Brief Guide to Business Law in the Baltics.
LEXTAL is one of the leading full service corporate law firms in the Baltics. Operating in Estonia (Tallinn), Latvia (Riga) and Lithuania (Vilnius) gives us complete coverage in the region. LEXTAL can offer customized solutions, which fit any given industry, jurisdiction and client.
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LEXTAL provides services in the following practice areas:

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- Tax Law
- Energy
- Litigation and Arbitration
- Infrastructure, Utilities
- Insurance Law
- Criminal Law, White-Collar Crime
- International Trade
- Family Law
- Intellectual Property
- Immigration Law
- Public / Private Partnerships
- Agricultural Issues

In the following pages we will give an overview of key aspects of the following fields of law that, amongst others, regulate business activities in Estonia, Latvia and Lithuania.

The information contained in this guide is current as of the date below. We will be happy to provide you with updates on the material contained in this guide, or to provide you with further information regarding a specific industry or area of Estonian, Latvian and Lithuanian laws in which you may have a particular interest.
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TAX

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OVERVIEW

The tax system consists of state taxes imposed by the Parliament and local taxes imposed by a local municipality in its territory.

STATE TAXES

State taxes include income tax, social tax, land tax, gambling tax, value added tax, customs duties, excise duties and the heavy goods vehicle tax.

In addition to the above, there are unemployment insurance premiums and contributions to a mandatory funded pension.

LOCAL TAXES

Local authorities may impose the following taxes: advertisement tax, road and street closure tax, motor vehicle tax, animal tax, entertainment tax and parking charges.

CORPORATE INCOME TAX

The rate of corporate income tax in Estonia is 21%. Starting from 2015, it will be 20%.

Residents companies and permanent establishments that are controlled by foreign entities (including branches) are subject to income tax but only in respect of distributed profits, both actual (e.g. dividends) as well as deemed (e.g. non-business purchases).

No tax is levied on undistributed profits.

Where distributed profits consist of dividends received by a resident company from its subsidiaries, such profit distribution is tax exempt (subject to certain limitations).

TAXES ON DIVIDENDS

Dividends are only taxed as set out above (by way of corporate income tax).

There is no further taxation or withholding from dividends.

PERSONAL INCOME TAX (RESIDENTS)

The rate of personal income tax for residents of Estonia is 21%. Starting from 2015, it will be 20%.

Residents pay tax on their worldwide income.

The basic exemption for resident individuals is 1728 euros per year (144 euros per month).

INCOME TAX (NON-RESIDENTS)

The rate of personal income tax for non-residents in Estonia is 21%. Starting from 2015, it will be 20%. In some cases the tax rate is 10%. Most Tax Treaties also set out other reduced rates.

Non-residents pay income tax on their income from Estonian sources as listed in the Income Tax Act. Taxable income in Estonia includes income from employment services provided in Estonia; income from a business carried on in Estonia; income that forms part of any interest received from Estonian sources that exceeds market terms; royalties arising in Estonia; certain types of capital gains; gains from the disposal of assets located in Estonia; directors' fees paid by Estonian enterprises; and income of an athlete or an artist from their activities in Estonia including pensions and insurance payments.

SOCIAL TAX

The rate of social tax in Estonia is 33%.

TAXATION OF SALARIES

21% (20% starting from 2015) of an employee's gross salary shall be withheld by the employer (that is the employee's personal income tax).

Unemployment insurance premiums are taxed at the rate of 2.5% for employers and 1.4% for employees.

The mandatory funded pension contribution is 2%.

VAT

The standard rate of Value Added Tax in Estonia is 20%.

In some cases reduced rates apply, e.g. 9% for books and 0% for export and intra-EU supply.

LAND TAX

The land tax rate is 0.1–2.5% of the taxable value. The taxable value is determined by the Law on Land Value and is usually less than the market value.

TAX TREATIES

Estonia has around 50 Tax Treaties, including those with the USA, the UK, Latvia, Lithuania, China, the Scandinavian countries, etc.

An up-to-date list is available at:

APPLICABILITY OF SUBSTANCE-OVER-FORM PRINCIPLE

The substance-over-form principle applies.

The general rule says that if it is evident from the content of a transaction/act that the transaction/act is performed for the purposes of tax evasion, the transaction/act shall be taxed based on its actual economic content.
COMPANY LAW

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COMPANY TYPES

The types of companies authorised to operate in Estonia are a limited liability company, a public limited company, a general partnership, a limited partnership, a commercial association and a European company. A foreign company may also operate through a branch (instead of establishing a subsidiary).

The most common company types are the limited liability company (in Estonian: osaühing) and the public limited company (in Estonian: aktsiaselts).

LIMITED LIABILITY COMPANY

Management

Minimum share capital: 2500 euros.

The highest management body of a limited liability company in Estonia is the meeting of shareholders.

Day-to-day management is carried out by the Management Board. The Management Board must consist of 1 or more members (who do not have to be Estonian residents).

As a general rule, a Supervisory Board and an auditor are not necessary.

Incorporation procedure

A limited liability company in Estonia shall be established by a Foundation Resolution or Agreement signed at an Estonian notary.

Persons who have been issued an Estonian ID card can incorporate the company online.

Incorporation costs

Costs of incorporation include a notary fee of 25–50 euros and a stamp duty of 141 euros.

Incorporation time

It takes up to 5 days from submitting the documents to the Commercial Registry to incorporate a limited liability company in Estonia.

When incorporating online, the company shall be registered on the same day.

Sale of shares

Share sale agreements must be signed at the notary unless the shares are registered with the Estonian Central Registry of Securities.

In the latter case the transfer of the share is carried out by executing securities transfer instructions at the banks of the buyer and the seller.

PUBLIC LIMITED COMPANY

The minimum share capital of a public limited company in Estonia is 25 000 euros.

If the company shall be publicly trading on the Tallinn Stock Exchange, the minimum share capital is 4,000,000 euros.

Management

The highest management body of a public limited company in Estonia is the meeting of shareholders.

Day-to-day management is carried out by the Management Board. The Management Board must consist of 1 or more members (who do not have to be Estonian residents).

A Supervisory Board and an auditor are mandatory. The Supervisory board must have at least 3 members.

Incorporation procedure

A public limited company in Estonia shall be established by a Foundation Resolution or Agreement signed at an Estonian notary.

Shares must be registered with the Estonian Central Registry of Securities.

Persons who have been issued an Estonian ID card can incorporate the company online.

Incorporation time

It takes up to 5 days from submitting the documents to the Commercial Registry to incorporate a public limited company in Estonia.

When incorporating online, the company shall be registered on the same day.

Sale of shares

Share sale agreements can be verbal, written or notarised. As the shares are registered with the Estonian Central Registry of Securities, the transfer of the shares is carried out by executing securities transfer instructions at the banks of the buyer and the seller.

SHAREHOLDER LIABILITY

In respect of both private and public limited companies a shareholder will not be personally liable for the obligations of the company. Shareholders shall however be liable to the company and the company’s creditors for any damage wrongfully caused to the company by the shareholder using its influence over the company (including via other shareholders, or over any Management Board or Supervisory Board members).
A contract is concluded by one party making an offer and the other party accepting the offer (offer-acceptance model) or in any other manner where it is otherwise sufficiently clear that the parties have reached an agreement.

A contract is interpreted according to the common intent of the parties and if that intent is unknown, according to how a reasonable third person in the same or similar position would understand the provisions of the contract.

**FORM REQUIREMENTS**

Generally, commercial contracts can be concluded in any form (including oral).

Exceptions apply to some types of contracts which must be set out and executed in written form and executed (i.e. the contract must be signed by hand) or a form which can be reproduced in writing (e.g. e-mail, fax, etc.). These include employment contracts and authors’ contracts.

Contracts concerning immovable property (excluding lease contracts) and contracts for the sale of the shares of a private limited company require notarisation.

**CONTRACTUAL LIABILITY AND SYSTEM OF REMEDIES**

Contractual liability is strict (i.e. not fault-based) and the basic principles resemble those of the CISG and the DCFR.

The system of remedies that has been implemented is almost identical to the CISG and the DCFR, i.e. normally the innocent party may either: (i) require performance of the contract, (ii) unilaterally reduce the contract price, (iii) avoid the contract or (iv) claim for damages. Suspension of performance is also available as a temporary measure.

**ASSIGNMENT OF CONTRACTS**

Contracts may be assigned upon the agreement of the other party. The benefit arising from contracts may be assigned without the other party’s consent. The assignment of a party’s obligations under a contract, however, requires the other party’s consent.

**TERMINATION OF CONTRACTS**

Contracts may be terminated upon a fundamental breach of the contract by the other party. Long-term contracts without a fixed term may be terminated at any time by giving the other party reasonable notice.

**STATUTORY INTEREST**

Statutory interest changes twice a year on January 1 and July 1 and is based on the last interest rate applicable to the main refinancing operations of the European Central Bank before January 1 or July 1 of each respective year. The statutory interest is published by the Bank of Estonia at the end of June and December.

**STATUTORY PENALTY INTEREST**

Statutory penalty interest is based on the statutory interest to which 8% per year is added.

**APPLICABLE LAW**

As of December 17, 2009 Estonian own private international law rules regarding international contractual relations have been replaced by the provisions of Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I Regulation).

**JURISDICTION**

In cases where the defendant is domiciled in a Member State of the EU or where exclusive jurisdiction applies, Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Brussels I Regulation) shall be applied in Estonia. In other cases the Estonian Code of Civil Procedure shall be applied.

Generally, the parties are free to agree on which jurisdiction shall apply in commercial contracts, except where the rules of exclusive jurisdiction apply (e.g. matters relating to rights in rem in immovable property).

**ARBITRATION**

The four county courts are those of Harju, Viru, Pärnu and Tartu, with courthouses located in the major cities of Estonia.

Prior to filing an action, the plaintiff must pay a state fee. As a rule, state fee rates in a civil matter are calculated upon the value of the corresponding claim.

ADMINISTRATIVE COURT
There are two administrative courts.

Administrative courts hear disputes arising from public law (administrative matters) as courts of first instance. In the vast majority of cases, administrative courts grant judicial protection in disputes between natural/legal persons and a public authority arising from the latter’s exercise of official authority.

Administrative courts also resolve disputes arising between the state and local governments.

Administrative courts are divided into courthouses that are located at the corresponding territorial jurisdictions of the court.

The administrative courts are those of Tallinn and Tartu, with courthouses located in Tallinn, Tartu, Jõhvi and Pärnu.

Prior to filing an action, the claimant must pay a state fee, which is usually lower than the state fee payable in respect of a civil claim.

CIRCUIT COURT
There are two circuit courts. Circuit courts are the courts of second instance and shall review judgments of county and administrative courts on the basis of appeals against judgments and rulings. They are located in Tallinn and in Tartu.

Prior to filing an action, a person must pay a state fee, which is usually equivalent to the state fee paid in the court of first instance, taking into account the extent of the appeal.

THE SUPREME COURT
The Supreme Court is the highest court and is located in Tartu. There are 19 justices in the Supreme Court and the court is comprised of the Civil Chamber, the Criminal Chamber, the Administrative Law Chamber and the Constitutional Review Chamber.

The Supreme Court shall review court judgments by way of cassation proceedings. The Supreme Court shall accept a matter for proceedings if a court of lower instance has violated a provision of procedural law in making the judgment, incorrectly applied a provision of substantive law, or if the adjudication of the appeal in cassation has fundamental importance with respect to guaranteeing legal certainty and developing a uniform judicial practice.

The Supreme Court, acting as a panel of three members, decides whether to hear the appeal.

The court shall accept a matter for hearing if at least one of the justices of the panel insists on it.

An appeal in cassation is subject to the payment of a security in cassation that shall be returned if an appeal is granted.

Appeals may also be heard by the Supreme Court en banc, comprised of all of the justices of the Supreme Court. Chaired by the Chief Justice of the Supreme Court, the Supreme Court en banc also performs other duties arising from the law and the internal rules of the Supreme Court.

CONSTITUTIONAL REVIEW
The Supreme Court is also the court of constitutional review. The Supreme Court incorporates a Constitutional Review Chamber, which is composed of 9 justices.

The chairman of the Chamber is the Chief Justice of the Supreme Court; other members are appointed by the Supreme Court en banc.

Constitutional matters may be transferred to the Supreme Court en banc if they concern essential constitutional issues.

ARBITRAL TRIBUNAL

An arbitral tribunal may be permanent or it may operate ad hoc. The arbitration clause is valid if it is agreed in a format which can be reproduced in writing.

The parties agree on the number of arbitrators. If there is no agreement, the dispute shall be resolved by three arbitrators.

The arbitral tribunal has the right to determine its competence.

Proceedings may be conducted by an arbitral tribunal with or without holding a court session. The parties may agree on the language of the arbitration proceedings. If there is no agreement, the language of the proceedings shall be determined by the arbitral tribunal.

A dispute shall be resolved by an arbitral tribunal according to the law that is agreed upon. If there is no agreement and the applicable law is not provided by legislation, Estonian law shall apply to the dispute.

Opportunities to challenge an arbitral award are very restricted — an arbitral award may be challenged only in cases prescribed by the law.
PUBLIC PROCUREMENT

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OVERVIEW

Public procurement means the purchasing of goods, contracting for the provision of services, contracting for public works and granting of works and service concessions by the contracting authority, and contracting for works by the concessionaire of a works concession.

LEGAL ACTS

The legal acts relevant to procedures of public procurement in Estonia are:
— the Public Procurement Act, and
— Directives 2004/17/EC and 2004/18/EC.

TYPES OF PROCUREMENT PROCEDURES:

Open procedure, in which every interested person that meets the requirements stipulated in the Public Procurement Act may submit a tender.

Restricted procedure, in which any interested person may submit a request to participate in the procurement procedure, but a tender may be submitted only by those candidates chosen by the contracting authority on the basis of the objective and non-discriminatory criteria and to whom the contracting authority accordingly submits the tender invitation.

Competitive dialogue, whereby any interested person may submit a request to participate in the procurement procedure and whereby the contracting authority conducts a dialogue with the selected candidates with the aim of developing one or more suitable solutions capable of meeting the contracting authority's needs. The contracting authority then submits the tender invitation to the candidates chosen as a result of the dialogue and selects the successful tender accordingly.

Negotiated procedure with prior publication of contract notice, in which any interested person may submit a request to participate in the procurement procedure and the contracting authority submits the tender invitation to at least three candidates chosen by it and negotiates the tenders with them in order to select the successful tender.

TIME LIMITS FOR SUBMISSION OF TENDERS AT OPEN PROCEDURE

International procurement procedure: 52 days minimum.

Procurement procedure over Estonian threshold, but below international threshold: 22 days minimum for any public works contract, at least 15 days for any public supply contract or a public service contract.

APPEALING

A tenderer, candidate or person interested in participating in a procurement procedure may appeal against an activity or decision of the contracting authority if it finds that the authority has violated its rights or harmed its interests, by lodging a respective appeal to the Public Procurement Appeals Committee.

An appeal must be lodged within seven working days from the day on which the appellant became aware of or should have become aware of the violation of its rights or the harming of its interests, but cannot be lodged after the award of the public contract. An appeal against the procurement source document must be delivered not later than three working days before the due date of the submission of any request to participate in the procurement procedure, tenders, conceptual designs or concession applications.

WEB PAGE FOR PUBLIC PROCUREMENTS IN ESTONIA

All procurement procedures over the Estonian threshold must be arranged online at www.riigihanked.riik.ee

The Public Procurement Act is available in English at http://www.legaltext.ee/indexen.htm
EMPLOYMENT

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OVERVIEW

Estonia reformed its employment legislation in 2009, when the new Employment Contracts Act was adopted. It changed employment relationships so that they became more flexible and up to date. Work relations are also regulated by the Law of Obligations Act, the Individual Labour Dispute Resolution Act and the Occupational Health and Safety Act.

FORM OF EMPLOYMENT CONTRACT

An employment contract must be in written form, unless the validity term of the contract is shorter than 2 weeks, and must include all conditions concerning the work placement and the relationship between the parties (including a description of the role, and the place of work, working hours, payment terms, etc.).

TERM OF EMPLOYMENT CONTRACTS

It is presumed that employment contracts are entered into for an unspecified period. An employment contract may however be entered into for a specified term of up to five years if it is justified by good reasons arising from the temporary fixed-term characteristics of the work.

PROBATION PERIOD

It is assumed that the relevant probation period shall be 4 months, unless the parties have agreed on a shorter term.

WORKING TIME

It is presumed that an employee shall be required to work 40 hours per week and 8 hours a day (which will be deemed to be full-time work), unless the employer and the employee have agreed on a shorter working time (which will be deemed to be part-time work).

ANNUAL LEAVE

The minimum entitlement to paid basic annual leave is 28 calendar days.

COMPETITION RESTRICTION

It may be agreed in an employment contract that an employee is not allowed to work for the employer's competitor or that they are not allowed to engage in the same economic or professional activity as the employer. The parties may also agree to extend these competition restrictions so that they continue for up to one year after the expiry of an employment contract, but in such cases the employer must pay the employee reasonable monthly compensation in return for adherence to the agreement.

TERMINATION BY AN EMPLOYEE

An employee may ordinarily cancel an employment contract that has been entered into for an unspecified term at any time by notifying the employer no less than 30 calendar days in advance.

TERMINATION BY AN EMPLOYER

An employment contract may be terminated by an employer only in extraordinary circumstances with good reason. The reason may be dependent on the employee (for instance a breach of an employee's duties or a decrease of their capacity for work, etc.) or economic reasons, if the continuance of the employment relationship on the agreed conditions becomes impossible due to a decrease in the work volume or reorganisation of work or other cessation of work (i.e. lay-off).

TERM OF EMPLOYER’S ADVANCE NOTICE

The requisite minimum period required to terminate an employment contract depends the length of the employee's service, starting from 15 calendar days, (if employment has lasted less than one year), up to 90 calendar days, (if employment has lasted ten or more years). There are exemptions applied if the contract is terminated due to reasons arising from the employee's conduct.

REDUNDANCY PAYMENT

Where an employment contract is terminated due to a lay-off, an employer must pay the employee compensation to the extent of the employee's one month's average salary.

TRADE UNIONS AND COLLECTIVE AGREEMENTS

The level of activity of trade unions in Estonia is much lower than in Western European countries. Union membership is not compulsory.
IMMIGRATION

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GENERAL RULES OF IMMIGRATION LAW

Significant part of the immigration law has been harmonized in the EU, providing e.g., right of residence as the legal basis for residence in Estonia for citizens of the European Union. No further significant restrictions apply to EU citizens’ conduct in Estonia.

So, hereafter, in relation to Estonia, the word “foreigner” shall mean a person who is not a citizen of Estonia or any other EU state.

RULES OF OBTAINING A VISA

A foreigner must have a legal basis for entry into Estonia and temporary stay in Estonia. The principal legal basis is the Schengen visa and it can be obtained at competent agencies of the Schengen Convention Member States.

TERMS OF OBTAINING A VISA

The decision for granting a visa shall be made within 30 days from submitting an application.

RESIDENCE PERMIT

A residence permit provides a right to reside in Estonia. A temporary residence permit grants a right to reside during a given term, while a residence permit for a long-time resident is a permit for entry into Estonia and residence in Estonia for an unspecified term pursuant to certain conditions.

One category of a temporary residence permit is the European Union Blue Card which grants a permission to a foreigner to reside and work in Estonia on the simplified conditions in a job or position that requires higher qualification.

PERSON WHO HAS A RIGHT TO RECEIVE A RESIDENCE PERMIT

A temporary residence permit may be issued to a foreigner:

- to settle with a spouse;
- to settle with a close relative;
- for study;
- for employment (the EU Blue Card);
- for enterprise;
- on the basis of a treaty; or
- in case of substantial public interest.

The application for a temporary residence permit must be filed at a foreign mission of Estonia. Applications may be filed from Estonia only in exceptional cases.

TERMS OF OBTAINING A RESIDENCE PERMIT

The decision for granting a residence permit shall be made within 2 months from the day of commencement of proceedings.

PERMANENT RESIDENCE PERMIT

A residence permit for a long-time resident may be issued to a foreigner who corresponds to the following conditions.

He or she must have:

- been residing in Estonia permanently on the basis of a residence permit for at least five years;
- a valid temporary residence permit;
- a sufficient permanent legal income;
- health insurance;
- met the integration requirement, and
- a registered place of habitation.

CASES IN WHICH A TEMPORARY RESIDENCE PERMIT IS REVOKED

Temporary residence permit shall be revoked if:

1) there is reason to believe that the entry into or the stay in Estonia of a foreigner may constitute a threat to public order;
2) a foreigner has been punished for an offence;
3) a foreigner has violated the conditions regarding the entry into Estonia or temporary stay in Estonia.

REPOKVING OF A PERMANENT RESIDENCE PERMIT

Revoking of a permanent residence permit is more restricted.

If a permanent residence permit is being revoked on the ground that the person may constitute a threat to public order or national security, has submitted false information or has been punished in Estonia for an intentional criminal offence against the state, the offence committed by the foreigner or the threats related to the person concerned shall be considered, taking into account their length of their stay in Estonia, the age of the person and the consequences of the revocation of the residence permit of a long-time resident.

LIST OF BASIC DOCUMENTS NECESSARY TO APPLY IN OFFICE OF CITIZENSHIP AND MIGRATION AFFAIRS TO RECEIVE A RESIDENCE PERMIT

The exact list of the documents which are to be submitted depends on the category of the residence permit being applied for. As a rule, one must submit following documents:

- a filled and signed application form;
- a photo;
- data confirming that the person has met the criteria for issuing a relevant category of a residence permit.
INSURANCE LAW

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The non-life insurers operating during 2012–2013 in the whole of the Baltics are ERGO (owned by the German ERGO insurance group), Seesam (owned by the Finnish banking group OP-Pohjola Group), IF (owned by the Finnish insurance group IF), Gjensidige (owned by the Norwegian insurer Gjensidige), BTA (owned by the Latvian insurer BTA), PZU (owned by the Polish insurer PZU) and Codan (owned by Royal & Sun Alliance, an insurer based in Great Britain).

INSURANCE COMPANY TYPES

The two types of insurance companies operating in Estonia are a public limited company and a European company (SE). Mutual organisations are not allowed.

NUMBER OF OBLIGATORY INSURANCE TYPES

30 types of obligatory insurance are applicable in Estonia.

MOST IMPORTANT LAWS

— Motor Third Party Liability Insurance Act (which is based on EU directives), Law of Obligation Act (which regulates all matters concerning insurance contracts and is based on Germany’s VVG).

— Insurance Activities Act (which regulates all matters concerning insurance activities and is based on EU directives).

INSURANCE COMPANIES

Insurance companies currently operating in Estonia include:

— 9 non-life insurers;
— 5 non-life insurers’ branches of non-life insurers;
— 4 life insurers;
— 1 life insurer branch of a life insurer.

INSURANCE BROKERS

39 insurance brokers currently operate in Estonia.

INSURANCE DISPUTES

The services of an insurance mediator and the insurance dispute committee (which provides free assistance for obligatory types of insurance) are free.

Insurance disputes are settled by the court system (and do not require pre-trial procedure).

REAL ESTATE

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OVERVIEW

Estonia has a strong Land Registry for governing real rights, whereas real property rights are valid only as they are registered in the Land Registry.

Validity of the Land Registry is presumed, meaning that all third parties can, in good faith, rely on the data contained within the Land Registry.

REAL ESTATE

Real estate is defined as any land plot registered in the Land Registry along with its essential parts, e.g. buildings or other constructions.

Buildings cannot be held or transferred separately from the land plot upon which they are built, and a land plot together with its buildings cannot therefore belong to different persons (except in the case of building rights).

REAL RIGHTS

Real rights are:

— Ownership, and
— Limited real rights.

OWNERSHIP

Ownership gives full legal control over a real estate, including the right to possess, use and dispose of the property in question, and to demand the prevention of any violation of these rights by any other persons.

Ownership rights may only be restricted by law or the rights granted to any other persons.

LIMITED REAL RIGHTS

The following limited real rights are available:

— Mortgage;
— Pre-emption right;
— Real servitudes;
— Real encumbrances;
— Building right;
— Personal right of use.

TRANSFER AND ENCUMBERING OF REAL ESTATE

A notarized agreement or, in some cases, a digitally submitted application is required in order to dispose of any real rights. The Land Registry will make registrations only upon receipt of notarized or digitally submitted applications.

Any entry into the Land Registry will incur costs including notary fees and state fees. Both fees are stipulated by law; exact amounts shall be calculated based on the transaction value.

For example, in case of sale of real estate at the price of 100,000 euros the notary fee would be approximately 320 euros + 20% VAT, and the state fee would be approximately 110 euros.
CONSTRUCTION

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LEGAL ACTS
— Building Act;
— Planning Act;
— Building regulations of the rural municipality or city;
— Technical regulations;

PRIOR CONSTRUCTION

Building design documentation is obligatory for any construction activities.

In high density areas the general principles of planning are enacted in the form of detailed planning.

If the immovable property is situated in a high density area and there is no valid detailed planning, the detailed planning proceedings shall be carried out and the detailed plan established prior to the commencement of any construction works.

If the immovable property is not situated in a high density area, the general principles and restrictions of construction are provided for in the supplementary architectural and structural criteria for construction works issued by the local government.

The owner of a construction work shall notify the authority which issued the building permit of the date on which the building works are due to commence at least three working days before carrying out such works (except in the case of small construction works).

BUILDING PERMIT, WRITTEN APPROVAL AND NOTIFICATION OF THE LOCAL AUTHORITY

In order to obtain a building permit, a person shall:
1) submit an application for the building permit;
2) submit the requisite building design documentation;
3) provide a copy of the energy performance certificate if this is required; and
4) pay the state fee.

According to the Building Act, the local government must approve or refuse any application for a building permit within 20 days of the date on which the application for the building permit and the related building design documentation are submitted.

The written approval of the local authority is required where the construction works in question relate to a small construction work (meaning works with a ground surface area of 20–60 m²) or where the party in question is modifying a utility system, erecting boundary fences or replacing doors or windows in the envelope elements of certain buildings.

The local authority must be notified where a party intends to build a small construction work that occupies a ground surface area of no more than 20 m² and the works are erected on land in which the preparation of a detailed plan is mandatory.

PERMIT TO USE

According to law the local government must issue or refuse to issue a “permit to use” within 20 days of the date on which the last document necessary for the issuing of the permit is submitted. However, in practice it takes longer.

After a permit has been granted, the final inspection of the application shall be carried out by the municipal authority and by several agencies who shall be determined by the municipal authority.

REBUILDING

In case of rebuilding for changing the finality of a construction, new building design documentation as well as a new building permit are obligatory.

WARRANTY FOR A CONSTRUCTION WORK

A warranty for any construction work shall be granted for a period of at least two years from the date on which the building is completed.

The warranty granted by the manufacturer of any equipment permanently incorporated in the construction work in the course of construction shall continue to apply to such equipment and the length of the warranty granted in respect of the equipment by the building contractor shall not be less than six months.

WEB REGISTRIES AVAILABLE:

The national registry of construction works:
www.ehr.ee/
Estonian Land Board Geoportal:
http://geoportaal.maaamet.ee/eng/
TAX

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OVERVIEW

The tax system consists of state taxes imposed by the Parliament, state fees levied in accordance with the Law on Taxes and Fees and other laws, and local government fees imposed by a local municipality in its territory.

STATE TAXES

State taxes in Latvia include the personal income tax, the enterprise income tax, the immovable property tax, the value added tax, excise duties, customs duties, the natural resources tax, the lottery and gambling taxes, mandatory payments of State social insurance, passenger car and motorbike taxes, the electrical energy tax, the micro-enterprise tax, the vehicle operation tax and the company car tax.

LOCAL TAXES

Local authorities have the right to impose local government fees on following:

- receipt of official documents prepared by a territorial local government city council (county or parish council) and certified copies of such; organising of events of recreational nature in public places; holiday and tourist accommodation; trading in public places; the keeping of all types of animals; driving into special regime zones; the placement of advertisements, posters and announcements in public places; the keeping of boats, motorboats and sailboats; the utilisation of local government insignia and the receipt of construction permits.

CORPORATE INCOME TAX

The standard corporate income tax rate in Latvia is 15%.

Corporate income tax is levied on domestic undertakings, including institutions financed from the state budget and local government budgets, non-residents (foreign commercial companies, natural persons and other persons) and permanent representations of non-residents. The aforementioned subjects of the corporate income tax that are controlled by foreign entities are subject to enterprise income tax in respect of taxable income obtained during a taxation period in Latvia and foreign countries.

Enterprise income tax is deducted from the amount of profit or loss, prior to the assessment of enterprise income tax, as set out in the profit or loss account of annual accounts of payers.

No tax is levied on undistributed profits.

The taxable income of a domestic undertaking is increased by the amount of dividends received from residents of low-tax and tax-free countries or territories.

The rate of the corporate income tax for non-residents in Latvia is 2–15%.

— 15% of any income which is acquired from participation in a partnership;
— 5% of remuneration for the use of property located in Latvia;
— 10% if the payer and recipient thereof are affiliated undertakings or persons;
— 10% or 15% of income derived from intellecual property;
— 2% of the remuneration from alienation of immovable property in Latvia;
— 15% of any amount paid to persons located in low-tax and tax-free countries or territories.

TAXES ON DIVIDENDS

Dividends are only taxed as set out above (by way of corporate income tax).

There is no further taxation or withholding from dividends.

PERSONAL INCOME TAX (RESIDENTS)

Rate: 10%–25% (as set out below); 10%–20% starting from 2015.

Residents pay tax on their worldwide income.

25% (in respect of monthly taxable income); 25% (in respect of income derived from economic activities); 10% (in respect of income derived from capital which is not an increase in capital); 15% (in respect of any increase in capital); 25% (in respect of income derived from insurance compensation which corresponds to any amount of insurance premium paid by an employer); 10% (in respect of income derived from any insurance compensation which is more than the amount of insurance premium paid by an employer).

Employees or owners of micro-enterprises must pay personal income tax in accordance with the Micro-Enterprise Tax Law.

INCOME TAX (NON-RESIDENTS)

Rate: 25%; 20% starting from 2015.

Non-residents pay personal income tax on their income from Latvian sources as listed in the Law on Personal Income Tax. Personal income that is taxable in Latvia includes income from employment; income from professional activities performed in favour of Latvian residents; income from the professional activities of artists, sportsmen or trainers; income from any business carried on in Latvia; income from the utilisation of an immovable property; income from the alienation of an immovable property; income from the utilisation of a movable property; income from the agricultural production of personal subsidiary farms and home farms; income from the alienation of a forest growing; dividends, interest income and income related to the interest income (except interest income from the debt securities of Latvia or another European Union Member State); income payments derived from intellectual property; income from insurance compensation; pensions; lottery and gambling prizes and/or an increase in the value of immovable property; income from the divided profit of a co-operative society of apartment owners; income from any investment of payments in private pension funds; income from hired personnel and income from life insurance contracts.

SOCIAL TAX

Rate: 35.09% which varies for different categories of insured persons.
TAXATION OF SALARIES

Rate: 25% (20% starting from 2015) of an employee’s income tax gross salary shall be withheld by the employer by way of income tax. The State social insurance tax (35.09%) is calculated based on the gross employment income from which personal income tax must be deducted without deduction of the non-taxable minimum, tax concessions or any eligible expenses for which the taxpayer otherwise has the right to reduce the taxable income. The state social insurance tax (35.09%) is paid jointly by the employer (24.09%) and the employee (11%).

TAX TREATIES

Latvia has signed around 52 Tax Treaties, including with the USA, Russia, Estonia, Lithuania, China, Scandinavian countries, etc.

An up to date list is available at:

APPLICABILITY OF SUBSTANCE-OVER-FORM PRINCIPLE

The substance-over-form principle applies. General rule: if it is evident from the content of a transaction/act that the transaction/act is performed for the purposes of tax evasion, the transaction/act shall be taxed based on its actual economic content.

COMPANY LAW

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COMPANY TYPES

The most common company types are the limited liability company (in Latvian: sabiedrība ar ierobežotu atbildību) and the public limited company (in Latvian: akciju sabiedrība).

LIMITED LIABILITY COMPANY

The minimum share capital of a limited liability company in Latvia is 2800 euros.

Management

The highest management body of a limited liability company in Latvia is the meeting of shareholders.

Day-to-day management is carried out by the Management Board. The Management Board must consist of 1 or more members (who do not have to be Latvian residents).

As a general rule, a Supervisory Board and an auditor are not necessary.

Incorporation procedure

A limited liability company in Latvia shall be established by a memorandum of association and articles of association signed privately, and the acceptance of each member of the board of directors to be a member of the board of directors signed at a public notary or a notary of the Commercial Registry, as well as the signature on the application regarding entering in the Commercial Registry shall be notarised. The execution of any application for the registration of a limited liability company in the Commercial Registry (and the written confirmation that the individual executing this document has the capacity to act in this manner) must also be notarised.

Companies may be incorporated online if the documents are signed with a secure electronic signature.

Incorporation costs

Incorporation fees include a notary fee (if signed at the notary) of 30 euros and stamp duty of 170 euros for the company, plus a share capital of 2800 euros.

Incorporation time

It takes 2 to 6 days from submitting the documents to the Commercial Registry to establish a limited liability company in Latvia.

Sale of shares

Share sale agreements need not be signed at the notary. The signatures in the shareholder registry, however, shall be notarised.
PUBLIC LIMITED COMPANY

The minimum share capital of a public limited company in Latvia is 35 000 euros. If the company shall be publicly trading on the Latvian stock exchange, the minimum share capital is 4 000 000 euros.

Management

The highest management body of a public limited company in Latvia is the meeting of shareholders.

Day-to-day management is carried out by the Management Board. The Management Board must consist of 1 or more members (who do not have to be Latvian residents). If the company’s shares are publicly traded, the Management Board shall consist of at least 3 members.

A Supervisory Board is mandatory. The Supervisory board must have at least 3 members. If the company’s shares are publicly traded, the Supervisory board shall consist at least of 5 members.

Incorporation procedure

A public limited company in Latvia shall be established by a memorandum of association and articles of association signed privately and the acceptance of each member of the board of directors to be a member of the board of directors signed at a public notary or a notary of the Commercial Registry. The signature on the application regarding entering in the Commercial Registry shall also be notarised.

Whether it is mandatory to have a sworn auditor depends of the annual accounts law.

Companies may be incorporated online if the documents are signed with a secure electronic signature.

Registered shares must be registered in the Registry of Shares, while Bearer Shares shall be registered with the Latvia Central Depository in accordance with the provisions of the Financial Instrument Market Law.

The notary fee for a public limited company with a share capital of 35 000 euros depends on the number of founders. It is mandatory to pay a stamp duty of 355.72 euros and a state fee of 27.03 euros for the publication of a notice of incorporation in the newspaper Latvijas Vēstnesis.

Incorporation time

It takes up to 3 working days from submitting the documents to the Commercial Registry to establish a public limited company in Latvia.

Sale of shares

Share sale agreements can be verbal, written or notarized.

SHAREHOLDER LIABILITY

In respect of both private and stock companies a shareholder will not be personally liable for the obligations of the company. Shareholders shall, however, be liable to the company and the company’s creditors for any damage wrongfully caused to the company by the shareholder using their influence over the company (including via other shareholders, or over any Management Board or Supervisory Board members).

CONTRACT LAW/COMMERCIAL LAW

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OVERVIEW

Latvian civil law (including contract law) is based on civil law tradition and has been greatly influenced by German civil law. The civil law of several other continental European countries, as well as the CISG and PICC, have also played a role in the development of Latvian civil law.

In addition, commercial law regulates the formation of lease contracts, factoring, and other types of commercial transactions. There are also other laws, such as the Law on Commercial pledge, that regulate specific types of contracts.

2 UNIDROIT Principles of International Commercial Contracts (PICC)
3 Draft Common Frame of Reference (DCFR)

CONCLUSION OF CONTRACT

A contract is concluded by one party making an offer and the other party accepting the offer (offer-acceptance model) or where it is otherwise sufficiently clear that the parties have reached an agreement.

A contract is interpreted according to the common intent of the parties and, if that intent is unknown, according to how a reasonable third person in the same or similar position would understand the provisions of the contract.

FORM REQUIREMENTS

Generally, commercial contracts can be concluded in any form (including oral).

Exceptions apply to some types of contracts which must be set out in written form and executed (i.e. the contract must be signed by hand). These include employment contracts, real estate sales, donation or pledge contracts and commercial pledge contracts.

Marriage contracts require notarisation.

CONTRACTUAL LIABILITY AND SYSTEM OF REMEDIES

Contractual liability is strict (i.e. not fault based) and the basic principles resemble those of the CISG and the DCFR.

The system of remedies that has been implemented is almost identical to the CISG and the DCFR, i.e. normally the innocent party may either: (i) require performance of the contract, (ii) unilaterally reduce
the contract price, (iii) avoid the contract or (iv) claim for damages. In some cases these rights should be explicitly set out in the contract itself in order to be available. Suspension of performance is also available as a temporary measure, provided this is stated in the contract.

ASSIGNMENT OF CONTRACTS
Contracts may be assigned upon the agreement of the other party. The benefit arising from contracts may be assigned without the other party’s consent, although notification of the assignment is required. The assignment of a party’s obligations under a contract, however, requires the other party’s consent.

TERMINATION OF CONTRACTS
Generally contracts may be terminated upon a fundamental breach of the contract by the other party or due to circumstances that are beyond the control of the parties. Nonetheless, each type of contract provides for its own grounds of termination based on the law which shall apply in addition to any termination rights which may be stated in the contract.

STATUTORY INTEREST
Statutory interest changes twice a year on January 1 and July 1 and is based on the last interest rate applicable to the main refinancing operations of the Bank of Latvia before January 1 or July 1 of each respective year. The statutory interest is published by the Bank of Latvia at the end of June and December. The basic rate of interest is currently 4%.

STATUTORY PENALTY INTEREST
Statutory penalty interest in delivery transactions, the sale of goods, or the provision of services is 7%, but in cases where one of the parties is a consumer, as well as in all other types of contracts this is reduced to 6%.

APPLICABLE LAW
If a natural person has several domiciles, one of these being Latvia, then Latvian law shall apply to the contract in question. Where corporate entities are concerned, the law of the territory in which the board of the entity is situated shall apply.

JURISDICTION
In cases where the defendant is domiciled in a Member State of the EU, Council Regulation (EC) No 44/2001 of 22 December, 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Brussels I Regulation) shall be applied in Latvia. In other cases the Latvian Code of Civil Procedure shall be applied.

GENERAL
Generally, the parties are free to agree on which jurisdiction shall apply in commercial contracts, except where the rules of exclusive jurisdiction apply (e.g. matters relating to rights in rem in immovable property or the copyright law).

ARBITRATION
Arbitration clauses are allowed. Currently there are more than 100 arbitration courts within Latvia. Latvia is a Contracting State of the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the “New York Convention”).
DISPUTE RESOLUTION

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OVERVIEW

Judicial power in Latvia is vested in district (city) courts, regional courts, the Supreme Court and the Constitutional Court.

In order to make court proceedings faster, easier and cheaper for the parties to a proceeding, the government is introducing an internet-based judicial record system (www.tiesas.lv).

If parties have agreed, any civil dispute may also be heard in an arbitral court, except where the prohibition to settle a dispute in arbitral tribunal has been established by law (e.g. disputes regarding the eviction of a person from living quarters or disputes between employees and employers). Disputes related to issues to be examined in accordance with special adjudication procedures shall not be resolved in the arbitration court.

COUNTY COURT

In total there are 39 district (city) court houses which are grouped under 6 territories of operation:

— the Kurzeme Regional Court;
— the Latgale Regional Court;
— the Riga Regional Court;
— the Vidzeme Regional Court;
— the Zemgale Regional Court;
— the territory of operation of regional administrative courts.

District (city) courts are located in major cities of Latvia and they are the courts of first instance for civil matters, criminal matters, and administrative matters.

For each statement of claim, the plaintiff must pay a state fee. As a rule, state fees rates in civil matters are calculated upon the value of the corresponding claim or determined depending on the object of the case by the civil procedure law.

ADMINISTRATIVE COURT

There are five administrative district courts and one regional administrative court.

Administrative courts hear disputes about the activities of executive power which relate to the rule of law and justification of concrete public law relations (administrative acts or the actual actions of institutions), as well as ascertain a person's public law duties or rights. In administrative violation matters, courts shall adjudicate a trial, adjudicate and decide at sittings of the court matters concerning administrative violations by persons.

Administrative courts are located at corresponding territories of operation.

The administrative district courts are located in Liepaja, Jelgava, Riga, Valmiera and Rezekne; the regional administrative court is in Riga.

Prior to filing an action, the claimant must pay a state fee, which is considerably lower than the state fee payable in respect of a civil claim.

CIRCUIT COURT

There are six regional courts.

Regional courts are the courts of first instance for those civil and criminal matters which are within the jurisdiction of regional courts (in civil matters: matters arising from rights in regard to obligations, if the amount of the claim exceeds 213 430 euros).

Regional court is a court of appellate instance for civil, criminal and administrative matters which have been adjudicated by a district (city) court or by a single judge.

Prior to filing an action, a person must pay a state fee, which is usually equivalent to the state fee paid in the court of first instance, taking into account the extent of the appeal.

THE SUPREME COURT

The Supreme Court is the highest court and is located in Riga. There are 53 judges in the Supreme Court and the court is comprised of the Senate and two judicial panels: the Civil Matters Panel and the Criminal Matters Panel. The Senate is composed of three departments: the Civil Matters Department, the Criminal Matters Department and the Administrative Matters Department, and is the court of cassation instance for all matters which have been adjudicated by district (city) courts and regional courts.

The Senate examines a case collegially, in panels composed of three senators.

The Panel of the Court is the court of appellate instance for matters which have been adjudicated by regional courts as courts of first instance. The Panel comprising of three judges shall adjudicate matters collegially.

The Supreme Court shall accept a matter for proceedings if a court of lower instance has violated a provision of procedural law in making the judgement, incorrectly applied a provision of substantive law or if the adjudication of the appeal in cassation has fundamental importance with respect to guaranteeing legal certainty and developing a uniform judicial practice.

CONSTITUTIONAL REVIEW

The Constitutional Court is an independent judicial authority which comprises of 7 judges and adjudicates matters regarding the compliance of laws and other regulatory enactments with the Constitution.

The judges of the Constitutional Court are confirmed by the Parliament of Latvia (Saeima).

A judgment of the Constitutional Court is final and enters into effect at the moment of its pronouncement.

ARBITRAL TRIBUNAL

An arbitration court may be established for the resolution of a specific dispute or operate permanently. In order to settle a dispute in an arbitration court, parties shall have agreed on an arbitration court agreement (an arbitration court clause) which shall be in written form.

The parties agree on the number of arbitrators. If there is no agreement, a dispute shall be resolved by three arbitrators. An
arbitration court may also consist of one arbitrator, if the parties agree thereto.

The arbitral tribunal has the right to determine its competence.

An arbitration court may resolve a dispute with (oral procedure) or without (written procedure) holding a court session. All arbitration court sittings are closed and proceedings of an arbitration court shall be conducted in Latvian language; however, the parties can agree upon another language.

A dispute shall be resolved by an arbitral tribunal according to the law or to the customary transaction practices that are agreed upon.

If there is no agreement, the applicable law shall be determined in accordance with the provisions of the Introduction to The Civil Law.

Opportunities to challenge an arbitral award are very restricted — an arbitral award may be challenged only in cases prescribed by the law.

PUBLIC PROCUREMENT

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OVERVIEW
Public procurement procedure is a procedure, in accordance with which a commissioning party selects suppliers and awards the right to enter into public works, supply or service contracts.

LEGAL ACTS
The legal acts relevant to procedures of public procurement are:
— the Public Procurement Law of the Republic of Latvia;
— directives 2004/17/EC and 2004/18/EC.

TYPES OF PROCUREMENT PROCEDURES
— Open competition procedure, in which all interested suppliers are entitled to submit tenders.
— Closed competition procedure, in which all interested suppliers may request the right to participate; however, tenders may only be submitted by those candidates who are invited by the commissioning party.

— Negotiated procedure with prior publication of contract notice, in which the commissioning party consults with the suppliers of its choice and negotiates the terms of the contract with one or several of them.

— Competitive dialogue, which the commissioning party shall only be entitled to apply where a particularly complicated contract is dealt with via a framework of a public and private partnership. Any interested person may submit a request to participate in the procurement procedure. The commissioning party shall then conduct a dialogue with the selected candidates with the aim of developing one or more criteria capable of meeting the commissioning party's needs. The commissioning party shall then submit the tender invitation to the candidates chosen as a result of the dialogue and select the successful tender accordingly.

— Design competition procedure, which gives the commissioning party an opportunity to acquire a design (plan or project) that has been recognised by a jury commission as the best in a competition with or without awarding any prizes, mainly in the field of city and any other territory planning, architecture, building or data processing (including a state information system). A design competition shall be applied if the estimated contract price is 28 000 euros or more. Information regarding a design competition shall be accessible to all interested parties.

If the contract price of public supply contracts or the service contracts is equal to 4 000 euros or more, but less than 42 000 euros and if the estimated contract price of the public works is equal to 14 000 euros or more, but less than 170 000 euros, then
the public procurement procedure shall be carried out in accordance with Section 8.2 of the Public Procurement Law.

THRESHOLD OF THE VALUE OF ORGANISING A PUBLIC PROCUREMENT PROCEDURE

— 42 000 euros or more for public supply contracts or service contracts, and
— 170 000 euros or more for any public works contract.

TIME LIMITS FOR SUBMISSION OF TENDERS AT OPEN PROCEDURE

The commissioning party, when determining the deadlines for submission of applications or tenders, shall take into account the level of complexity of the potential contract and the time period necessary for the preparation of tenders, as well as the restrictions of the time periods specified in the Public Procurement Law.

— International procurement procedure: 52 days minimum;
— Procurement procedure over Latvian threshold, but below international threshold: 30 days minimum for any public works, supply or service contracts;
— If the commissioning party has published an advance informative notice: 36 days minimum;
— In urgent cases which have arisen due to circumstances beyond the control of the commissioning party: 22 days minimum.

APPEALING

A tenderer, candidate or person interested in participating in a procurement procedure may appeal against an act or decision relating to a specific procurement procedure, where it believes that its rights have been infringed upon (or that infringement of these rights is possible) as a result of a potential violation of European Union regulatory enactments or other regulatory enactments, by submitting a complaint regarding the provisions for selection of candidates or applicants, technical specifications and other requirements which relate to the specific procurement procedure, or regarding the activities of the commissioning party or the procurement commission during the course of the procurement procedure. A complaint shall be submitted to the Procurement Monitoring Bureau within:

— 10 days after the published results of the procurement procedure signed by electronic signature have been received by fax or email;
— 15 days after the published results of the procurement procedure have been received by mail.

WEB PAGE FOR PUBLIC PROCUREMENTS IN ESTONIA

All procurement procedures over the Latvia threshold must be arranged online at http://www.iub.gov.lv/.

EMPLOYMENT

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OVERVIEW

Latvia reformed its employment legislation in 2002, when the new Employment Law was adopted. It changed employment relationships so that they became more flexible and up to date. Work relations are also regulated by the Civil Law, the Labor Dispute Act, the Work Safety Act, etc.

FORM OF EMPLOYMENT CONTRACT

An employment contract must be in written form, and must include all conditions concerning the work placement and the relationship between the parties (including a description of the role, the place of work, working time, payment terms etc). However, if there is no written contract, but the employee can prove that the parties have agreed on the main conditions of the contract, an employment contract shall nevertheless be considered to be in force.

TERM OF EMPLOYMENT CONTRACTS

It is presumed that employment contracts are entered into for an unspecified period. An employment contract may, however, be entered into for a specified term of up to three years if it is justified by good reasons arising from the temporary fixed-term characteristics of the work or, specified by labour law and/or the rules of the Cabinet of Ministers.

PROBATION PERIOD

The parties may agree on a probation period of up to 3 months.

WORKING TIME

It is presumed that an employee shall be required to work 40 hours per week and 8 hours a day (which will be deemed to be full-time work), unless the employer and the employee have agreed on shorter working hours (which will be deemed to be part-time work).

ANNUAL LEAVE

The minimum entitlement to paid basic annual leave is 28 calendar days.

COMPETITION RESTRICTION

It may be agreed in an employment contract that an employee is not allowed to work for the employer’s competitor or that they are not allowed to engage in the same economic or professional activity as the employer. The parties may also agree to extend these competition restrictions so that they continue for up to two years after the expiry of an employment contract, but in such cases the employer must pay the employee reasonable monthly compensation in return for adherence to the agreement.
TERMINATION BY AN EMPLOYEE

An employee may ordinarily cancel an employment contract that has been entered into for an unspecified term at any time by notifying the employer no less than one calendar month in advance.

TERMINATION BY AN EMPLOYER

An employment contract may be terminated by an employer only due to one of eleven reasons specified by employment law. The reason may be dependent on the employee (for instance, a breach of an employee’s duties or a decrease of their capacity for work, etc.) or economic reasons, if the continuance of the employment relationship on the agreed conditions becomes impossible due to a decrease in the work volume or reorganisation of work or other cessation of work (i.e. lay-off).

TERM OF EMPLOYER’S ADVANCE NOTICE

The term of requisite minimum notice required to terminate an employment contract depends upon the reason of termination, starting from immediate termination (if the employee has performed any illegal act or is drunk or intoxicated whilst at work), up to 30 calendar days (if the termination is due to redundancy, or if the employer is liquidated, etc.).

REDUNDANCY PAYMENT

Where an employment contract is terminated due to a lay-off, an employer must pay an employee compensation to the extent of the employee’s one month’s average salary, if the employment contract or collective labour contract does not provide otherwise.

TRADE UNIONS AND COLLECTIVE AGREEMENTS

There are a lot of trade unions in Latvia, and one employee may be a member of several of them, but they are not as active as in the rest of Europe. Union membership is not compulsory.

IMMIGRATION

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GENERAL RULES OF IMMIGRATION LAW

Latvia had Immigration Law reform in 2010 when new Immigration rules were implemented. In result of which a person can have its residence permit in Latvia on the basis of purchasing immovable property, making investment in the Latvian company or finance institution, etc. Immigration issues are also regulated by Rules of visas, Residence permit law etc.

RULES OF OBTAINING A VISAS

Prior to entry into Latvia a visa shall be obtained at Latvian consular missions in foreign countries or at the consulates of other Schengen Member States which are competent to process Schengen visa application for travelling to Latvia.

According to the Immigration Law, in order to be able to enter and stay in the Republic of Latvia, a foreign national also must prove that he/she has sufficient financial means.

TERMS OF OBTAINING A VISAS

Usually the decision is made within two days after a person made a request to visa. This term can be prolonged, but not longer than 10 days, if the documents are submitted in the Latvian foreign representative.

RESIDENCE PERMIT

A residence permit is a document providing the foreigner’s rights to reside in the Republic of Latvia for a definite period of time (a temporary residence permit) or permanently (a permanent residence permit).

PERSON WHO HAS A RIGHT TO RECEIVE A RESIDENCE PERMIT

Foreigner has a right to receive temporary residence permit if he/she is an individual merchant (businessman) registered in the Commercial Register; a person registered in the Commercial Register as a member of a partnership with rights to represent a partnership, member of the board or the council, managing clerk, executive, liquidator or a person authorized to represent a corporate entity (a foreign corporate entity) in activities related to the branch office; on the basis of a labour agreement or an enterprise agreement; real estate owner etc.

TERMS OF OBTAINING A RESIDENCE PERMIT

The decision for receiving residence permit can be provided in the following terms: 5 business days, 10 days or 30 days + 2 or 10 days for receiving residence permit (plastic card).
PERMANENT RESIDENCE PERMIT
A foreigner, who has continuously resided in Latvia on the basis of a temporary residence permit for at least five, is entitled to apply for a permanent residence permit. However, it should be noted that the foreigner has a right to receive a permanent residence permit, if he or she:
— has passed the exam on knowledge of the Latvian language at a certain level;
— has been residing in Latvia continuously on the basis of a temporary residence permit for at least five years and the absence from Latvia has not exceeded six consecutive months or altogether does not exceed one year during the period of five years.

CASES IN WHICH A RESIDENCE PERMIT SHALL NOT BE ISSUED
The residence permit is not issued in cases prescribed by Immigration law. After receiving negative decision of Office of citizenship and migration affairs, person can appeal against it.

CASES IN WHICH A TEMPORARY RESIDENCE PERMIT IS REVOKED
A residence permit can be revoked in cases prescribed by Immigration Law, for example, in order to receive a residence permit the foreigner has supplied false information; the foreigner works without an employment permit; the conditions serving as the basis for a temporary residence permit issuing to the foreigner are not any more valid or have changed, etc.

REVOKEING OF A PERMANENT RESIDENCE PERMIT
A permanent residence permit can be revoked in cases prescribed by Immigration Law, for example, the foreigner is included in the list of the individuals whose entrance into the Republic of Latvia is forbidden; the foreigner has departed for permanent residence in another country; the foreigner has forfeited or has been deprived of the status of the refugee, etc.

LIST OF BASIC DOCUMENTS NECESSARY TO APPLY IN OFFICE OF CITIZENSHIP AND MIGRATION AFFAIRS TO RECEIVE A RESIDENCE PERMIT
The foreigner has to submit the following documents to the institution: a valid travel document; a residence permit application form filled out and signed; a photo; document that confirms that foreigner has financial means necessary to live in Latvia; a receipt confirming the fee payment; a valid health insurance policy for a year; a health certificate issued by a Latvian health care institution stating that the foreign national does not suffer from tuberculosis in active phase.

List of additional documents that a person shall apply depends on foreigners purpose to receive a residence permit.

INSURANCE LAW

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The non-life insurers operating during 2012–2013 in the whole of the Baltics are ERGO (owned by the German ERGO insurance group), Seesam (owned by the Finnish banking group OP-Pohjola Group), IF (owned by the Finnish insurance group IF), Gjensidige (owned by the Norwegian insurer Gjensidige), BTA (owned by the Latvian insurer BTA), PZU (owned by the Polish insurer PZU) and Codan (owned by Royal & Sun Alliance, an insurer based in Great Britain).

Insurance disputes are solved by the court system (do not require pre-trial procedure).

MOST IMPORTANT LAWS

The most important laws regulating insurance practices in Latvia are the Motor Third Party Liability Insurance Act, the Insurance Contract Act (which regulates all matters concerning insurance contracts), and the Insurance Companies and Insurance Activities Act (which regulates all matters concerning insurance activities).

INSURANCE COMPANIES

Currently, Latvia has 6 non-life insurers, 3 life insurers and 459 SE companies.

INSURANCE BROKERS

There are 145 brokers active in Latvia.

INSURANCE DISPUTES

Insurance disputes are solved by the court system (do not require pre-trial procedure).
REAL ESTATE

REAL RIGHTS
Real rights are
— ownership; and
— limited real rights.

OWNERSHIP
Ownership gives full legal control over a real estate, including the right to possess, use and dispose of the property in question, and to demand the prevention of any violation of these rights by any other person.

Ownership rights may only be restricted by law, by court judgement or the rights granted to any other persons.

LIMITED REAL RIGHTS
The following limited real rights are available:
— mortgage;
— pre-emption right;
— real servitudes;
— real encumbrances;
— building right;
— personal right of use.

TRANSFER AND ENCUMBERING OF REAL ESTATE
A private agreement is sufficient for the disposal of any real rights. However, the Land Registry will only be amended upon the receipt of notarised applications, which should be signed in addition to the agreement.

Any entry into the Land Registry will incur costs including notary fees and state fees. State fees are stipulated by law and the exact amount shall be calculated based on the transaction value.

For example, if real estate was to be sold at the price of 100,000 euros the notary fee would be approximately 40 euros + 21% VAT, and the state fee would be approximately 2000 euros.

OVERVIEW
Latvia has a Land Registry to govern real rights and real property rights.

The validity of the Land Registry is presumed, meaning that all third parties can, in good faith, rely on the data contained within the Land Registry.

REAL ESTATE
Real estate is defined as any land plot registered in the Land Registry along with its essential parts, e.g. buildings or other constructions.

Buildings can also be held or transferred separately from the land plot upon which they are built provided that any lease is for a term of at least 10 years and contains a right to erect buildings. This separate registration is valid only during the term of the lease agreement.

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CONSTRUCTION

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LEGAL ACTS

— Spatial Development Planning Law;
— Construction Law;
— General Construction Regulations;
— spatial plans of the local government and the building regulations contained within these plans;
— regulations regarding the acceptance of structures for service;
— construction norms of Latvia (technical requirements).

PRIOR CONSTRUCTION

Construction may be initiated by the owner, the possessor, the lessee and/or the user of the land or building if it is in accordance with the territorial plan of the local municipality. In some cases a detailed plan is required.

To initiate construction the individuals in question must submit to the local construction board:

— a construction work submission-registration card (in general cases);
— a certification card (in cases of simplified renovations or simplified reconstruction); and
— a technical scheme (in cases of simplified construction, reconstruction or renovation of engineering network input schemes and internal engineering networks).

Planning and architectural orders are generally granted within 10 days, after which a building design can be developed.

Construction works can begin after a period of 10 working days where they relate to simplified renovations or a simplified reconstruction or a simplified construction, reconstruction or renovation of engineering network input schemes and internal engineering networks, provided the local construction board does not refuse the design within this time period.

BUILDING PERMIT, WRITTEN APPROVAL AND NOTIFICATION OF THE LOCAL AUTHORITY

To get a building permit a person must submit:

— an application for the building permit;
— a building design approved by the local construction board;
— information about the constructor, the manager of construction works, the construction supervisor and the author’s supervisor;
— evidence that the building contractor has the mandatory civil legal liability insurance policy which has been issued to it by an insurer.

The local construction board will then issue a building permit within 5 working days.

Temporary, seasonal or small structures (with a building area no bigger than 25 m²) and individual elements for the improvements to boundaries can only be erected if this has been approved by the local construction board.

PERMIT TO USE

A person can start to use a building once they have been granted the necessary authority to do so.

The local construction board must confirm whether or not it gives its consent to the use of a building within 10 working days of the relevant person submitting:

— a confirmation of readiness of a building for service;
— opinions by the institutions that have prepared the technical requirements for the development of the building designs according to the relevant planning and architectural order;
— construction executive documentation;
— an interim energy performance certificate for the building;
— a building inventory file prepared by the regional office of the State Land Service.

REBUILDING

Rebuilding must be done in accordance with the same procedures that apply to a new construction, except in cases of simplified constructions.

WARRANTY FOR A CONSTRUCTION WORK

A warranty for any construction works project shall be granted for a period of at least two years from the date on which the building is accepted for service.

WEB REGISTRIES AVAILABLE

Registry of construction companies and specialists:
http://buvkomsanti.bema.gov.lv/
TAX

OVERVIEW
The tax system consists of state taxes imposed by the Parliament and local taxes imposed by a local municipality in its territory.

STATE TAXES
State taxes in Lithuania include the personal income tax, the corporate income tax, the social insurance tax, the land tax, the real estate tax, the state-owned land lease tax, the value added tax, the gambling tax, customs duties, excise duties and the heavy goods vehicle tax.

In addition to the above, there are unemployment insurance premiums and contributions to a mandatory funded pension.

LOCAL TAXES
Municipalities set the rates of the land tax, the real estate tax and the state-owned land lease tax, and have the right to impose road and street closure taxes, animal taxes, parking charges, etc.

CORPORATE INCOME TAX
Rates:
— The standard corporate income tax (CIT) tax rate is 15%.
— 5% CIT rate is applied to:
  1) the taxable profit of small companies with an average number of employees not exceeding 10 and income not exceeding 1 million Lithuanian litas (290 000 euros) over the relevant tax period (with certain exceptions);
  2) the taxable profit of companies with income from agricultural activities accounting for more than 50% of the company’s total income over the relevant tax period.
— 0% CIT rate is applied to social companies if the following conditions are met:
  1) the number of employees eligible for social support accounts for not less than 40% of the total number of employees;
  2) the income from activities that are non-supportable for social companies does not exceed 20% of the total income earned; and
  3) the company has a status of a social company.

All income sourced by local companies registered in Lithuania inside and outside Lithuania is taxable, minus the allowable deductions.

TAXES ON DIVIDENDS

Withholding tax
1) Dividends
Dividends paid out to foreign/Lithuanian companies are generally subject to withholding tax at a rate of 15%.
Participation exemption rule: dividends paid out to foreign/Lithuanian companies are exempt from CIT if:
— the recipient holds not less than 10% of voting shares and;
— they hold these shares for at least 12 successive months.

Dividends received by a Lithuanian company from foreign companies are exempt from CIT if the foreign companies are registered in a country within the EEA and these dividends were distributed from profits that have already been subject to CIT or similar taxes.

2) Other income at source
The following income sourced in Lithuania and received by a foreign company is taxed at a rate of 10%:
— interest on any type of debt obligations including securities;
— royalties;
— indemnitites received in respect of any infringemement of the company’s copyrights or neighboring rights.

There is no withholding tax on interest paid from Lithuanian companies to foreign companies to foreign companies established in the EEA or in countries which have concluded a DTT with Lithuania or on the royalties paid to the qualifying related parties, where these are EU tax residents.

The following income sourced in Lithuania and received by a foreign company is taxed at a rate of 15%:
— income from performers’ or sports activities carried on in Lithuania;
— annual payments to the Board and Supervisory Board members.

PERSONAL INCOME TAX (RESIDENTS)
Lithuanian residents pay PIT on their worldwide income with certain exceptions.

Rates of personal income tax (PIT):
— the general PIT rate is 15%;
— 5% is applied to income from certain individual activities;
— 20% is applied to income from distributed profits (dividends, etc.).

The law provides for non-taxable income, allowable deductions, a tax-exempt amount, deductions for incurred expenses, etc.

INCOME TAX (NON-RESIDENTS)
The standard rate of income tax is 15%. Non-residents pay PIT on income sourced in Lithuania (interest; income from distributed profits and payments for the members of the Board and the Supervisory Board; income from the rent of property immovable by nature and located in Lithuania; royalties, etc.) and on income derived from activities through a fixed base in Lithuania, including foreign-source income attributed to that fixed base.

SOCIAL TAX
The rate of social tax in Lithuania is between 28.5% and 32.6% varying for different categories of insured persons. Different tax bases apply. In addition, a 9% health insurance contribution is paid.
INHERITANCE TAX

A 5% rate is applied to any inheritable assets valued at 500,000 Lithuanian litas (approx. 145,000 euros) or less and a rate of 10% is applied to any inheritable assets valued at more than 500,000 Lithuanian litas (approx. 145,000 euros).

The taxable base is 70% of the inherited assets. The taxable value not exceeding 10,000 Lithuanian litas (approx. 2900 euros) is exempt.

Exemptions also apply to assets inherited by family members.

TAX TREATIES

Lithuania has around 50 Tax Treaties, including with the USA, the UK, Latvia, Estonia, China, the Scandinavian countries, etc.

An up-to-date list is available at:
http://www.finmin.lt/c/portal/layout?p_1_id=PUB.1.66

APPLICABILITY OF SUBSTANCE-OVER-FORM PRINCIPLE

The substance-over-form principle applies. General rule: if it is evident from the content of a transaction/act that the transaction/act is performed for the purposes of tax evasion, the transaction/act shall be taxed based on its actual economic content.

COMPANY LAW

Lina Šikšniutė-Vaitiekūnienė

COMPANY TYPES

The types of company recognized under Lithuanian law are a private limited liability company, a public limited company, a personal company, a small limited company, general and limited partnerships, a co-operative, an agricultural company, and a European companies. A foreign company may also operate through a branch (instead of establishing a subsidiary); it may have a registered representative office.

The most common company type is the limited liability company (in Lithuanian: Uždaroji akcinė bendrovė — UAB). It is expected that the small limited company will become a popular type of company, because it offers limited liability and there is no mandatory requirement to form a statutory capital.

LIMITED LIABILITY COMPANY

Management

Minimum share capital for a private limited company is 2807 euros.

The highest management body of a limited liability company is the general meeting of shareholders.

Day-to-day management is carried out by the sole director of the company, who is employed by the company.

Both a management board and a supervisory board are optional. A management board must consist of at least 3 members (who do not have to be Lithuanian residents), and a supervisory board may consist of at least 3 but not more than 15 members. The chairmen of the management and supervisory boards shall have a casting vote.

As a general rule an auditor is not necessary.

Incorporation procedure

A limited liability company in Lithuania shall be established by a foundation resolution or an agreement.

Persons that have a Lithuanian ID card or a qualified certificate for the generation of a qualified electronic signature can incorporate the company online.

Incorporation costs

The notary fee for the establishment of a limited liability company in Lithuania is 211 euros; the stamp duty is 75 euros.

Incorporation time

It takes up to 3 working days from submitting the documents to the Registry of Legal Entities to incorporate a limited liability company in Lithuania.

Sale of shares

Share sale and purchase agreements need to be in writing. Certified shares must be transferred by an endorsement in the certificate of shares. A change of title to the shares shall be registered in the registry of shareholders of the company.
PUBLIC LIMITED COMPANY

The minimum share capital of a public limited company in Lithuania is 43,443 euros.

Management

The highest management body: the general meeting of shareholders.

Day-to-day management is carried out by the sole director of the company, who is employed by the company.

Both a management board and a supervisory board are optional. A management board must consist of at least 3 members (who do not have to be Lithuanian residents); a supervisory board must consist of at least 3 but not more than 15 members. Chairman of the management and supervisory boards shall have casting votes.

Incorporation procedure

A public limited company in Lithuania shall be established by a foundation resolution or a foundation agreement.

Shares can only be uncertified. Any shares shall be recorded as entries in the personal securities accounts of the company's shareholders which are administered by the Central Securities Depository of Lithuania.

Incorporation time

It takes up to 3 working days from submitting the documents to the Registry of Legal Entities to establish a public limited company in Lithuania.

Sale of shares

Share sale and purchase agreements must be in writing and contain certain mandatory provisions. Listed shares of a public limited company can be sold in the central market of securities exchange.

SHAREHOLDER LIABILITY

In respect of both private and public limited companies, a shareholder will not be personally liable for the obligations of the company. Shareholders shall, however, be liable to the company and the company's creditors for any damage wrongfully caused to the company by the shareholder illegally using its influence over the company (including via other shareholders, or over any management board or supervisory board members).

CONTRACT LAW/COMMERCIAL LAW

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OVERVIEW

Lithuanian civil law (including contract law) is based on the civil law tradition and has been influenced by the civil law of Germany, the Netherlands, France, Canada and other countries. The CISG, PECL, PICC and EU law have also served as important sources for the development of Lithuanian civil law.

CONTRACT LAW/CONCLUSION OF CONTRACT

The rules and their interpretation are similar to the CISG, the PICC, and the DCFR.

A contract is concluded by one party making an offer and the other party accepting the offer (offer-acceptance model) or where it is otherwise sufficiently clear that the parties have reached an agreement.

A contract is interpreted according to the common intent of the parties and if that intent is unknown, according to how a reasonable third person in the same or similar position would understand the provisions of the contract.

FORM REQUIREMENTS

Generally, commercial contracts can be concluded in any form (including oral).

Exceptions apply to some types of commercial contracts which must be set out in written form and executed (i.e. the contract must be signed by hand). These include company share transfers, land leases, leases of real estate and movables for more than 1 year, franchises, distribution, loan agreements where one of the parties is a legal entity, or loan agreements between persons exceeding 580 euros, employment contracts, authors’ agreements, arbitration clauses, insurance contracts, preliminary contracts, etc.

Transactions on transfer of real estate, (except contracts signed during bankruptcy proceedings), mortgages, marriage contracts and other contracts require notarisation.

Contracts concerning real estate shall be registered within the Registry of Real Es-

2 Principles of European Contract Law (PECL)
3 UNIDROIT Principles of International Commercial Contracts (PICC)
4 Draft Common Frame of Reference (DCFR)
Contractual liability is strict (i.e. not fault based); its basic principles resemble those of the CISG and the DCFR.

The system of remedies that has been implemented is almost identical to the CISG and the DCFR, i.e. normally the innocent party may either: (i) require performance of the contract, (ii) unilaterally reduce the contract price, (iii) avoid the contract or (iv) claim for damages. Suspension of performance is also available as a temporary measure.

Assignments of Contracts

Contracts may be assigned upon the agreement of the other party. The benefit (or part of the benefit) arising from contracts may be assigned without the other party’s consent, although a notification of the assignment is required. The assignment of a party’s obligations under a contract, however, requires the other party’s consent.

Termination of Contracts

Generally contracts may be terminated upon a fundamental breach of the contract by the other party or due to circumstances that are beyond the control of the parties. Nonetheless, the law provides for specific grounds of termination in respect to certain contracts. Contract termination grounds can be agreed by the parties; these, however, shall not contradict the imperative rules of the law.

Statutory Interest

The civil code of the Republic of Lithuania states that the statutory annual interest rate is 5%. If both parties are businessmen or private legal persons, the annual interest rate is 6%.

Statutory interest is also provided for in the Law on the Prevention of the Delay in Payments under the Commercial Contracts. The interest rate under this act changes twice a year on January 1 and July 1 and is based on the last overnight interest rate applicable to the main refinancing operations of the Bank of Lithuania before January 1 or July 1 of each respective year, which must be increased by 8 percentage points. The statutory interest is published by the Bank of Lithuania.

Creditors are entitled to choose which interest rate should be applied.

Statutory Penalty Interest

Parties are entitled to agree on the interest rate that shall apply to a contract, but the legal acts of the Republic of Lithuania provide that the penalty must compensate the damages without acting as a penalty for the debtor. Any sum that is deemed to be unreasonably excessive, and consequently a penalty, may be reduced by the court accordingly.

Applicable Law

The international treaties of the Republic of Lithuania shall apply to civil relationships directly, therefore the provisions of Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June, 2008 on the law applicable to contractual obligations (Rome I Regulation) shall have direct effect.

The basic principle is that the parties to a commercial contract are free to choose which law applies, with certain exceptions.

Exceptions apply where the application of foreign law might be inconsistent with the public order established by the Constitution of the Republic of Lithuania and other laws. The mandatory provisions of the laws of the Republic of Lithuania (or the state most closely related with the dispute) shall be applicable regardless of the fact that another foreign law has been agreed upon by the parties.

Jurisdiction

In cases where the defendant is domiciled in a Member State of the EU, Council Regulation (EC) No 44/2001 of 22 December, 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Brussels I Regulation) shall be applied in Lithuania. In other cases the Lithuanian Code of Civil Procedure shall be applied.

Generally, the parties are free to agree on which jurisdiction shall apply in commercial contracts, except where the rules of exclusive jurisdiction apply (e.g. matters relating to rights in rem in immovable property and family cases where one of the spouses is a citizen of Lithuania or the spouses are domiciled in Lithuania).

Arbitration

Arbitration clauses are allowed. Lithuania is a Contracting State of the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the “New York Convention”).
DISPUTE RESOLUTION

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OVERVIEW

The court system of the Republic of Lithuania is made up of courts of general jurisdiction (these courts are hearing civil and criminal cases) and courts of special jurisdiction (hearing administrative cases).

In order to make court proceedings faster, easier and cheaper the government is introducing an internet-based judicial record system (www.teismai.lt).

Any dispute may also be addressed to an arbitral tribunal, subject to the written agreement of the parties on arbitration clause, with exception to disputes arising from constitutional, employment, family, and administrative legal relations, as well as disputes related to patents, trademarks, service marks, etc.

COUNTY COURT

There are 49 district courts in Lithuania.

District (city) courts are located in major cities of Lithuania. The district courts are the first instance for criminal and civil cases, cases of administrative offences, etc.

Prior to filing the claim or other action, the plaintiff must pay a state fee. As a rule, state fee rates in a civil matter are calculated upon the value of the corresponding claim or, in certain cases, determined as a fixed amount.

ADMINISTRATIVE COURT

There are five regional administrative courts (in Vilnius, Kaunas, Klaipėda, Šiauliai and Panevėžys) in Lithuania.

Regional administrative courts are the courts of special jurisdiction established for hearing complaints in respect of administrative acts. These courts hear disputes in the field of public administration and deal with issues relating to the lawfulness of regulatory administrative acts, tax disputes, etc. In certain cases pre-trial procedures can take place before applying to an administrative court.

Prior to filing an action, the claimant must pay a state fee, which is usually lower than the state fee payable in respect of a civil claim.

The Supreme Administrative Court is the first and final instance for administrative cases assigned to its jurisdiction by law. It is the appeal instance for cases hearing administrative acts.

CIRCUIT COURT

There are five regional courts, which are located in Vilnius, Kaunas, Klaipėda, Šiauliai and Panevėžys, and one Court of Appeal located in Vilnius.

Regional courts are the first instance for criminal and civil cases assigned to their jurisdiction by law (in civil matters — if the amount of the claim exceeds approx. 43 480 euros) and the appeal instance for judgements, decisions, rulings and orders of district courts.

The Court of Appeal is the second (appeal) instance for cases heard by regional courts as courts of first instance.

Prior to filing an action, a person must pay a state fee, which is usually equivalent to the state fee paid in the court of first instance, taking into account the extent of the appeal.

THE SUPREME COURT

The Supreme Court is the highest court and is located in Vilnius. There are 37 judges in the Supreme Court and the court is comprised of the Senate and two judicial panels: the Civil Matters Panel and the Criminal Matters Panel.

The Supreme Court shall review court judgments by way of cassation proceedings (except the resolutions for cases of administrative offences). The Supreme Court shall accept a matter for proceedings if a court of lower instance has violated a provision of procedural law in making a judgment, incorrectly applied a provision of substantive law, deviated from the jurisprudence of the Supreme Court or if the adjudication of the appeal in cassation has fundamental importance with respect to guaranteeing legal certainty and developing a uniform judicial practice.

Cases before the Supreme Court are normally heard by a panel of three judges. In the instances where a cassation case involves a complicated issue of interpretation or application of laws it can be heard by an extended panel of seven judges or by a plenary session of the relevant division.

The court shall accept a matter for hearing if at least one of the justices of the panel insists on it.

CONSTITUTIONAL REVIEW

The Constitutional Court is an independent judicial authority which comprises of 9 judges and adjudicates matters regarding the compliance of laws and other regulatory acts with the Constitution.

The judges of the Constitutional Court are appointed by the Parliament of Lithuania (Seimas) from the candidates presented by the President, the Chairman of Seimas and the Chairman of the Supreme Court.

A judgment of the Constitutional Court is final and enters into effect at the moment of its pronouncement.

ARBITRAL TRIBUNAL

An arbitral tribunal may be permanent or operate ad hoc. 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, which shall be in a written form.

The parties agree on the number of arbitrators. If there is no agreement, a dispute shall be resolved by three arbitrators. The parties shall be free to determine the number of arbitrators, which must be uneven.

The arbitral tribunal has the right to determine its competence.
Public Procurement

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Overview

Public procurement means the purchasing of goods, contracting for the provision of services, contracting for public works and granting of works and service concessions by the contracting authority, and contracting for works by the concessionaire of a works concession. Public procurement provisions apply to the selection of partners for forming public-private partnerships. General provisions relating to public procurement under the Law on Public Procurement of the Republic of Lithuania are set out in further detail below.

Legal Acts

The legal acts relevant to procedures of public procurement are:
— the Law on Public Procurement of the Republic of Lithuania;
— the Law on Concessions of the Republic of Lithuania and;
— directives 2004/17/EC and 2004/18/EC.

Types of Procurement Procedures

— Open procedure, in which every interested person that meets the requirements stipulated in the Law on Public Procurement of the Republic of Lithuania may submit a tender.

— Restricted procedure, in which any interested person may submit a request to participate in the procurement procedure, but a tender may be submitted only by those candidates chosen by the contracting authority on the basis of the objective and non-discriminatory criteria, and to whom the contracting authority accordingly submits the tender invitation.

— Competitive dialogue, whereby any interested person may submit a request to participate in the procurement procedure following which the contracting authority shall conduct a dialogue with the selected candidates with the aim of developing one or more suitable solutions capable of meeting the contracting authority’s needs. The contracting authority shall then submit the tender invitation to the candidates chosen as a result of the dialogue and select the successful tender accordingly.

— Negotiated procedure with prior publication of contract notice, in which any interested person may submit a request to participate in the procurement procedure. The contracting authority shall carry out due diligence in order to verify the qualifications of those candidates who have submitted requests against the minimum requirements set forth in the contract documents. The contracting authority must then submit the tender invitation to chosen candidates (following a pre-qualification selection process) and negotiate the tenders with them in order to select the successful tender.
— Negotiated procedure without the publication of contract notice. The contracting authority shall invite a candidate or candidates to participate in the procurement procedure. The contracting authority shall verify if the qualification of the candidates meets the set requirements and negotiate with such candidates. Based on the results of negotiations and the candidates’ ability to meet the evaluation criteria specified in the contract documents, the contracting authority will aim to identify the successful tender, giving consideration to which tender offers it the highest economic advantage.

**Threshold of the Value of Organising a Public Procurement Procedure**

The threshold of the value of organising a public procurement procedure in Lithuania is approximately **30 000 euros** for any public supply contract or public service contract, and approximately **145 000 euros** for any public works contract.

The international threshold is a sum which is periodically reassessed by the European Commission.

**Time Limits for Submission of Tenders at Open Procedure**

The minimum limit for a submission of tenders at open procedures is 52 days.

If the contracting authority has published a prior information notice at least 52 days, but not more than 12 months, before the beginning of the procedure and the information provided in the notice meets the necessary requirements, the time limit may be reduced to 36 days.

In urgent cases which have arisen due to circumstances the contracting authorities could not have foreseen, the term may be reduced to not less than 22 days from the date on which the note was dispatched.

**Appealing**

A tenderer, candidate or person interested in participating in a procurement procedure wishing to dispute the decisions or acts of the contracting authority prior to the awarding of a public contract must first file a claim against the contracting authority:

1) **within 15 days** from the dispatch of a written notice of the contracting authority of the decision adopted by it to the respective suppliers;

2) **within 10 days** (or, in the case of simplified procurement procedures, **within 5 working days**) from the publication of any decision adopted by the contracting authority.

The contracting authority must examine a claim and take a reasoned decision not later than **5 working days** following the receipt of the claim.

The decision of the contracting authority can be appealed against in court within the above-mentioned time periods.

**WEB PAGE FOR PUBLIC PROCUREMENTS IN LITHUANIA**

All procurement procedures over the Lithuanian threshold must be arranged online at [http://www.cvpp.lt/](http://www.cvpp.lt/).


**Employment**

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**Overview**

Lithuania reformed its employment legislation in 2003, when the new Labor Code of the Republic of Lithuania was adopted. It changed employment relationships so that they became more flexible and up-to-date. Work relations are also regulated by the Occupational Safety and Health Act, the law on indexation of the amount of minimum salary, social security benefits, the bases of fines and penalties, etc.

**Form of Employment Contract**

An employment contract must be in written form and must include the essential terms concerning the work placement and the relationship between the parties such as the employee’s work place, work functions, remuneration for work, etc.

**Probation Period**

The parties may agree on a probation period, which normally cannot be longer than 3 months, with some exceptions. Probation is not allowed in the case of the employment of any persons under the age of 18, where an individual has been elected into the position or has passed the requisite qualification exams, and where an employee transfers under an agreement between employers. It is important to specify whether probation is granted in favour of the employee, the employer, or both.

**Working Time**

It is presumed that an employee shall be required to work 40 hours per week and 8 hours a day (which will be deemed to be full-time work), unless the employer and the employee have agreed on shorter working hours (which will be deemed to be part-time work). The Labour Code provides for special regulations with respect to summary recording of work time.

**Annual Leave**

The minimum entitlement to paid basic annual leave is 28 calendar days.

**Competition Restriction**

The parties may agree in an employment contract that an employee is not allowed to work for the employer’s competitor or that they are not allowed to engage in the same economic or professional activity as the employer. The parties may also agree to extend these competition restrictions so that they continue for up to two years after the expiry of an employment contract, but in such cases the employer must pay the employee reasonable monthly compensation in return for adherence to the agreement.
TERMINATION BY AN EMPLOYEE

An employee may ordinarily cancel an employment contract that has been entered into for an unspecified term at any time by notifying the employer no less than 14 working days in advance (or no less than 3 working days in advance if the request to terminate the employment contract is justified by the employee’s illness or disability restricting the proper performance of their work, or where the employer fails to fulfil its obligations under the employment contract, violates any applicable laws or breaches the collective agreement).

TERMINATION BY AN EMPLOYER

An employment contract may be terminated by an employer on the following grounds:

1) without the fault of an employee only for good reasons (structural changes of the organisation, economic or technological reasons, failure of the employee to have the necessary qualifications or due to the employee’s behaviour at work) by giving the employee 2 or 4 months’ prior notice and if the employee cannot, with their consent, be transferred to another position;

2) without prior notice because of the continuous breach by an employee of their duties (which has resulted in at least two disciplinary sanctions during any 12 month period) or one material breach by the employee of their duties;

3) other cases provided for in the Labour Code of the Republic of Lithuania.

The Labour Code provides certain prohibitions on the ability to terminate a pregnant woman’s employment or to give notice of termination to persons on sickness leave, etc.

TERM OF EMPLOYER’S ADVANCE NOTICE

Generally an employer must provide at least 2 months’ notice to terminate an employment contract due to a good reason, but socially sensitive groups of employees are entitled to 4 months’ prior notice. In the case of a breach of an employee as provided above, immediate termination is allowed.

REDUNDANCY PAYMENT

Where an employment contract is terminated for good reason without any fault of the employee, or upon the liquidation of an employer, the employee shall be entitled to between 1 to 6 months’ average salary, depending on the length of their employment.

Where an employment contract has been terminated for any other reason provided by law without any fault of the employee, the employee shall be entitled to a severance pay equating to two months’ average salary, unless otherwise provided by law or any collective agreements.

TRADE UNIONS AND COLLECTIVE AGREEMENTS

There are a lot of trade unions in Lithuania, and any employee may be a member of a union, but they are not as active as in the rest of Europe. Union membership is not compulsory.

IMMIGRATION

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GENERAL RULES OF IMMIGRATION LAW

The new Law on the Legal status of Foreigners was adopted in 2004. Immigration law provides for regulations in connection to issuance of visas, residence permits, work permits, etc.

RULES OF OBTAINING A VISA

Prior to entry into Lithuania an alien should apply for a visa (whether Schengen or national) from a diplomatic mission or a consular post of the Republic of Lithuania abroad or from a diplomatic mission or a consular post of another Schengen State representing the Republic of Lithuania abroad.

An alien shall fill in the application and present the documents evidencing possession of medical insurance, sufficient financial funds for their stay in Lithuania, verified invitation letter, etc.

TERMS OF OBTAINING A VISA

Prior to visa issuance the invitation letter is verified; this takes 3 working days. A decision regarding the issuance of the Schengen visa shall be adopted within 15 calendar days upon receipt of the application and other required documents. In special cases the term may be extended to 60 (sixty) calendar days.

RESIDENCE PERMIT

A residence permit is a document providing the individual concerned with the right to reside in the Republic of Lithuania for a definite period of time (a temporary residence permit) or permanently (a permanent residence permit).

PERSON WHO HAS A RIGHT TO RECEIVE A RESIDENCE PERMIT

A temporary residence permit shall be issued to a foreigner on the following grounds:

— the foreigner has retained the right to citizenship of the Republic of Lithuania;

— it is a case of family reunification;

— the foreigner intends to work in the Republic of Lithuania;

— the foreigner intends to engage in lawful activities in the Republic of Lithuania;

— the foreigner intends to study;

— the foreigner intends to carry out scientific research;

— other.

TERMS OF OBTAINING A RESIDENCE PERMIT

An application for the issuance of a residence permit shall be examined within 4 (four) months upon receipt of the application. The temporary resident permit shall be changed within 2 (two) months upon receipt of the application.
PERMANENT RESIDENCE PERMIT

A permanent residence permit grants a foreign individual the right to continuously live in Lithuania. It is issued to foreigners who have lived in Lithuania uninterruptedly for five years since the receipt of the first temporary residence permit, and have passed an exam of Lithuanian language and the basic principles of the Constitution of the Republic of Lithuania.

CASES IN WHICH A RESIDENCE PERMIT SHALL NOT BE ISSUED

The residence permit is not issued in cases prescribed by immigration law (i.e. there are serious grounds to believe that the individual has committed a crime against humanity or a war crime; the person has failed to prove possession of sufficient financial funds for a stay in Lithuania or of medical insurance, etc.). After receiving a negative decision a person can appeal against it.

REVOKING OF A PERMANENT RESIDENCE PERMIT

A residence permit can be revoked in cases prescribed by immigration law, for example: the permit has been obtained by fraud; the foreigner’s residence in the Republic of Lithuania may constitute a threat to national security or public policy; the foreigner has been residing in a non EU Member State for a period exceeding 12 consecutive months, etc.

LIST OF BASIC DOCUMENTS NECESSARY TO APPLY IN THE OFFICE OF CITIZENSHIP AND MIGRATION AFFAIRS TO RECEIVE A RESIDENCE PERMIT

The foreigner has to submit to the office the following documents:
— a valid travel document (passport);
— a completed application for the issuance of a residence permit of the established form;
— one colour photo corresponding to the person’s age;
— a valid visa;
— a document proving that the foreigner has enough means and/or receives regular incomes for living in Lithuania (at least 290 euros per month);
— a document proving that the foreigner has premises for residing or rents premises;
— a valid document confirming possession of medical insurance (5 800 euros);
— a valid work permit if required;
— a receipt confirming the payment of the state fee.

Additional documents are required when the foreigner intends to work, study or engage in lawful activities.

INSURANCE LAW

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The non-life insurers operating during 2012–2013 in the whole of the Baltics are ERGO (owned by the German ERGO insurance group), Seesam (owned by the Finnish banking group OP-Pohjola Group), IF (owned by the Finnish insurance group IF), Gjensidige (owned by the Norwegian insurer Gjensidige), BTA (owned by the Latvian insurer BTA), PZU (owned by the Polish insurer PZU) and Codan (owned by Royal & Sun Alliance, an insurer based in Great Britain).

INSURANCE COMPANY TYPES

Types of insurance companies operating in Lithuania include a public limited company, a private limited liability company, European company (SE), an insurance undertaking of an other European Economic Area State or a branch of an insurance undertaking of a foreign third country established in the Republic of Lithuania having a licence to carry on insurance activities, and an insurance undertaking of a third country which is a member of the World Trade Organization having established branches in Lithuania only for the performance of a limited list of insurance activities related to ships and air transport (e.g. voluntary insurance of cargo carried by ships or air transport, etc.).

NUMBER OF OBLIGATORY INSURANCE TYPES

30 types of obligatory insurance are applicable in Lithuania.

MOST IMPORTANT LAWS

The Civil Code defines the rules of basic insurance law.

Other important laws include:
— Motor Third Party Liability Insurance Act (which is based on EU directives);
— Republic Of Lithuania’s Law on Insurance (which regulates insurance and insurance mediation activities);
— Republic of Lithuania’s Law on the Bank of Lithuania (which consolidates Lithuanian banking functions and the supervision of insurance companies and brokers in the Republic of Lithuania).

INSURANCE COMPANIES

Currently, Lithuania has 10 life insurance and 15 non-life insurance companies.

INSURANCE BROKERS

101 insurance brokers currently operate in Lithuania.

INSURANCE DISPUTES

Insurance disputes are settled by the court system (and do not require pre-trial procedure).
REAL ESTATE

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OVERVIEW
Lithuania has a Real Property Registry to govern real estate rights and real property rights. The right of ownership and other material rights can be used against third parties only if they are registered in the Real Property Registry. The validity of the Real Property Register is presumed, meaning that all third parties can, in good faith, rely on the data contained within the Real Property Register.

REAL ESTATE
Real estate is defined as any land plot registered in the Real Property Registry along with its essential parts, e.g. buildings or other constructions.

Buildings can also be held or transferred separately from the land plot upon which they are built.

The Civil Code states that if the seller of a building is also the owner of the land plot, the rights of ownership to the land plot or the right of land lease or the right of superficies shall be transferred to the buyer of buildings.

If the seller is not the owner of the land plot on which the transferring buildings are situated, the buyer shall acquire the right to use the appropriate part of the land plot under the same terms and conditions as the seller of the buildings.

REAL RIGHTS
Real rights are
— ownership; and
— limited real rights.

OWNERSHIP
Ownership gives full legal control over a real estate, including the right to possess, use and dispose of the property in question, and to demand the prevention of any violation of these rights by any other person.

Ownership rights may only be restricted by law, by court judgement or the rights granted to any other persons.

LIMITED REAL RIGHTS
The following limited real rights are available:
— right of trust;
— real servitudes;
— usufructs;
— right of superficies;
— emphyteusis;
— mortgage.

TRANSFER AND ENCUMBERING OF REAL ESTATE
A private agreement is sufficient for the disposal of any real rights. However, the Real Property Registry will only be amended upon the receipt of notarised applications, which should be signed in addition to the agreement, with the exception of contracts governing the transfer of real estate which are signed during bankruptcy proceedings.

Any entry into the Land Registry will incur costs including notary fees and state fees. Both fees are stipulated by law and the exact amounts shall be calculated based on the transaction value. The state fee is also based on the type of person that has acquired the property (natural or legal person) and the type of the real estate that is acquired (land plot or building, etc.).
CONSTRUCTION

Construction works can be started only after the building permit is issued by the competent institution.

BUILDING PERMIT, WRITTEN APPROVAL AND NOTIFICATION OF THE LOCAL AUTHORITY

In order to obtain a building permit, a person shall submit:
— an application for a building permit;
— approved design documentation;
— an act on the expert examination of the design documentation (in cases where it is mandatory);
— consent of the co-owners of the plot of land if the plot of land belongs to them by the right of joint ownership;

Permission to build shall be issued by the director of the municipal administration or a civil servant of the municipal administration, authorized by the director.

A building permit shall be issued not later than 45 working days from the day of the receipt of all required documents by the competent authority.

A building permit shall be valid for the unlimited period.

PERMIT TO USE

The law on Construction of the Republic of Lithuania does not forbid using a building until it is officially considered as completed, except for buildings of exceptional and non-exceptional significance.

The construction is deemed to be completed when commissioning has taken place and a construction completion act is issued. A simplified procedure is applied for general repairs, changing of the purpose of a building (or its rooms) or renovation (modernization) of a house of one or two apartments. In these cases the builder shall issue the construction completion declaration, which shall then be approved by the State Territorial Planning and Construction Inspectorate.

REBUILDING

The same procedures apply to rebuilding as do to a new construction, except in the case of a simplified construction.

WARRANTY FOR A CONSTRUCTION WORK

The warranty period of a construction works project shall be fixed in contracts related to design and technical supervision of the project.

The warranty period may not be shorter than:
— 5 years;
— 10 years for hidden constructions (pipelines, etc.);
— 20 years for intentionally concealed defects.

The warranty period shall start from the date of transfer of construction works from a contractor to a builder (client) or the acceptance of the construction works as fit for use.

WEB REGISTRIES AVAILABLE:

Registry of construction specialists:
PEOPLE

Three dozens talented, well-educated, multilingual, and experienced lawyers, supported by administrative and technical personnel, use their best skills to guarantee that the client receives legal service of premium quality.

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