

## 1 Existence of an order for payment procedure

Applications for a European Order for Payment are examined in accordance with the rules set out in Chapter XXIII of the Code of Civil Procedure of the Republic of Lithuania (*Lietuvos Respublikos civilinio proceso kodeksas*), subject to the exceptions provided for therein.

### 1.1 Scope of procedure

#### 1.1.1 What types of claims are eligible (e.g. only pecuniary claims, only contractual claims etc.)?

The procedure set out in Chapter XXIII of the Code of Civil Procedure of the Republic of Lithuania is applied to cases involving a creditor's application relating to monetary claims (arising from a contract, tort, employment relations, the award of maintenance, etc.).

#### 1.1.2 Is there an upper limit regarding the value of the claim?

No.

#### 1.1.3 Is the use of that procedure optional or obligatory?

Cases heard in accordance with Chapter XXIII of the Code of Civil Procedure may also be heard in contentious or documentary proceedings according to the creditor's choice.

#### 1.1.4 Is the procedure available if the defendant lives in another Member State or in a third country?

In accordance with Chapter XXIII of the Code of Civil Procedure, applications are not considered if the debtor lives or has its registered office abroad. If a case has been initiated on the basis of a creditor's claim and it transpires, after a court order has been issued, that the debtor's place of residence or place of work is unknown, the court will revoke the court order and the creditor's application will remain unsettled. Such a court ruling may not be contested by filing a separate appeal. In these circumstances, the court may revoke the court order and leave the creditor's application unsettled only if the court had previously set a time-limit for the creditor to clarify the debtor's place of residence or place of work or to take action enabling the court to serve procedural documents by other means.

### 1.2 Competent court

Cases based on applications for a court order are heard by district courts according to the place of residence.

### 1.3 Formal requirements

Apart from the general requirements laid down for the content and form of procedural documents, an application for a court order must specify:

- the name, surname, personal identification code and address of the creditor or, where the creditor is a legal entity, the full name, registered office, identification code and current account number of the creditor, details of the relevant credit institution and, if the application is filed by a representative, the name and address of the creditor's representative;
- the name, surname, personal identification number (if known), address and place of work (if known) of the debtor and, where the debtor is a legal entity, the full name, registered office, identification code and current account number (if known) of the debtor and details of the relevant credit institution (if known);
- the claim amount;
- when a claim concerns the award of interest or a late payment penalty, the rate, amount and calculation period of the interest or the late payment penalty;
- the claim, its factual basis and supporting evidence;
- a reasoned request for the application of interim measures to the debtor where there are grounds for such action and information is available on the debtor's assets;
- confirmation that there are no grounds as specified in Article 431(2) of the Code of Civil Procedure of the Republic of Lithuania (when the court order is issued, the obligation (or part of the obligation) incumbent on the creditor for which payment is claimed has not been performed and the debtor requires that it be performed; some of the obligation cannot be performed and the creditor requires that part of it be performed; the debtor lives or has its registered office abroad; the debtor's place of residence and place of work are unknown).
- a list of the documents annexed to the application.

An application for the award of maintenance must also contain the date and place of birth of the debtor, the date of birth and place of residence of the beneficiary (if the application is filed by a person other than the beneficiary himself/herself), the requested amount of monthly maintenance and the period for which payment is sought.

#### 1.3.1 Is the use of a standardised form obligatory? (if yes, where can that form be obtained?)

It is recommended that the standard form approved by the Minister of Justice be used.

A template of the court order application form is provided at the Electronic Services Portal of Lithuanian Courts

<https://e.teismas.lt/lt/public/documentstemplates/>

#### 1.3.2 Is representation by a lawyer required?

No.

#### 1.3.3 In how much detail do I have to describe the reason for the claim?

This is not regulated.

#### 1.3.4 Is it necessary to present written evidence of the claim at issue? If yes, which documents are admissible as proof?

An application for a court order does not have to be accompanied by any evidence.

### 1.4 Rejection of application

The court will reject an application for a court order in the following cases:

- in the circumstances specified in Article 137(2) of the Code of Civil Procedure of the Republic of Lithuania (the dispute should not be subject to civil proceedings before a court; the claim does not fall within the jurisdiction of the particular court; the person who has applied to the court has failed to comply with the prior extra-judicial adjudication procedure established by law for that particular category of cases; an effective court or arbitration judgment has been issued on a dispute between the same parties involving the same subject matter and based on the same grounds or there is an effective court ruling admitting the plaintiff's waiver of the claim or approving the parties' reconciliation agreement; there is a case pending before the court relating to a dispute

between the same parties involving the same subject matter and based on the same grounds; the parties have concluded an agreement to refer the dispute to an arbitration court; the application has been filed on behalf of a person with legal incapacity; the application has been filed on behalf of the interested party by a person not authorised to conduct the case);

- the application does not meet the admissibility requirements set forth in Article 431(1) and (2) of the Code of Civil Procedure of the Republic of Lithuania or is clearly not justified.

#### **1.5 Appeal**

A ruling refusing to admit an application may be contested by filing a separate appeal.

#### **1.6 Statement of opposition**

The debtor may file a statement of opposition to the creditor's application or part of it to the court that has issued the court order. If the debtor has fulfilled part of the creditor's claim or acknowledges part of the claim but has nevertheless not fulfilled it, he may oppose the validity of the remaining part of the creditor's claim.

The debtor's statement of opposition to the creditor's application must be filed in writing within twenty days of the court order being served on the debtor. Statements of opposition must meet the general requirements laid down for the content and form of procedural documents, except for the requirement to indicate the grounds of the opposition. If, for compelling reasons, the debtor has filed a statement of opposition after the specified time-limit has expired, the court may restore the time-limit at the debtor's request. A ruling rejecting such a request by the debtor may be contested by filing a separate appeal.

#### **1.7 Effect of statement of opposition**

When the court receives a debtor's statement of opposition, it must notify the creditor not later than within three working days that the creditor may file a claim in accordance with the general rules governing contentious proceedings (including the jurisdiction rules) and pay the extra share of the court fee not later than within fourteen days of receiving the court notification. Any interim measures applied by the court may not be lifted before the time-limit for lodging the claim expires.

If the debtor fulfils part of the creditor's claims as ordered by the court or acknowledges part of the claim but nevertheless does not fulfil it and opposes only the remaining part of the creditor's claim, the court will issue a new order granting the claim to the extent not opposed by the debtor in accordance with the rules of the relevant Chapter. If the debtor opposes the court order only to the extent relating to the award of procedural costs, the court will decide on the matter of compensation for those costs by means of a ruling. The creditor may file an action for the unsatisfied part of his claims in accordance with the procedure set out in the relevant Article.

#### **1.8 Effect of lack of statement of opposition**

If the creditor fails to file a duly drawn-up claim to the court within fourteen days, the creditor's application will be deemed not to have been filed and will be returned to the creditor by means of a court ruling, and the court order and any interim measures which have been applied will be revoked. This ruling may be contested by filing a separate appeal, although this does not prevent the creditor from filing a claim in accordance with the general procedure.

##### **1.8.1 What needs to be done in order to obtain an enforceable decision?**

A court order comes into effect if the debtor does not file any opposition to the creditor's application within twenty days. A court order may not be implemented as a matter of urgency.

##### **1.8.2 Is this decision final or is there still a possibility for the defendant to appeal against that decision?**

A court order may not be contested by means of appeal or cassation proceedings.

Last update: 21/10/2019

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