judgment creditor and the debtor.

3. The price for the sale of the revalued property shall be established at twenty percent less than the initial sales price.

4. If there are several judgment creditors, the unsold property shall be transferred to them pursuant to the sequence established in Article 701 of this Code.

5. If the property fails to be sold within two months of the day of its revaluation, the judgment creditor shall be entitled to take this property for the price established in paragraph 3 of this Article. If a judgment creditor refuses to accept the property, it shall be returned to the debtor.

6. In returning the property to the debtor, the bailiff shall revoke the attachment of the property by his warrant. If the property has been attached pursuant to a court ruling, the bailiff by his warrant shall propose that the court, by the ruling of which the property was attached, decide the question of the revocation of the attachment of the property.

7. A second recovery may be directed to the same property pursuant to the same enforceable instruments when no less than one year has passed since the property was returned to the debtor.

8. After property that failed to be sold through a commercial enterprise is returned to a debtor, recovery can be directed by general procedure to other property belonging to the debtor.