

Reference: C.N.374.2023.TREATIES-XVIII.12.b (Depositary Notification)

PROTOCOL AGAINST THE SMUGGLING OF MIGRANTS BY LAND, SEA
AND AIR, SUPPLEMENTING THE UNITED NATIONS CONVENTION
AGAINST TRANSNATIONAL ORGANIZED CRIME

NEW YORK, 15 NOVEMBER 2000

LITHUANIA: COMMUNICATION¹

The Secretary-General of the United Nations, acting in his capacity as depositary, communicates the following:

The above action was effected on 7 September 2023.

(Original: English)

“N° SN78-59

The Permanent Mission of the Republic of Lithuania to the United Nations presents its compliments to the Secretary-General of the United Nations and has the honour to transmit the objection that the Republic of Lithuania wishes to submit in regard to the ‘Interpretative Declaration’ of the Republic of Belarus concerning the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, done at New York on 15 November 2000.

The Republic of Lithuania has carefully examined the ‘Interpretative Declaration’ of the Republic of Belarus effected on 31 July 2023 (C.N.225.2023.TREATIES-XVIII.12.b (Depositary Notification)) regarding the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, done at New York on 15 November 2000, (thereinafter – Protocol).

The Republic of Lithuania objects to the said ‘Interpretative Declaration’ in so far as it seeks to modify treaty obligations and as such amounts to an invalid reservation that is devoid of any legal effect.

The ‘Interpretative Declaration’ posits that a State which has consented to the jurisdiction of the International Court of Justice pursuant to Article 20 (2) of the Protocol would not be bound by such provision *vis-à-vis* another State Party which has withdrawn its reservation to that provision pursuant to Article 20 (4) of the Protocol ‘in situations when disputes concerning the interpretation or application of the Protocol have arisen from and/or become the subject of peaceful settlement, *inter alia* through negotiations and/or arbitration, before, on, or immediately after the withdrawal of such a reservation’.

¹ Refer to depositary notification C.N.225.2023.TREATIES-XVIII.12.b of 31 July 2023 (Interpretative Declaration: Belarus).

Pursuant to Article 20 (4) of the Protocol, however, '[a]ny State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations'. Furthermore, pursuant to Article 20 (3) of the Protocol, a reservation to Article 20 (2) can only be made 'at the time of signature, ratification, acceptance or approval of or accession to this Protocol'.

Because the Republic of Belarus acceded the Protocol without making a reservation to Article 20 (2), it cannot now modify or exclude its effect *vis-à-vis* a State which, under Article 20 (4), has exercised its right to withdraw 'at any time' its own reservation to Article 20 (2).

The Permanent Mission of the Republic of Lithuania to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

New York, 7 September 2023"

22 September 2023

A handwritten signature in black ink, consisting of a stylized 'D' and 'N' with a horizontal line underneath.