

**UNIFIED ENFORCEMENT OF COURT DECISIONS IN THE  
UNIFIED SPACE OF JUSTICE OF THE EUROPEAN UNION:  
EUROPEAN EXECUTIVE LETTER, EUROPEAN PAYMENT  
ORDER, EUROPEAN PROCEDURE FOR SMALL VALUE CLAIMS**

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**VIENINGAS TEISMŲ SPRENDIMŲ VYKDYMAS VIENINGOJE  
EUROPOS SĄJUNGOS TEISINGUMO ERDVĖJE: EUROPOS  
VYKDOMASIS RAŠTAS, EUROPOS MOKĖJIMO ĮSAKYMAS,  
EUROPOS IEŠKINIŲ DĖL NEDIDELIŲ SUMŲ PROCEDŪRA**

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**THE SUMMARY (THESES)**

Litigation is, obviously, unpleasant; however, it is, in principle, the only means to defend one's rights and interests and legitimately regain one's debt. If you have a promissory note, it can be that you will be able to avoid the court: you can simply contact the notary to make an enforcement clause in the non-paid promissory note and submit it to the bailiff for enforcement. Even if the debtor who does not settle under the promissory note departs abroad, you can ask to issue a certificate of the European Enforcement Order, which you will be able to submit for enforcement in any member state of the European Union (except for Denmark) under the procedure laid down by Regulation (EC) No. 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims.

In order to protect your interests, even before signing business contracts, consideration should be given to potential cases of non-performance and breach and most favourable terms and conditions for dispute resolution should be negotiated. Nobody would disagree that litigation, if negotiations on contract disputes or debt recovery from foreign business partners fail, is easier in national courts. If the contract does not have a special provision that disputes relating to the contract

should be settled in Lithuanian courts, a general rule is normally applied: a claim should be filed to the court of the place of residence or domicile of the debtor and this means that in case your business partner is a German or British company, you will have to claim the debt recovery through courts of these states according to their national law, which, certainly, is not easy.

In order to facilitate the solution in such situations and ensure an effective enforcement of court judgments and the mechanism of debt recovery in the entire Europe, since 12 December 2008, the European Union suggests making use of two new legal instruments, which remarkably facilitate both litigation in courts of other member states of the European Union and the enforcement of Lithuanian court judgments in other EU member states; they also supplement a well known, but not so speedy procedure of the recognition of Lithuanian court judgments abroad and the procedure of a European Enforcement Order, which, unfortunately, can be applied not to all court judgments, but only in the cases when the debt has not been disputed by the debtor before the court. The new procedures are:

- the European order for payment procedure, which came into effect from 12 December 2008; and
- the European Small Claims Procedure (less than 2,000 euros, i.e. 6,905.60 litas), which is valid from 1 January 2009.

The instruments of the European Union can be used both in Lithuanian courts and in the courts of any other member state of the European Union, if your place of residence or domicile and that of your debtor differ, that is, if you are in Lithuania and your debtor is, for example, in Spain. You only have to complete the standard forms attached to the EU legal acts defining these procedures (Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure or Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure) and apply to the court. If your application is reasoned and satisfies the requirements of the regulations of the European Union, the court will issue a standard-form European order for payment procedure or would pass a decision under the European small claims procedure

and will issue a relevant certificate. For example, for the issuance of the European order for payment procedure, a stamp duty is charged; the amount of the stamp duty is equal to 1A of the fee that you would have to pay for the hearing of your claim under the litigation procedure before the court. In any case the stamp duty cannot be less than 10 litas. Thus, this procedure is not only convenient, but also cheaper compared to the customary litigation.

Mention should also be made of the fact that in case the court refuses to issue the European order for payment procedure or hear the claim under the European small claims procedure, you will have the right to use the usual procedure and file a claim to the court according to the Lithuanian or specific national foreign law. In this case, if the decision passed by the court has to be enforced abroad, you will be able to use the European enforcement order procedure (in case the debtor does not dispute the claim) or apply for the recognition and enforcement of this decision of the Lithuanian court abroad.

The EU law offers quite many instruments facilitating the enforcement of court judgments and decisions in other member states of the European Union and to recover debts from debtors abroad. It is only important to make use of these instruments in a proper manner and to choose the instrument suitable for your specific situation from the very beginning in order to save money and time, as well as in order to avoid the situations when the debtor, after finding out that you have made recourse to judicial remedies, conceals the assets. Even if your litigation takes place before Lithuanian courts, the regulations of the European Union (Brussels I and Brussels Ubis regulations) envisage an opportunity to impose interim measures on the debtor's assets abroad, which would later be used for the recovery of the debt, if the court passes the decision or issues the European order for payment procedure.

The instruments described before can be submitted for enforcement in any other member state of the European Union where the debtor resides or his or her assets are located without any intermediary procedures, that is enforcement takes place without the exequatur procedure. However, it should be borne in mind that the very enforcement in each member state takes place in accordance with the national law of the relevant state. In addition, you should not forget that Lithuanian bailiffs cannot recover debts when a cross-border element is involved, that is, if

your debtor is abroad or if he or she is in Lithuania but has no assets here, although has a significant amount of money in a bank account abroad, Lithuanian bailiffs, unfortunately, would not be able to help you much. You will have to apply to bailiffs or other enforcement officials abroad. It is here where most of the problems are faced: court judgments are recognised between member states of the European Union, opportunities to refuse enforcing the judgment given by a court of another member state have been minimised, nevertheless, when it comes to enforcement proceedings, they have been left for the exclusive national regulation of each individual member state and the enforcement regulations in the 27 member states of the European Union differ to a great extent.