



No. SN78/23

The Permanent Mission of the Republic of Lithuania presents its compliments to the Secretary-General and the Chairman of the Panel of the General Assembly and has the honour to refer to the General Assembly's resolution of 27 December 2000 (A/RES/55/15) on "The question of the jurisdiction of the International Court of Justice".

The Permanent Mission of the Republic of Lithuania has the honour to convey the enclosed reply to the Secretary-General on this matter and to express its appreciation for the Secretary-General's efforts in this regard.

ENCLOSURE

New York, 26 April 2024

INFORMATION AND OBSERVATIONS BY THE REPUBLIC OF LITHUANIA ON THE SCOPE AND APPLICATION OF UNIVERSAL JURISDICTION

The Republic of Lithuania would like to recall its previous comments and observations made in this context in accordance with its obligations under Article 7 of the Rome Statute of the International Criminal Court, adopted by the General Assembly of the United Nations in 2001 and 2002.¹ Please be informed that the legal regulation established in the Criminal Code of the Republic of Lithuania (hereinafter – the Criminal Code or the CC), insofar as it is related to the rules of jurisdiction (including universal jurisdiction), has not changed since the last information was provided in 2021.¹

The Republic of Lithuania considers universal jurisdiction to be an important and useful tool in the fight against impunity for the crimes under international law. In this respect, exercise of universal jurisdiction by competent organs of the State can play an important part in achieving stability and peace, to deliver justice to victims and preventing further commission of crimes under international law. The national legislation of the Republic of Lithuania provides the exercise of universal jurisdiction for such crimes, regardless of the citizenship and place of residence of the perpetrator or the territory where the crime has been committed.

Lithuanian courts deal with cases in which universal jurisdiction is applied in its current practice. of Klaipėda Regional Court (No. 1-12-795/2021 (judgment delivered on 15 April 2021), criminal case No. 1-88-795/2022 (judgment delivered on 28 December 2022), criminal case No. 1-43-417/2023 (judgment delivered 11 August 2023), criminal case No. 1-43-635/2024 (judgment still pending).

In the case-law of the Supreme Court of the Republic of Lithuania (hereinafter – the Supreme Court), in most cases the question of the application of universal jurisdiction under Article 7 of the Criminal Code arises in cases involving possession of narcotic drugs or psychotropic substances or their precursors in the possession of the defendant in Lithuania. In this case-law, the Supreme Court has identified situations in which the said materials are wholly or partly disposed of in foreign countries (e.g. rulings in cases No. 2K-526/2011, 2K-526/2011, 2K-526/2011, 2K-526/2011) in order to determine the rule laid down in Article 7 of the Criminal Code, according to which cases committed abroad are subject to the application of the Criminal Code if, at the time of the crime, the nationality of the persons, the place of residence, the place where the offence was committed and the fact that the acts committed are prohibited under the law of the foreign country where the crime was committed. In the case-law of the Supreme Court, crimes involving the possession of narcotic drugs or psychotropic, toxic or heavily exposed substances it should not be determined whether criminal liability for committing such acts is provided for in other countries. At the same time, it can be seen from the case-law of the Supreme Court (e.g. its ruling in case No. 2K-526/2011) that the legal regime applied in a foreign country to the disposal of the relevant mentioned materials can be significant in determining criminal liability according to the conditions of the Criminal Code, for example, in assessing guilt.

The Supreme Court in its case-law has also gave guidance on provisions of universal jurisdiction in the context of war crimes and crimes against humanity. For example, in

¹ https://www.un.org/en/oa/civilt/76/universal_jurisdiction/lithuania_e.pdf

the ruling in criminal cases. Notably, the Lithuanian judges stated that Geneva Conventions (for general crimes) and Convention of Additional Protocols (for crimes in armed conflict) and other instruments specified in the ruling require that any national prosecute a person if for war crimes they were committed, the authority of said person and country of the prohibition of the acts, including the courts of the regular jurisdiction, including prosecutions for war crimes with national criminal and civil law, the extended jurisdiction for war crimes and prohibition of the possibility to prosecute perpetrators in the absence of provisions of the Code of Criminal Procedure of the implementation of criminal responsibility for crimes of war and crimes.

Lithuanian prosecutors continue to initiate new cases on the basis of the provisions of universal jurisdiction. The following are the basis:

- pre-trial investigation in accordance with Article 199 of the Criminal Code (“Prohibited treatment of humans by the state institutions of Belarus against the population of Belarus in the presidential elections of the Republic of Belarus”);

- pre-trial investigation in accordance with Article 101 (separation) and Article 102 (“Abduction or transfer of civilians”) of the Criminal Code concerning the illegal deportation of Ukrainian children to Belarus;

- pre-trial investigation in accordance with Article 100 of the Criminal Code (“Prohibited treatment of persons under international humanitarian law”) of the Criminal Code concerning the violation of persons protected by international humanitarian law of victims of the conflict in Ukraine and their property); Article 103 of the Criminal Code (“Violations of international humanitarian law”) of the Criminal Code concerning the violation of international humanitarian law by Ukraine by the military forces of Ukraine.

Moreover, the Government of the Republic of Lithuania is a strong advocate for the principle of universal jurisdiction and continues to support it in various international forums.

On February 14, 2024, the Lithuanian Government signed the Lithuania-Lithuania Investigation and Prosecution of the Crimes of Genocide, Crimes of War, Crimes, and Other International Crimes, which Article 9(2) provides for the jurisdiction of the Lithuanian courts over the crimes of genocide, crimes of war, crimes, and other international crimes.