

# The Supreme Court of Lithuania: application of the rules where the claim shall be brought

On 11 November 2020, the Supreme Court of Lithuania reviewed a case concerning the transfer of the shares of a company registered in the Czech Republic. The Claimant was domiciled in Geneva, Switzerland, and the two Defendants were domiciled in the European Union: one in Vilnius, Lithuania and second in Prague, the Czech Republic.



In view of the fact that the Claimant and the Defendants resided in different states, it should be noted that there is an international element in the dispute. In the light of the European Court of Justice interpretations, the panel of judges of Supreme Court of Lithuania ruled that an action for annulment of a transaction involving the transfer of shares of the company did not fall within the exclusive jurisdiction of the courts of the state where the company is situated.

To determine where the dispute shall be heard, it is first necessary to identify the persons involved in the particular case (such as the place of residence of the party concerned, etc.) and the details of the subject matter of the dispute. Then it must be assessed on which basis of international jurisdiction is relevant (such as the place where the damage occurred, the place of performance of the obligation, etc.) On the basis of this information and assessment, the court assesses where the claim shall be brought.

Secondly, the court analyses which group of legal acts (European Union regulations, international agreements, norms of private international law enshrined in national legislation) are relevant for the determination of international jurisdiction over the respective claim. The following is a preliminary indication of the applicable specific legislation (such as a specific European Union regulation). In doing so, the scope of the chosen legislation is examined in detail 1) material, 2) territorial, 3) personal 4) temporal. If the claim falls within the scope of the relevant law, the issue of international jurisdiction must be decided in accordance with that law.

The Supreme Court of Lithuania concluded that if a Claimant, who resides permanently in a Member State of the European Union brings a claim against the Defendants before the courts of their Member State of residence (in this case Lithuania) and there are no grounds for applying Article 64 of the Lugano Convention (the Convention), no grounds for exclusive jurisdiction under Article 22 of the Convention, or prorogation as provided for in Article 23 of the Convention, this type of dispute settlement falls within the scope of Regulation 1215/2012 and must be heard in the court of the Member State in which one of the Defendants resides.

