

Chapter 68

The Republic of Lithuania

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INTERNATIONAL CONTRACT MANUAL

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§ 68:1 Preface

The Republic of Lithuania is the largest of the three Baltic States with a territory of 65,300 sq. km (around 25,200 sq. miles). The country is situated on the Eastern coast of the Baltic Sea. To the north, the Republic of Lithuania borders

Latvia; to the east and the south, Belarus; and to the southwest, it has common borders with Poland and the Kaliningrad Region of the Russian Federation.

The population of the Republic of Lithuania is 2.9 million.¹ The official language of the country is Lithuanian. The main religion is Roman Catholicism. Ethnic Lithuanians constitute approximately 83.45% of the total population. The capital is Vilnius, which is also the largest city in the Republic of Lithuania, with a population of 635,812.² The other major cities are Kaunas, Siauliai, and Klaipeda.

Following a 90% positive vote in a referendum, the Republic of Lithuania joined the European Union on May 1, 2004, and adopted the euro (€) on January 1, 2015.³

§ 68:2 Preface—State structure

The government system in the Republic of Lithuania is a parliamentary democracy. The state structure is based on the Constitution of the Republic of Lithuania, adopted by referendum held on October 12, 1992, with later numerous amendments. The parliament, the president, the government, and the courts exercise the state's power.

Legislative power lies with the unicameral parliament (Seimas), which consists of 141 members elected for a four-year period¹ Most state competencies and responsibilities are in the hands of the government,² considered to be the highest

[Section 68:1]

¹Sorainen Law Offices authored the prior version of this Chapter.

As of January 1, 2015. Cited from Population, sex and age group, 2015 provisional data, Statistics the Republic of Lithuania: <http://osp.stat.gov.lt/en/statistiniu-rodikliu-analize?portletFormName=visualization&hash=40af85b4-6ef4-4b31-b852-a619c4b99714>.

²As of January 1, 2015. Cited from Population, sex and age group, 2015 provisional data, Statistics the Republic of Lithuania: <http://osp.stat.gov.lt/en/statistiniu-rodikliu-analize?portletFormName=visualization&hash=40af85b4-6ef4-4b31-b852-a619c4b99714>.

³http://ec.europa.eu/economy_finance/euro/countries/lithuania_en.htm.

[Section 68:2]

¹Constitution of the Republic of the Republic of Lithuania, Chapter 5, hereinafter cited from: <http://www3.lrs.lt/home/Konstitucija/Konstitucija.htm>.

²Constitution of the Republic of the Republic of Lithuania, Chapter 7.

executive authority. The state government is divided into 19 ministries, headed by the prime minister.³

The administrative division of the Republic of Lithuania is made up of 10 districts (Apskritis). The districts comprise 17 urban and 43 rural municipalities (Savivaldybes). The representative body of a municipality is the municipality council (Savivaldybes Taryba), elected for a period of four years.⁴

§ 68:3 Preface—Courts, arbitration courts

Lithuanian courts are organized in a four-level, three-instance court system, which consists of (1) local courts, district courts and Vilnius District Court, (2) the Court of Appeal and (3) the Lithuanian Supreme Court.¹

Non-criminal cases are divided into civil and administrative disputes. The latter are defined in the Code of Administrative offences² and are dealt with within the administrative courts system, which consists of district administrative courts, regional administrative courts, and the Supreme Administrative Court of the Republic of Lithuania.³

The Constitutional Court of the Republic of Lithuania⁴ is not a part of the court system, but is an independent judicial body. Its mission is to “ensure the supremacy of the Constitution within the legal system as well as constitutional justice by deciding whether the laws and other legal acts adopted by the Seimas are in conformity with the Constitution, and whether the acts adopted by the President of the Republic or the

³Law on the Government, dated May 19, 1994, as amended, Art.1, cited here from: <http://www.litlex.lt/litlex/Eng/Frames/Laws/Documents/172.HTM>.

⁴Constitution of the Republic of the Republic of Lithuania, Chapter 10.

[Section 68:3]

¹Law on Courts, dated May 31, 1994, as amended, hereinafter cited from: <http://www.teismai.lt/en/courts/legal-acts/655>.

²The Code of the Republic of Lithuania of Administrative Offences dated September 19, 2006, as amended, cited from: http://www.infolex.lt/portal/start__ta.asp?act=doc&fr=pop&doc=103787&title=LR%20administracini%20teis%20pa%20FEidim%20kodeksas.

³Law on Courts, dated May 31, 1994, as amended, Chapter 4.

⁴Law on the Constitutional Court of the Republic of Lithuania, dated February 3, 1993, as amended, hereinafter cited from: <http://www.lrkt.lt/en/about-the-court/legal-information/the-law-on-the-constitutional-court/193>.

Government are in compliance with the Constitution and laws.”⁵

Most cases cannot be resolved in a single court hearing. Trying a case in a court of first instance may take several months, starting from the date of the receipt of the application by the court. Receipt of a final judgment on the average may last up to two years.

Proceedings in civil courts of general jurisdiction are currently governed by the Civil Procedure Code of the Republic of Lithuania (the “Code”),⁶ the role of which is similar to the English Civil Procedure Rules or Civil Procedure Code of France.

The Code came into force on January 1, 2003.⁷ The aim of this substantial revision of Lithuanian civil procedure rules was to eliminate many defects in the existing civil procedure which had been compounding since the previous code was adopted into law in mid 1960s, and to consolidate the various procedural rules. The Code is publicized as constituting a modern set of rules designed to streamline the civil dispute resolution process, save time and costs of the parties to a dispute, and make the judicial system accessible and transparent. At the time of writing, it remains to be seen whether these goals can be achieved. The Supreme Court and the Lithuanian Bar have both issued extensive commentaries and opinions on the practice of implementation of the new Code, with a view to removing or resolving ambiguities and uncertainties discovered during the first 10 years of the previous Code’s life.⁸ Some commentators are of the view that the slow speed at which civil process in the Republic of Lithuania travels is largely caused by the fact that courts of general jurisdiction hear both non commercial and complex commercial disputes.

⁵Official website of the Constitutional Court of the Republic of the Republic of Lithuania: <http://www.lrkt.lt/en/about-the-court/activity/competence/182>.

⁶Civil Procedure Code of the Republic of Lithuania, dated February 28, 2002, as amended: http://www.infolex.lt/portal/start_ta.asp?act=doc&fr=pop&doc=77554&title=LRcivilinioprocesokodeksas.

⁷Civil Procedure Code of the Republic of Lithuania, dated February 28, 2002, as amended: http://www.infolex.lt/portal/start_ta.asp?act=doc&fr=pop&doc=77554&title=LRcivilinioprocesokodeksas.

⁸In 2012-14 the Supreme Court has issued 16 interpretative opinions on various aspects of the Code. See: http://www.lat.lt/lt/biuletinis-teismu-praktika_112.html; the Lithuanian Bar publishes an annual collection of articles on the implementation of the Code, see e.g. Šiuolaikines civilinio proceso teises paskirtis. Vilnius: Registru centras, 2012.

To circumvent the lengthy proceedings of a legal dispute in the state courts, parties to a commercial agreement may agree to resolve disputes arising from such agreement in a so-called court of arbitration, established pursuant to the Law on Commercial Arbitration (which entered into force on June 30, 2012, and which superseded the previous version of 1996). This Law is heavily based on the United Nations Commission on International Trade Law (UNCITRAL) Model Law on International Commercial Arbitration.⁹ In 1996, the Vilnius Commercial Arbitration Court (“VCAC”) was set up, pursuant to Article 5 of the Law on Commercial Arbitration, as the permanent body providing administration and case management support to commercial arbitration. In line with the UNCITRAL Model Arbitration Law, the VCAC has no right to hear arbitration cases itself. Its principal functions are to:

- organize and administer dispute resolution by way of arbitration;
- organize and administer resolution of disputes by other alternative means; and
- manage ad hoc arbitration and appoint arbitrators for ad hoc arbitration.

§ 68:4 Preface—Legal reform programme

The Republic of Lithuania began the reform of its legal framework upon restoration of its independence. The main task was to replace the socialist legal system with legal principles compatible with the market economy, and the proposed accession of the Republic of Lithuania to the EU.

In addition, both the Lithuanian tax legislation and taxation system have undergone radical reform. All the main tax laws have been replaced. In fact, tax legislation is the most often-changed area of the Lithuanian legal system.

§ 68:5 Preface—International economic treaties

Since breakup of the Soviet Union, the Republic of Lithuania has concluded a number of double tax and bilateral investment protection treaties.

The double tax treaties signed by the Republic of Lithuania

⁹UNCITRAL Model Law on International Commercial Arbitration, 1985 with amendments as adopted in 2006 http://www.uncitral.org/pdf/english/texts/arbitration/ml-arb/07-86998__Ebook.pdf.

follow the Organisation for Economic Co-operation and Development (OECD) and United Nations (UN) model Double Tax Treaties (“DTTs”). Only a few countries have signed such treaties with the Republic of Lithuania, and even fewer have been ratified by the Seimas. As of May 5, 2015, DTTs have been entered into by the Republic of Lithuania (and ratified by its Seimas) with Armenia, Austria, Azerbaijan, Belarus, Belgium, Bulgaria, Canada, China, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, India, Ireland, Israel, Italy, Kazakhstan, Korea, Kyrgyzstan, Latvia, Luxembourg, Macedonia, Malta, Mexico, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Russia, Serbia, Singapore, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Turkmenistan, Ukraine, the United Arab Emirates, the United Kingdom, the United States of America, and Uzbekistan.¹ The DTTs with Morocco and Kuwait have been signed but not ratified yet.

DTTs are very advantageous when it comes to withholding taxes on dividends, interest payments, and royalties paid to nonresident persons. For example, the standard rate of withholding tax on dividends paid to nonresidents is 15% while interest and royalty payments are subject to a withholding tax of 10%. These taxes can be reduced by the provisions of these DTTs. Dividends paid to foreign shareholders, holding more than 10% of Lithuanian company’s share capital for more than 12 months, are tax exempt.

The standard corporate income tax rate in the Republic of Lithuania is 15%. However, small companies (i.e. those with up to 10 employees and up to € 300,000 in income per year) may be entitled to a reduced rate of 5%.

In order to benefit from the many provisions provided by DTTs, investors must provide evidence of their tax residency status in the partner country. Usually, a certificate of the tax payer’s residence issued by the relevant tax authority is sufficient.

[Section 68:5]

¹Information from the official website of the Ministry of Foreign Affairs of the Republic of Lithuania: <http://www.urm.lt/default/en/foreign-policy/treaties/bilateral>.

The Republic of Lithuania is also a party to (and the Seimas has ratified) 55 Bilateral Investor Protection Treaties (“**BITs**”).² These BITs follow the EU model. Thus, all Lithuanian BITs contain EU recommended provisions on “most-favored-nation treatment,” “national treatment,” “fair and equitable treatment,” “full security and protection,” “umbrella clause,” protection against unlawful expropriation, together with provisions on free movement of capital and monetary transfers.

The Republic of Lithuania has been a member of the Convention on the Settlement of Investment disputes between States and Nationals of Other States (“**ICSID**”) since August 1992.

§ 68:6 Preface—Investment climate and foreign investor associations

Between 1996 and 2008, the Republic of Lithuania was one of the fastest growing economies in Europe, with GDP growth of 7.8% in 2006, 8.9% in 2007, and 2.9% in 2008. However, due to the global economic crisis, the economy contracted almost 15% in 2009 which is comparable with a 48% in 1991–1992 contraction. Since then, the economy has regained momentum: GDP grew by 1.4% in 2010, 6.2% in 2011, 3.7% in 2012, 3.3% in 2013 and 3 % in 2014. The ongoing eurozone troubles remain a major uncertainty for the Republic of Lithuania’s economic growth; nevertheless, barring a major economic upheaval, it is expected to grow 3.3% in 2015.

The Republic of Lithuania offers investors a diversified economy, investment laws that conform to EU standards, a well-educated workforce, the region’s best-developed road network inherited from the Soviet period, a stable government and banking system, and proximity to Eastern European markets. EU Structural Funds of \$12.4 billion were used between 2007 and 2013 to prop up the Lithuanian economy. The Republic of Lithuania’s income levels still lag behind the rest of the EU, with per capita GDP (at purchasing power parity) of approximately 61% of the EU average. A large part of the skilled workforce (approximately 500,000 persons) work outside of the Republic of Lithuania and send their income to support

²UNCTAD, International Investment Agreements Navigator: <http://investmentpolicyhub.unctad.org/IIA/CountryBits/121>.

the older generation and children at home. These two elements comprise up to 27% of per capita GDP.¹

The “Invest Lithuania” Agency (“**IL**”) is the government’s principal agency dedicated to attracting foreign investment. In addition to its offices in Vilnius, and several cities of the Republic of Lithuania, IL has representative offices in Belgium, Kazakhstan and the United States (Chicago and California).

To attract more foreign direct investments (“**FDI**”), the government of the Republic of Lithuania needs to be better at promoting the country. The government also needs to create clustered or geographically concentrated investments in certain sectors. Government initiative is needed to centralize the process of starting a business, such as a “one stop shop” for residency, land use and business registration. More flexible labor regulations would also encourage FDI. Transportation barriers, especially insufficient air links, remain an impediment to investment, as does the lack of open, transparent information on tax collections and government procurement. Cooperating with the private sector, the present Lithuanian government is making efforts to address these barriers to investment, and has already begun to offer limited financial incentives to attract key investment in the Republic of Lithuania.

There are no notable foreign investor associations in the Republic of Lithuania, and those which do exist do not have any substantial lobbying power with the exception of the American Chamber of Commerce in the Republic of Lithuania.²

§ 68:7 Preface—Culture

The origins of modern Lithuanians are very obscure. Some argue that they are descendants of the Atlantideans,¹ or that they migrated to modern day Republic of Lithuania from India.²

[Section 68:6]

¹All data in this section is obtained from the IMF World Economic Outlook Database, October 2014.

²Official website of the American Chamber of Commerce in the Republic of Lithuania: <http://www.amcham.lt/>.

[Section 68:7]

¹<http://www.sarmatas.lt/08/lietuviu-kilties-istakos/>.

²History of the Aryan Race [A Jnâna-Yoga class delivered in London, England, on Thursday morning, May 7, 1896, and recorded by Mr. Josiah J.

The commonly accepted theory is that they are one of two surviving East Baltic proto-Indo-European people (together with the Latvians).³

Before the Republic of Lithuania was christened into Catholicism in the XIV century, Lithuanians used the old Cyrillic alphabet, and old Belorussian was used as the literary language. Old Lithuanian sagas and pre-XVIII century poetry were written in this language.

The first major literary work in modern Lithuanian language was the epos *Metai* (The Seasons), created by Kristijonas Donelaitis in the second half of the eighteenth century. Jonas Macaroniulis, known as Maironis, who wrote at the dawn of the twentieth century, is considered to be the founder of modern Lithuanian literature. The Republic of Lithuania is also the birthplace of several major Polish writers, such as Czeslaw Milosz, winner of the 1980 Nobel Prize, for literature.

Of the three Baltic states, the Republic of Lithuania has the most ethnically homogenous population. Lithuanians are typically sociable, hospitable and expressive; although, the more reserved Estonians and Latvians tend to perceive Lithuanians as impetuous and unpredictable. Lithuanians, in turn, consider Estonians to be slow thinking and Latvians irresponsible. Unfortunately, there is no love lost between the three Baltic nations.

Traditional Lithuanian cuisine is based on a variety of dairy and potato dishes. A traditional dish is *cepelinai*, a zeppelin-shaped piece of boiled potato dough with meat or mushrooms inside. *Cepelinai* is usually served with sauce made from onions, butter, sour cream, and bacon pieces. *Utenos*, *Kalnapiilis*, and *Shvyturis* are the leading Lithuanian beer brands. The *midus* (mead), which can be up to 75% proof, is a popular, strong, beverage produced from traditional recipes.

§ 68:8 Company law

Company law in the Republic of Lithuania is not regulated by any single legal act, but by separate laws, the most important of which are the Civil Code adopted on 18 July 2000, as amended and the Company Law adopted on 12 July 2000,

Goodwin], reproduced by permission.

³See for example, Antanas Klimas, *The Lithuanian Language—Past and Present Lituanus*, Lithuanian Quaterly Journal of Arts and Sciences, Vol. 28, No. 1, 1982, Vilnius.

as amended (the “**Company Law**”). There are also other legal acts regulating companies and other forms of bodies corporate in the Republic of Lithuania.

§ 68:9 Preface—Forms of business entities

As in Estonia and Latvia, the main five forms of business entity are: (a) individual (personal) enterprise (similar to a sole trader in England); (b) general partnership (similar to the traditional partnership in England); (c) limited partnership (similar to an LLC in the US or LLP in England); (d) private limited liability company (equivalent to an English limited company or a US corporation); and (e) public limited liability company (equivalent of an English public limited company).¹

In addition, the following bodies corporate are recognized in Lithuanian law:

- (a) controlling investment company;
- (b) state-owned enterprise, a body corporate, 100% owned by the state;
- (c) municipal enterprise, a body corporate with limited liability, 100% owned by a municipality;
- (d) agricultural company;
- (e) cooperative society²

As is the case in Estonia and Latvia, companies with limited liability are by far the most popular vehicles among investors for conducting business, as these offer corporate governance, investor protection, and asset management mechanisms familiar to investors. Both types of limited liability companies are described below in more detail.

§ 68:10 Preface—Public and private limited liability companies

Both public and private limited liability companies have their share capital divided into a definitive number of shares.

[Section 68:9]

¹English company law had a lot of influence on the drafters of the Lithuanian Companies Act. This particular area is a clear digression from the general trend in Lithuanian legislative process to follow German and US legislative approaches to civil law.

²Business entities listed in (c)–(e) together with controlling investment company, state and municipal enterprise and cooperative are referred to throughout this chapter as a “body corporate” or a “company.”

Bearer shares are not prohibited by Lithuanian legislation. The concept of limited liability is very similar to that under the English Companies Act of 2006. Shareholder liability is limited to the unpaid part of the nominal value of their shares.

The principal difference between those two types of companies under Lithuanian company law is that the shares in a private company cannot not be offered to the public and can only exist in certificated form. The company law includes provisions on the establishment, reorganization, and liquidation of public and private limited liability companies, as well as the rules regarding their management, and regarding the rights and obligations of their shareholders.

Both public and private limited liability companies are required to have a registered office in the Republic of Lithuania. It is advisable to have a local director, although there is no direct legal requirement to have one. The companies may be established for a fixed or indefinite period.

§ 68:11 Preface—Incorporation of a company

The incorporators of a company may be natural or legal persons. The incorporators, who become shareholders upon the establishment of the company, may be Lithuanian or foreign residents. The number of shareholders of a public limited liability company is not limited, while a private limited liability company must have less than 250 incorporators (shareholders). Both types of company may also be established by a single incorporator.

To incorporate a company, the incorporators must first execute a founding act/agreement and prepare its articles of association. As is also the case under English company law, the incorporators do not need to subscribe for the initial shares via a subscription agreement. Rather, provisions regarding subscription of shares are included in the founding act or agreement. When the shares are subscribed for, and the initial contributions are fully paid, the incorporators must convene the first (statutory) shareholder meeting. The law requires that the initial contributions be paid in cash in the amount of at least LTL (Lithuanian Litas) 10,000 (approximately € 2,900)¹ for private limited liability companies and LTL 150,000 (ap-

[Section 68:11]

¹The Government is expected to issue a new schedule of mandatory payments denominated in EUR by September 1, 2015. Until this is published

proximately € 43,500) for public limited liability companies. Next, the managing bodies (directors), auditors and/or inspectors have to be appointed or elected.

Any securities issued by a public limited company must be registered with the Securities Commission² On incorporation, the application must be made after the company's founding act or agreement has been drawn up and signed in the manner established by the Company Law, so that its shares can be made available for listing on the Lithuanian Stock Exchange.

Application for trading is optional (see below) and is separate from the application to register securities with the Lithuanian Securities Commission and could only be made after the statutory report (see below) is filed with Lithuanian Securities Commission.

The statutory report must be prepared no later than 10 days before the statutory meeting. The statutory report of the company has to be approved by the statutory meeting and filed with the Securities Commission.

While all securities of public companies are registered with the Securities Commission and maintained in de-materialized form in the Central Securities Depository ("CSD"), not all public companies apply to the Stock Exchange for admission to trading.

§ 68:12 Preface—Share capital and shares

The paid up share capital of a public limited liability company must not be less than LTL 150,000 (approximately € 43,500). The minimum share capital of a private limited liability company is LTL 10,000 (approximately € 2,900). Shares may be paid up by money or in-kind contributions capable of having monetary value. Work done, past services, and future intellectual property rights do not qualify as in-kind contributions to share capital.

Lithuanian law follows EU rules and allows up to 12 months for full payment of initial subscription monies, provided one-fourth is paid within 30 days of the date the company is formed or no later than 10 days prior to the statutory meeting (for public companies only). If the initial subscription is to be satis-

the sums such as minimal mandatory contributions to the share capital will be denominated in Lit.

²Law on Markets in Financial Instruments, dated February 8, 2007, as amended.

fied by contribution in-kind, such contribution must be valued by an independent valuer.

§ 68:13 Preface—Management of the company

Under Article 19 of the Company Law, a limited liability company must have the general meeting of shareholders and the managing director (single-member management body).

The shareholders may opt to form a collective supervisory body—the supervisory board and/or the collective management body—the management board. If no supervisory Board is formed, its powers remain vested in the shareholders meeting. If the management board is not formed, its functions cannot be assigned to any other company management body and remain vested in the managing director (Art. 37 of the Company Law).

§ 68:14 Preface—General meeting

All shareholders of a company have the right to attend the general meeting. Members of the board and the supervisory board as well as the managing director may also attend the general meeting, but they have no right to vote by virtue of those offices.

The general meeting may adopt resolutions, provided that a quorum of more than half of all votes is present. Generally, resolutions of the general meeting are passed by a simple majority of votes cast.

A super majority of two-thirds of the votes cast at the meeting is required for the adoption of certain resolutions, including resolutions on the following issues:

- amendments to the articles of association;
- increase or reduction of the share capital, re-organization of share capital, variation of class rights, creation and issue of convertible debentures;
- liquidation, reorganization or restructuring of the company;
- distribution of profit;
- formation of the reserves.

A resolution not to grant to all the shareholders the right of first refusal for acquiring shares or convertible debentures of the specific issue of shares or convertible debentures by the company requires a three-quarters majority of votes cast.

§ 68:15 Preface—Supervisory board

The number of members of the supervisory board is a matter

for the articles of association provided that the minimum number is three and the maximum 15. The supervisory board is elected by the general meeting for a maximum term of four years. At least half of its members must not be employees. The Company Law does not have restrictions on citizenship or residence. The main function of the supervisory board is to supervise the activities of the management board and administration.

There is no legally enforceable code of corporate governance in the Republic of Lithuania. In 2006, the National Securities Commission approved a code of corporate governance for companies listed on NASDAQ OMX Vilnius (formerly known as the Lithuanian National Stock Exchange).¹ The code is a set of recommendations for companies seeking admission to trading on NASDAQ OMX Vilnius, and is not mandatory.²

§ 68:16 Preface—Management Board

The number of members of the management board is also a matter for the articles of association provided there are at least three. Members of the board are appointed by the supervisory board or, if there is no supervisory board, the general meeting appoints the members. Both Lithuanian and foreign citizens may be elected members of the board. The board supervises the activities of administration, analyses business activities of the company, elects the managing director, and performs other functions prescribed by the articles of association and the Company Law. The board usually adopts its own procedures by regulation. The legal quorum for a valid board meeting is attendance by at least two-thirds of its members (paragraph 4, Art. 35 of the Company Law).

[Section 68:15]

¹The text of the code is published on NASDAQ Baltic website: [http://www.nasdaqomxbaltic.com/files/vilnius/teisesaktai/The%20Corporate%20Governance%20Code%20for%20the%20Companies%20Listed%20on%20NASDAQ%20OMX%20Vilnius%20\(effective%20as%20of%202010-01-01\).pdf](http://www.nasdaqomxbaltic.com/files/vilnius/teisesaktai/The%20Corporate%20Governance%20Code%20for%20the%20Companies%20Listed%20on%20NASDAQ%20OMX%20Vilnius%20(effective%20as%20of%202010-01-01).pdf).

²The Code broadly follows various EU and OECD recommendations set out in the report of the European Commission on Modernizing Company Law and Enhancing Corporate Governance in the European Union, EC Recommendation of December 14, 2004 (2004/913/EC), Recommendation of February 15, 2005 (2005/162/EC), and Recommendations of April 30, 2009, complementing Recommendations 2004/913/EC and 2005/162/EC.

§ 68:17 Preface—Managing director

The managing director manages the administrative and business activities of the company.

The managing director is appointed by the management board, or, if no management board is established, by the supervisory board. If there is neither a supervisory nor a management board, the managing director is appointed by the general meeting. The managing director may at the same time serve as a member of the management board, but not as its chairman.

§ 68:18 Preface—Right of representation

Generally, the managing director represents the company and is authorized by virtue of his office to bind the company in its dealings with third parties. Even where joint representation is desired, and is reflected in the articles of association at least one of the signatures must be of the managing director.

§ 68:19 Preface—Public and private limited liability companies compared

	Public Limited Liability Company	Private Limited Liability Company
<i>Founding act / agreement and the articles of association</i>	Must be verified by a notary	Must be verified by a notary
<i>Number of Shareholders</i>	Not limited	Less than 250 ¹
<i>Minimum share capital</i>	LTL 150,000 (approx. € 43,500)	LTL 10,000 (approx. € 2,900)

[Section 68:19]

¹This is unusually high threshold. In other jurisdictions this number is between 30 and 65 shareholders. This is not compliant with EU Prospectus Directive pursuant to which an offer of securities is an offer to the public if made to more than 100 persons.

	Public Limited Liability Company	Private Limited Liability Company
<i>Mandatory bodies</i>	General meeting of shareholders (sole shareholder) and general manager (single-member management body)	General meeting of shareholders (sole shareholder) and general manager (single-member management body)
<i>Supervisory board</i>	Optional	Optional
<i>Board</i>	Optional	Optional
<i>Employment contract between the company and the managing director</i>	Compulsory	Compulsory
<i>Auditor</i>	Compulsory	Optional, except in certain cases when at least two of the following criteria are met: —net revenue from sales exceed € 3.5 million for the financial year; —the value of assets in the balance sheet exceeds € 1.7 million; —the average number of employees exceeds 50 for the financial year.
<i>Registration of prospectus</i>	Mandatory (with exceptions)	Not applicable
<i>Agreement with CSD</i>	Mandatory ²	Optional ³

²Paragraph 7 Art. 40 of the Company Law.

³Paragraph 8 Art. 40 of the Company Law.

	Public Limited Liability Company	Private Limited Liability Company
<i>Share transfer agreement</i>	Simple written form	Notarised form, except in certain cases provided in the Civil Code ⁴
<i>Minutes of the general meeting</i>	Simple written form	Simple written form

§ 68:20 Preface—Branch offices and representative offices

The Civil Code and the Company Law allow foreign enterprises to set up branches. A branch is defined as a division of the foreign enterprise having its office in the Republic of Lithuania.¹ A branch may engage in commercial activities, execute transactions, and assume obligations only as authorized by the foreign enterprise, which also approves the regulations under which the branch of a foreign enterprise is to operate.

However, a branch of a foreign enterprise is not a legal person and has no separate balance sheet and liabilities. The foreign parent is fully liable for obligations of its branch, and its branch is liable for the obligations of its parent. The activities of the branch are organized and carried out by its manager.

Instead of a branch, a foreign company may decide to operate in the Republic of Lithuania through a representative office. However, the activities in which a representative office may engage are limited.

The Civil Code defines a representative office of a foreign enterprise as a division of a foreign enterprise, domiciled in the Republic of Lithuania, that may engage in limited activities specified by the Civil Code and other regulations: to represent its parent company, to enter into contracts on behalf and in the name of the parent company, and conduct other actions in

⁴As of January 1, 2015, agreements for sale and purchase of shares in private limited liability companies must be certified by a notary public if (i) 25% or more of total shares in the company are sold, or (ii) the shares are sold at a price higher than € 14,500.

[Section 68:20]

¹Art. 75 of the Company Law.

the name of the parent company.² It may engage in export and import transactions but only between foreign legal persons that have established representative offices, and/or transactions with bodies corporate in the same group.

The foreign parent is liable for the obligations of the representative office.

The activities of the representative office of a foreign enterprise are organized and carried out by the manager of the representative office, who is entitled to represent the representative office to third parties only following registration of the representative office at the Commercial Register in the Republic of Lithuania. Usually, representative offices are established for the promotion of activities of a parent company, market research for clients, and development of business relations.

Branches and representative offices are required to file their parent company's annual financial statements and other reports which the parent is required to file by law of the country of its incorporation/domicile.³

§ 68:21 Preface—Commercial register, notaries public, licensed areas of business

On January 1, 2004, several registers of legal persons which existed in the Republic of Lithuania since 1992 were joined into the single unified Commercial Register. That register is based on the 1992 Ministry of Justice legal persons register and is the only register of legal persons in the Republic of Lithuania, modelled on the UK's Companies House. In addition to keeping registers of legal persons, their branch offices and representative offices, as well as branch offices and representative offices of foreign legal entities the Commercial Register also collects and manages information about management bodies, representation rights, licenses, annual financial statements and other information of the registered legal entities. Information in the Commercial Register is public.

When registering a legal person, the incorporation documents, must first be certified by a notary public. Notarial fees for such certification vary depending on the form of a legal person being incorporated. For instance, the notarial fee for

²Art. 2.56 of the Civil Code.

³For example, a branch of a Seychelles company with Swiss OAR-G membership will be required to file its Swiss filings even though no annual filings are required to be submitted in the Seychelles.

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