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**EUROPEAN COMMITTEE ON LEGAL CO-OPERATION  
COMITE EUROPEEN DE COOPERATION JURIDIQUE  
(CDCJ)**

98<sup>th</sup> plenary meeting / 98<sup>e</sup> réunion plénière

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**Legislative developments in member states in the areas  
of public and private law**

**Information received from member states:**

**Croatia, Estonia, Georgia, Greece, Lithuania, Malta and United Kingdom**

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***Développements législatifs dans les Etats membres dans le domaine  
du droit public et privé***

***Informations reçues des Etats membres :***

***Croatie, Estonie, Géorgie, Grèce, Lituanie, Malte et Royaume-Uni***

(Item 9 of the draft agenda / Point 9 du projet d'ordre du jour)

Document prepared by the Secretariat  
Directorate General of Human Rights and Rule of Law – DGI

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*Direction générale Droits de l'Homme et État de Droit – DGI*

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## INTRODUCTION

In preparing the 98<sup>th</sup> plenary meeting of CDCJ, members of the committee have been invited on 4 May 2022 to submit to the Secretariat any written information on legislative developments in the areas of public and private law in their countries since the last CDCJ plenary meeting (December 2021).

The information received from member states is reproduced in this document.

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*En vue de la préparation de la 98<sup>e</sup> réunion plénière du CDCJ, les membres du comité ont été invités le 4 mai 2022 à soumettre par écrit toutes informations sur les développements législatifs dans le domaine du droit public et privé intervenus dans leurs pays depuis la dernière réunion plénière du CDCJ (décembre 2021).*

*Les informations reçues des Etats membres sont reproduites dans le présent document.*

## **CROATIA / CROATIE**

(received on 23 May 2022 / *reçu le 23 mai 2022*)

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### **AN OVERVIEW OF SOME NEW ACTS OF PARLIAMENT IN THE REPUBLIC OF CROATIA from December 2021 to May 2022**

#### **1. ACT ON THE EXECUTION OF PRISON SENTENCES (Official Gazette, no. 14/2021)**

The Act harmonizes provisions with several other laws of the Republic of Croatia (Criminal Code, Criminal Procedure Code, Misdemeanour Law, etc.) while respecting the latest practice in the system of execution of imprisonment at the international level resulting from international regulations (Convention for the Protection of Human Rights and Fundamental Freedoms, European Prison Rules, decisions of the European Court of Human Rights, etc.). Improvements are related to conditions for serving prison sentences and pre-trial detention, and exercising the rights of persons deprived of their liberty, contact of persons deprived of their liberty with the outside world through audio-video conferencing. More adequate health care for persons deprived of their liberty has been provided, as well as easier communication between the prison system and the public health system. New possibilities of quick organizational "response" to exceptional situations in cases of overcapacity because of migrant crises, etc. have been introduced. In addition to the provisions on persons deprived of their liberty, a separate part of the Act defines more precisely the provisions regarding employees of penitentiaries and prisons, and improves the rights of employees that contribute to employee satisfaction and encourage further professionalization and responsibility of employees.

In conclusion, the Act ensures the equal position of all persons deprived of their liberty in the prison system of the Republic of Croatia, and in certain rights equates them with other citizens, raises the level of security of penitentiaries and prisons and reduces long-term costs of imprisonment.

#### **2. PREVENTION OF CONFLICT OF INTEREST ACT (Official Gazette, no. 143/2021)**

With a view to further strengthening the area of conflict of interest management, a new Prevention of conflict of interest act was adopted, to further strengthen the work of the Commission for Deciding on Conflict of Interest, as an important independent anti-corruption body; simplify and shorten the procedure before the Commission and significantly expand the number of addresses in view of the corruption risks associated with their position. It also provides for a new mechanism of declaring conflicts of interest, the application of an extended *cooling off* period (from 12 to 18 months) and the obligation to submit asset declarations on an annual basis.

#### **3. PROTECTION OF REPORTERS OF IRREGULARITIES ACT (Official Gazette, no. 46/2022)**

The new Act is primarily being adopted to transpose Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law (L 305/17, 26.11.2019).

## ESTONIA / ESTONIE

(received on 23 May 2022 / reçu le 23 mai 2022)

**I PRIVATE LAW****1. Family law – child maintenance payment (new regulation)**

The Estonian Family Law Act<sup>1</sup> (FLA) changed on 1 January 2022. The minimum monthly child maintenance payment will not depend on the minimum wage anymore. Instead, it will be bound to the needs of the child, economic capability of the parents, family allowances paid by the state and the number of the children entitled to receive maintenance from the same person.

Base amount is 200 euros. The base amount of maintenance is the minimum amount of maintenance proposed by the researchers in a recent survey<sup>2</sup> of the minimum needs of the child. This sum shall be adjusted annually on 1 April according to the changes in the consumer price index. For calculating the final maintenance payment for each case, the following factors are taken into account:

- **Economic situation of the obligated parent.** In order to calculate the minimum maintenance, 3 % of the Estonian average gross monthly salary of the previous calendar year is added to the base amount.
- **Family allowances paid by the state.** Child allowance and the allowance for a family with many children are taken into account to determine the amount of maintenance. The parent does not have to provide maintenance to the extent that the child's needs can be met at the expense of these allowances. If the main caregiver of the children receives these allowances, half of the allowance for each child is deducted from the amount of maintenance. If the obligated parent receives those allowances, this amount is added to the maintenance. Currently half of the child allowance for one child is 30 euros (full sum is 60 euros per child).
- **Shared parenthood.** If the child stays with the obligated parent for a monthly average of seven to fifteen days, the amount of maintenance is reduced proportionally to the time spent with the obligated parent. Thus, if the child resides with both parents equally, maintenance can only be claimed due to the greater needs of the child, a significant difference in the income of parents or an unequal distribution of the expenses between the parents.
- **Number of children receiving maintenance in the same household.** Considering the possibility to somewhat aggregate the costs of raising several children at once (reuse of furniture, clothing, toys, etc.), the amount of maintenance from the second child onwards is 15 % lower than the amount of maintenance for the first child. The amount of maintenance is not reduced for twins, triplets etc. and children with an age difference over three years.

Parents can also calculate the sum by themselves, using a **web application created by the Ministry of Justice**. The calculator provide an amount of child maintenance that the court would probably establish in case of their family. The application is available also in English and can be found here: <https://www.just.ee/en/child-support-calculator/>

<sup>1</sup> Please find the English version of Estonian Family Law Act online here:

<https://www.riigiteataja.ee/en/eli/510052022004/consolide>

<sup>2</sup> Available online only in Estonian:

[https://www.just.ee/sites/www.just.ee/files/miinumelatise\\_lopparuanne.pdf](https://www.just.ee/sites/www.just.ee/files/miinumelatise_lopparuanne.pdf)

2. *Company law - company law revision (new regulation + draft regulation)*

In Estonia the company law<sup>3</sup> revision took place between 2014-2021 and it was implemented within the framework of the project “Revision of Law” financed by the European Social Fund of the European Union.

The legislation of company law in Estonia has undergone a thorough and systematic analysis with the aim of both harmonizing and updating it. The purpose of company law revision was the reduction of administrative burdens, simplification of processes, repealing unreasonable or ineffective regulation and, if necessary, replacing it with new content, elimination of terminological contradictions and analysis of the correct and effective implementation of EU law.

Major legislative changes were harmonizing the judicial proceeding of the registry for all legal persons. In the future it will be possible to book a business name in Commercial Register and apply an entry in the register on specific date. For all types of legal persons, it was made possible that a member of a body of a legal person may participate in a general meeting and exercise their rights, via electronic means, without being physically present at the meeting. The supervisory possibilities of the registrar will be expanded to ensure the reliability of the data of the Commercial Register and the fulfillment of the reporting obligation of legal persons. The maintenance of the list of shareholders of the private limited company is given to the registrar which increases the legal certainty of transactions with shares. On the other hand, for private limited companies an opportunity was created to make transactions with shares faster and easier, so they do not have to meet the requirement, that a disposition for the transfer of a share must be notarized. The regulation of a branches of foreign companies was brought in line with the law of the European Union, the registration of a branch in Commercial Register and liquidation of a branch was made voluntary.

3. *Insolvency law – insolvency reforms (new regulation + draft regulation)*

During the last decade, Estonian insolvency law<sup>4</sup> has been most affected by the insolvency revision and the transposition of the insolvency and restructuring directive. Also challenging has been responding to the pandemic situation and taking necessary measures.

We started with the revision of the entire insolvency framework regarding both natural and legal persons already in 2015. The transposition of the directive was started in 2019 and it was merged with the second stage of the revision.

As a result, two draft acts were completed. First of them focused on the bankruptcy procedure and second on the insolvency framework of natural persons and pre-insolvency matters. The amendments proposed with the first draft act are in force, the amendments proposed with the second draft act will presumably be adopted on 1 June and will take effect from 1 July.

The amendments adopted with the first draft act were extensive. The three most important are the following:

Firstly, we created the Insolvency Service (also known as the bankruptcy ombudsman). The aim of the Insolvency Service is to investigate maliciously created insolvencies in civil terms. The goal is to reduce the high percentage of abated bankruptcies, increase the confidence in the business environment and as a result, increase the recovery rate for the creditors. The regulation regarding the Insolvency Service is in force since the beginning of this year and at

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<sup>3</sup> Please find the English version of Estonian Company Law Act online here:

<https://www.riigiteataja.ee/en/eli/521032022002/consolide> Please note that the most recent changes brought out in the overview have not yet been fully translated into English, we expect the translations to be added soon. The full text in Estonian is available here: <https://www.riigiteataja.ee/akt/112032022012?leiaKehtiv>

<sup>4</sup> Please find the English version of Estonian Bankruptcy Act online here:

<https://www.riigiteataja.ee/en/eli/530122021002/consolide>

the moment the Ministry of Justice is closing the competition to find the director of the service. So hopefully soon the service can start its work.

Secondly, we changed the procedure for defending and accepting claims more efficient and much faster by carrying out the process in written procedure and solving all objections submitted to the creditors claims in a unified matter. The goal was to reduce the length of the procedure and make it easier for the judge to identify fictitious claims.

And thirdly, we took the specialization of the courts and judges on insolvency matters even further by limiting the insolvency matters of legal persons into two county courts and providing that there are specialized judges in insolvency matters in every court.

The amendments to be adopted with the second draft act are also extensive and substantial. We aim to make insolvency proceedings of natural persons more efficient, faster and cost-effective. Three most important changes would be the following ones:

Firstly, there will be a one application system that enables the debtor to apply for all different insolvency procedures available. Secondly, a professional trustee, who will provide the debtor with professional guidance and support throughout the procedure, will be appointed in every case. And thirdly, the period of debt discharge will be reduced from 5 years to 3 years and the procedure for discharge will start at with declaring bankruptcy not after the bankruptcy procedure has been finished.

Regarding the pre-insolvency matters of legal persons, the amendments are mainly done in connection with the transposition of the insolvency and restructuring directive, but there are some additional changes to improve the procedure according to our national practice.

For example, the cross-class cram-down mechanism for approving non-approved plans is being introduced in Estonian reorganisation law, dividing creditors into different classes according to differentiation rules will be made mandatory and bigger flexibility will be given for making changes to the plan before and after the approval of the plan. To raise the confidence in the procedure and prevent tunneling the assets of the debtor during the restructuring procedure, the time limits for avoidance actions will be extended by the length of the reorganisation procedure.

## II PUBLIC LAW

*Intellectual property law - changes in the private copying levy system in Estonia (new regulation)*

As is the case in many other countries, also according to Estonian Copyright Act<sup>5</sup> audiovisual works or sound recordings of works may be reproduced for the private use (scientific research, studies, etc.) of the user without the authorization of the right-holder. The author as well as the performer of the work, the producer of phonograms and producer of the first fixation of a film have nevertheless the right to obtain equitable remuneration for such use of the work or phonogram. The system ensuring the fair compensation for right-holders has been in force in Estonia already since 1996, but was significantly amended in 2021.

According to the previous system the administrative costs of collecting and distributing the remuneration exceed the amount actually collected and since 2014 no remuneration could actually be paid to right-holders. This was due to the fact that the catalog of storage media and recording devices from which the remuneration was collected had remained unchanged since 2006, covering mainly the storage devices and media no longer in active use (like VHS).

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<sup>5</sup> Please find the English version of the Estonian Copyright Act online here:  
<https://www.riigiteataja.ee/en/eli/513012022002/consolide>

Last year (2021) the Estonian legislation was amended and the catalog of recording equipment and media was renewed extensively and it now takes into consideration the changed consumption habits in the copying of audiovisual works and sound recordings of works (including now also laptops, personal computers and tablets, smartphones, USB flash drives etc.). New rules also set out the detailed rates to be charged for such devices and media. Also, as a novelty in Estonian legislation, now the producer of first fixation of a film is listed as a beneficiary of the system, they have also founded a collective management organization for rights management (collecting and distributing private copying levy being subject to compulsory collective management according to Estonian Copyright Act).

Starting from 1 April 2021 the private copying levy is collected according to the adapted rules and the organisation that collects the remuneration is Estonian Author's Society (*Eesti Autorite Ühing*). Remuneration shall be distributed on the basis of a distribution plan for the preparation of which the minister responsible for the area (Minister of Justice) shall appoint a committee every year, which is proportionally comprised of collective management organisations representing the authors, performers, producers of phonograms and producers of the first fixations of films, and a representative of the Ministry of Justice. During 2021 the distribution plan was prepared and was approved at the end of March 2022.

Based on the experience of the past year, the updated levy-based system in Estonia is working quite well and fulfils its purpose providing different right-holders the compensation for the private use of works that is required both by European and Estonian law accordingly.



**GEORGIA / GÉORGIE**

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**Law on the Protection of Consumer Rights**

On 29 March 2022 the Parliament of Georgia adopted the new law on the protection of consumer rights, which is a significant component of the commitments under the Georgia-EU Association Agreement. The adoption of the law is crucial in the process of harmonization of Georgian legislation with the EU legal framework.<sup>6</sup>

The law on the protection of consumer rights establishes the main principles of consumer protection, the extent of regulation and all applicable terms, as well as the basic rights and obligations of consumers and traders. The new law also governs the warranties that come with consumer contracts, as well as outlines components, such as circumstances that exempt a party from liability, warranty terms and repercussions of breaching service responsibilities.

In addition, the law establishes rules for prohibition of unfair commercial practices that violate the values of trust and good faith. The document also enshrines the institutional safeguards for the protection of consumer rights. The law designates the Georgian National Competition Agency as the body responsible for the enforcement of the new law.

**Company Law**

In August 2021 the Parliament of Georgia adopted the new Law of Georgia on Entrepreneurs,<sup>7</sup> which transposes 7 different directives envisaged by the Association Agreement between EU and Georgia. Namely, these directives are:

1. Directive 2009/101/EC of the European Parliament and of the Council of 16 September 2009 on coordination of safeguards which, for the protection of the interests of members and third parties, are required by Member States of companies within the meaning of the second paragraph of Article 48 of the Treaty, with a view of making such safeguards equivalent;<sup>8</sup>
2. Second Council Directive 77/91/EEC of 13 December 1976 on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 58 of the Treaty, in respect of the formation of public limited liability companies and the maintenance and alteration of their capital, with a view to making such safeguards equivalent;<sup>9</sup>
3. Third Council Directive 78/855/EEC of 9 October 1978 based on Article 54(3)(g) of the Treaty concerning mergers of public limited liability companies and which has been amended by directives 2007/63/EC and 2009/109/EC;<sup>10</sup>

<sup>6</sup> Official press release of the Parliament of Georgia, available at (last accessed 16.05.2022): <https://parliament.ge/en/media/news/parlamentma-momkhmareblis-uflebebis-datsvis-shesakheb-akhali-kanoni-miigho>.

<sup>7</sup> Available at (last accessed 20.05.2022): <https://matsne.gov.ge/ka/document/view/5230186?impose=translateEn&publication=0>.

<sup>8</sup> Available at (last accessed 20.05.2022): <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02009L0101-20130701&qid=1650790434668>.

<sup>9</sup> Available at (last accessed 20.05.2022): <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01977L0091-20091022&qid=1650790503693>;

<sup>10</sup> Available at (last accessed 20.05.2022): <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01978L0855-20091022&qid=1650790566507>;

4. Sixth Council Directive 82/891/EEC of 17 December 1982 based on Article 54(3)(g) of the Treaty on division of public limited liability companies and which has been amended by directives 2007/63/EC and 2009/109/EC;<sup>11</sup>
5. Eleventh Council Directive 89/666/EEC of 21 December 1989 concerning disclosure requirements in respect of branches opened in a Member State by certain types of companies governed by the law of another State;<sup>12</sup>
6. Directive 2009/102/EC of the European Parliament and of the Council of 16 September 2009 in the area of company law on single-member private limited liability companies;<sup>13</sup>
7. Directive 2007/36/EC of the European Parliament and of the Council of 11 July 2007 on the exercise of certain rights of shareholders in listed companies.<sup>14</sup>

It is noteworthy that instead of repealed directives: 77/91/EEC and 78/855/EEC, the Law on Entrepreneurs transposed their substituting acts – Directive 2012/30/EU of the European Parliament and of the Council of 25 October 2012 on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 54 of the Treaty on the Functioning of the European Union, in respect of the formation of public limited liability companies and the maintenance and alteration of their capital, with a view to making such safeguards equivalent<sup>15</sup> and Directive 2011/35/EU of the European Parliament and of the Council of 5 April 2011 concerning mergers of public limited liability companies.<sup>16</sup>

The Directive 2017/1132<sup>17</sup> repeals and brings together 5 different acts that were stipulated by the Association Agreement.<sup>18</sup> As mentioned above, all five of them have been transposed in the Law on Entrepreneurs. Moreover, it should be noted that the 2017/1132 directive is the codifying act, which means that no substantive changes were introduced in the former acts. Therefore, it doesn't amend the substance of repealed directives.

The Directive 2017/1132 is one of those legal acts that are listed in the Suggestion of update of the Annex XXVIII (COMPANY LAW, ACCOUNTING AND AUDITING AND CORPORATE GOVERNANCE) of the Association Agreement, therefore, after the Annex is amended, the Directive's provisions will be transposed in Georgian legislation within the relevant timeframe.

## Insolvency Law Reform

Having learned various insolvency systems and considered best international practice, a new law on Rehabilitation and Collective Satisfaction of Creditors' Claims was prepared, adopted and entered into force from 1 April 2021, introducing new mechanisms and making the process more flexible and efficient, providing adequate protection of creditor rights, timely and efficient

<sup>11</sup> Available at (last accessed 20.05.2022): <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01982L0891-20140702&qid=1650790695876>

<sup>12</sup> Available at (last accessed 20.05.2022): <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01989L0666-20120706&qid=1650790772905>

<sup>13</sup> Available at (last accessed 20.05.2022): <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02009L0102-20130701&qid=1650790827429>

<sup>14</sup> Available at (last accessed 20.05.2022): <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02007L0036-20170609&qid=1650790920363>

<sup>15</sup> Available at (last accessed 20.05.2022): <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02012L0030-20140702&qid=1650791121567>

<sup>16</sup> Available at (last accessed 20.05.2022): <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02011L0035-20140702&qid=1650791311715>

<sup>17</sup> Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law (codification), Text with EEA relevance) (OJ L 169 30.6.2017, p. 46), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02017L1132-20200101&qid=1650784580297>

<sup>18</sup> Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law, Article 166; Annex III, Part A (REPEALED DIRECTIVES WITH LIST OF THE SUCCESSIVE AMENDMENTS THERETO (REFERRED TO IN ARTICLE 166)).

insolvency processes and effective rehabilitation framework in line with best international standards. Main advantages of the new law are the following:

- Incentives for the rehabilitation of a debtor will be provided by the law, such as introducing debtor in possession institution, possibility of conversion of the bankruptcy proceeding into rehabilitation, suspension of a hearing a bankruptcy application until the decision on a rehabilitation application is made, etc.
- United Registry of insolvency practitioners is established ensuring the high level of professionalism of case managers;
- The rights and responsibilities of case managers are prescribed by the law in details in order to avoid vague and non-uniform practice etc.
- Participation of all creditors, including unsecured creditors, is ensured while voting on significant decisions for the company;
- Certain amount of the claims of employees is given preference in satisfaction with respect to other unsecured creditors;
- Flexible means of selling insolvency property as an alternative to an auction are provided by the law;
- Voluntary arrangement mechanism is introduced as a means of an out of court resolution of disputes etc.
- Working process took place within the framework of the Private Law Reform Interagency Council, with the support of donor organizations (GIZ, USAID, CLDP) and international experts.

It is noteworthy, that Regulatory Impact Assessment (RIA) was conducted on the draft of the new law, based on multi-criteria analysis.

Insolvency practitioner is in fact a main figure and has a leading role in the entire case management system. Following the obligation imposed on the Ministry of Justice by the law, on 30 March 2021, the order of the Minister of Justice №696 “On the approval of the insolvency practitioner, the production of a unified register of insolvency practitioners and the approval of the selection terms and conditions through the electronic system of insolvency practitioners” was issued. The order regulates the types and conditions for the authorization of the insolvency practitioner, defines rules for maintaining a unified register of practitioners and determines main issues related to the certification program, as well as the rules and conditions of appointment of the practitioner as a rehabilitation/bankruptcy manager or the rehabilitation/CVA supervisor through the electronic system.

### **New Enforcement Code**

Georgia has drafted a new Code of Enforcement, which is currently submitted to the Parliament. The main reason for the drafting of the Code of Enforcement is the absence of the uniform, systemized legal document in this field and the necessity of unification of the so-called mixed system. The Code of Enforcement establishes a completely new system. The draft law abolishes the institutes of the private bailiff and the bailiff of the National Bureau of Enforcement and instead of them sets up the Chambers of Bailiffs, where all bailiffs will be united and common regulations will be established for them.

The purpose of the draft law is to create a new, efficient system of enforcement, to simplify the enforcement proceedings, as well as to improve the existing services both - in the process of enforcement and beyond it and to offer the new services to the customers. In addition, the aim of the draft law is the maximum approximation and harmonization of the Enforcement Legislation of Georgia with the legislation of the European Union countries.

**GREECE / GRÈCE**

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According to Greek Law 4800/2021, after the divorce or the separation of the parents, the parents jointly exercise the parental custody. The parents have the duty to decide jointly on every matter, except day-to-day matters for which the parent living with the child is responsible. An agreement between the parents for a different allocation of the relevant responsibilities between themselves is possible according to the law.

**LITHUANIA / LITUANIE**

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As we all know, on 16 June 2021 the Committee of Ministers of the Council of Europe adopted the Guidelines on online dispute resolution mechanisms in civil and administrative court proceedings. Following the adoption of the Guidelines and taking into account the commitments under the Programme of the current Government, there were intensive debates together with the judiciary and other stakeholders in Lithuania on how to tackle challenges related to the **publicity of distant court hearings**.

On 23 February 2022 the Minister of Justice adopted the amendments to the orders of minister and approved the solutions that would allow not only to ensure effective public scrutiny of the proceedings, but also to protect private life and personal data. According to these amendments, the members of the public society are able to request the court to observe the public distant court hearing in one of the following ways:

- 1) by joining the respective videoconference or teleconference;
- 2) by observing the retranslation of the public distant court hearing in a separate court room.

Such a request may be submitted online, following the link related to the concrete court hearing. The persons that submit the request are informed about the prohibition to share the data that becomes known during the court hearing as well as about other requirements provided by the laws. They are also informed about the liability for breaching these prohibitions and requirements.

## MALTA / MALTE

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The Republic of Malta has the honour of informing the CDCJ of the following legislative developments which are perhaps the more significant in the last year and half:

### 1. Proceeds of Crime Act

Even before the FATF formally grey listed Malta for perceived shortcomings in the fight against Money Laundering and the Funding of Terrorism, on 12 March 2021, Malta introduced the **Proceeds of Crime Act** (Chapter 621 of the Laws of Malta), in order to strengthen existing laws in the fight against proceeds of crime.

The law introduces the concept of Non-Conviction Based confiscations, a civil procedure already existing in many countries, which, in determined circumstances, allows for the Authorities to engage in civil proceedings *in rem* in order to ensure the confiscation of assets that originate from crime. The law is intended to serve as a deterrent to criminals, and simultaneously punish them with the confiscation of the benefit said criminals would have obtained through the commission of financial crime.

The law coordinates the activities of several players such as the Attorney General, the Asset Recovery Bureau, and the Executive Police, and creates a new section in the Maltese Civil Courts, called the Civil Court (Asset Recovery Section) which will deal exclusively with matters of asset recovery. The constitution of the Asset Recovery Bureau allows for the administration and management of confiscated assets.

### 2. Restrictions to the Use of Cash

On similar lines, the Proceeds of Crime Act was preceded by the introduction of rules limiting the use of cash, introduced just 3 days before.

On 9 March 2021, the **Use of Cash (Restriction) Regulations** (Subsidiary Legislation 373.04) came into force. The Regulations are published as subsidiary legislation to the Prevention of Money Laundering Act. These Regulations render the transfer in cash of €10,000 or more unlawful, whether in one payment, or otherwise staggered over a period of 6 months, whether in one currency or more. The minimum fine applicable is 40% of the sum transacted. The competent Authority involved is the Financial Intelligence Analysis Unit (FIAU), and is empowered to issue administrative fines to whoever would be in breach of said regulations, as well as to alternatively recommend the institution of criminal proceedings.

### 3. Gender Quotas in General Elections

The feminist movement has long lobbied for greater female representation in the Maltese parliament, arguing women are under-represented and that corrective measures should be introduced to allow increased female presence in parliament.

Through the introduction of the **Constitution of Malta and the General Elections (Amendment) Act** (Act No. XX of 2021) on the 20 April 2021, a corrective mechanism was introduced via an amendment to the Constitution of Malta, introducing a new Article 52A, with the intention to introduce temporary positive measures to ensure de facto equality between men and women in politics. The idea is that if an under-represented gender constitutes less than 40% of the total Members of Parliament, the corrective mechanism would kick in, and up to 12 members of the under-represented gender would be equally apportioned between the majority and the minority in the House of Parliament.

This law was first applied in the last General Elections held in Malta in March 2022, as a result of which a total of 12 women earned a parliamentary seat through this corrective gender mechanism, notwithstanding the fact they were not elected by voters to parliament.

#### 4. Regulation of Recreational Use of Cannabis

On 18 December 2021, Malta introduced the **Authority on the Responsible Use of Cannabis Act** (Chapter 628 of the Laws of Malta), intended to regulate the recreational use of cannabis in Malta.

The law establishes an Authority to act, inter alia, as a regulator and policy maker, and to spearhead educational campaigns with respect to the use of cannabis. The aim is to ultimately decriminalize certain cannabis related activities in order to allow a balance between individual freedom in the limited and responsible personal use of cannabis and other social requirements. The focus has shifted from prohibitionism to personal responsibility.

Through the introductory Act of Parliament (Act No. LXVI of 2021), the necessary amendments to the Dangerous Drugs Ordinance, the Commissioners for Justice Act, and the Drug Dependence Act were also introduced, which in short provide that:

- i) It will be possible to remove cannabis-related entries from a police conduct certificate if this happened prior to the process of depenalization;
- ii) Whilst smoking in public remains prohibited (subject to a penalty of 235 euros), the maximum amount of cannabis that can be carried in public is 7 grams;
- iii) It shall be an offence to smoke in the presence of a minor;
- iv) A maximum of 4 plants can be cultivated by persons over 18, in their private residence;
- v) The sale of cannabis products can occur only in licensed organizations, which will take the form of clubs.

#### 5. Further Amendments to Residential Rent Laws

Malta's old rent laws [i.e. laws applicable to leases preceding 1995] have come under fire in the last few years, with several successful constitutional and human rights challenges alleging a lack of proportionality between state interference and the rights of owners in laws introduced either after the Second World War, or immediately after independence from the United Kingdom, which were originally intended to provide adequate housing to all, and protecting tenants from what could be abusive landlords at a delicate time in Maltese history.

A number of amendments and new laws were introduced over the years, particularly from 2009 onwards, and **Act XXIV of 2021**, named the **Controlled Residential Leases Reform Act** is the latest amendment to the residential rent laws. The Act came into force on 1 June 2021.

The Act amends Chapter 69 of the Laws of Malta, the Reletting of Urban Property (Regulation) Ordinance, initially introduced in 1931. The latest amendments allow an increase in rent payable at a rate up to 2% of the present market value, as well as increasing the circumstances when an owner can attempt to recover a property from a tenant.

## **6. Additional Protection to Whistleblowers**

Maltese law has protected whistleblowers since the promulgation of the Protection of the Whistleblower Act (Chapter 527 of the Laws of Malta) in 2013.

Through the introduction of the **Protection of the Whistleblower (Amendment) Act** (Act No. LXVII of 2021) on 18 December 2021, Malta transposed Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of European Union law.

## **7. Disabled Persons**

On 17 August 2021, 2 new laws were introduced with respect to disabled persons:

**Act No. LVIII of 2021 – Equal Opportunities (Persons with Disability) (Amendment) Act;**  
and  
**Act No. LIX of 2021 – United Nations Convention on the Rights of Persons with Disabilities Act.**

The former law provides the possibility for civil actions based on claims alleging discrimination on the basis of disability to be lodged, in order to reflect the substantive articles of the United Nations Convention on the Rights of Persons with Disabilities, as well as how said Convention will be implemented.

The latter law amends the Equal Opportunities (Persons with Disability) Act (Chapter 413 of the Laws of Malta), and aims to ensure the fulfilment of Malta's obligations in terms of the United Nations Convention on the Rights of Persons with Disabilities and the United Nations Principles relating to the Status of National Institutions (the Paris Principles), and more specifically in relation to the structure and functions of the Commission for the Rights of Persons with Disability, in general and in respect of investigations, compliance and enforcement, redress mechanisms ensuring access to justice, as well as concerning the Commission's market surveillance function in relation to Directive (EU) 2019/882 on the accessibility requirements for products and services (European Accessibility Act).



**UNITED KINGDOM / ROYAUME-UNI**

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In the United Kingdom we have recently introduced the [Judicial Review and Courts Act 2022](#) which provides new powers to courts so that they are able to deal with judicial review claims in a more tailored and practical way, while at the same time restricting a particularly inefficient route of review that has a very low success rate and creates significant burdens on our court system. In addition, the Act contains important measures that will assist in dealing with a backlog of cases that have accumulated as a result of the Covid pandemic including new powers for more matters to be dealt with in the lower courts.

The changes to judicial review give courts powers to award suspended and prospective-only quashing orders allowing an order to take effect at a later date rather than the court having to use the date of the point the action being reviewed came into effect. The aim is for this new remedy to enhance flexibility and allow the interests of claimants and defendants to be balanced by courts when awarding remedies in judicial review.