

**INTERNATIONAL COURT OF JUSTICE**

**APPLICATION OF THE INTERNATIONAL CONVENTION FOR THE SUPPRESSION  
OF THE FINANCING OF TERRORISM AND OF THE INTERNATIONAL  
CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL  
DISCRIMINATION**

**(UKRAINE V. RUSSIAN FEDERATION)**

**REJOINDER**

**SUBMITTED BY THE RUSSIAN FEDERATION**

**VOLUME XI**

**(ANNEXES 374 - 489)**

**10 MARCH 2023**



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**Annex 374**

Dutch National Police, Official Report on the Crew and two DPR Separatist Leaders,  
7 October 2019





Central Unit, National Crime Squad (DLR)

**OFFICIAL REPORT ON THE CREW AND TWO DPR SEPERATIST LEADERS**

**My name is Gerardus Wilhelmus Christiaan THIRY, chief inspector with the National Crime Squad of the Dutch National Police. I have been working as coordinating team leader of the criminal investigation since the start of the investigation into the downing of MH17.**

**I have over 43 years' experience with combating organized and international crime, gathering criminal intelligence, infiltration, and murder investigations. In addition I have been stationed abroad on several occasions as a liaison officer.**

**The investigation team I lead consists of investigators and experts with specific skills or knowledge, such as aviation experts, high-tech crime specialists and analysts. In addition, as and when necessary, use was made of experts sworn in by the examining magistrate.**

**This official report has been drawn up by Primo-626, the content of which has been read and approved by me.**

**On the basis of the findings of the investigation and my knowledge of the facts, I declare as follows:**

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**1. INTRODUCTION**

Detectives in my team have examined various sources of information that relate to:

- the (potential) country of origin of the crew that operated the BUK-TELAR that shot down flight MH17;
- two DPR separatist leaders who have been involved in transporting, placing and guarding of the BUK-TELAR and seem to be state officials of the Russian Federation.

This affidavit provides information from the JIT-investigation on these two subjects to this date. Per subject the information from the different data sources is presented in a chronological order.

The information is provided for information purposes only and may not be used in any (legal) proceedings.

In order not to harm the criminal investigation and/or prosecution it is not possible (yet) to provide all information available and sometimes details have been constrained.

An important source of information in this affidavit is wiretap data. In order not to harm the criminal investigation and prosecution it is often not possible (yet) to provide names, telephone numbers and exact timestamps.

Depending on the specific situation concerned and the extent to which it might lead to the identification of persons, the data of the intercepted phone calls contain:

- o Date: - On/around [Date Month Year] or  
- In/around [Month Year]
- o Time: - Night (00:00-06:00)  
- Morning (06:00-12:00)  
- Afternoon (12:00-18:00)  
- Evening (18:00-00:00)

All times mentioned in the document are in Local Ukraine Time Zone at date, unless specified otherwise.

- o A table with information about the Caller and Recipient of the phone call or text message:

	3	3	3	3	3	3	3
RH C							
R							
RU							
OH							
O							
OU							
LH							
L							
LU							
U							

**2. INDICATIONS RELATING TO THE POTENTIAL COUNTRY OF ORIGIN OF THE CREW ON THE BUK-TELAR**

**Date:** 8 June 2014  
**Time:** 11:30:47 a.m.  
**Data source:** wiretap  
**Caller:**  
 GIRKIN, Igor  
**Recipient:**  
 SHEREMET, Mikhail

	3	4	5	6	7	8	9	0	1	2
RH										
R										
RU										
D										
DU										
LH										
L										
LU										
U										

On 8 June 2014 an identified DPR commander, GIRKIN, informs an identified state official of the 'Republic of Crimea' (SHEREMET) that they are outnumbered by the Ukrainian army and need various military support from Russia, including anti-aircraft defense and trained personnel. GIRKIN asks SHEREMET to get this message across to 'Pervyi'. (note: *Pervyi* is translated as 'First Man' or 'Number One' and is often used as a title/call sign for a person who is the first in the line of command within a given agency (most likely military or paramilitary) of which the speaker is a member).

(...)  
 SHEREMET: *{Inaudible} told me you wanted to get hold of me to share some information.'*  
 GIRKIN: *'Now I wouldn't call that "sharing information"... In fact, this information is widely-known, and it reads that, err... that if no large scale support arrives in the nearest time, the, err... they will smother/strangle (...). What we need is truly large-scale support, (...) We are outnumbered by the enemy. Me, I've been around long enough and I can still hold ground here some time, but if they keep it at this pace and launch an offensive against other towns and cities where people are unprepared and have no combat experience, they're going to crush them flat in no time. And then they will crush flat me, of course. If the issue of Russian support – air cover, or at least artillery support – is not dealt with, then we will not be able to hold ground here in the East, no way... First, back when this support was needed in large numbers, as much as possible, they didn't provide it; and what they are giving now is what we needed a month back. (...).'*  
 SHEREMET: *'I see' (...)*  
 GIRKIN: *'We need anti-tank artillery, we need tanks, we need decent anti-aircraft defense – because we can't last on MANPADS alone any more – all manned with trained personnel, of course, seeing as we have, and will have, no time to train them. That's it... (...).'*  
 SHEREMET: *'Yes, yes. I get that. Yes, yes.'*  
 GIRKIN: *'Now that's the message to get across. Sooner or later they will have to make a decision anyway, but by then a considerable part of the militia will be destroyed and the front line will be pushed away to somewhere behind Donetsk, to the east.'*  
 SHEREMET: *'Uh-huh.' (...)*  
 GIRKIN: *'I'd ask you to get this across to Pervyi!'*  
 SHEREMET: *'Yes, I get that. OK. Will do.'*

<sup>1</sup> *Pervyi* is translated as 'First Man' or 'Number One' and is often used as a title/call sign for a person who is the first in the line of command within a given agency (most likely military or paramilitary) of which the speaker is a member. In this case it (most likely) refers to AKSYONOV.



Date: 8 June 2014  
Time: 11:46:33 a.m.  
Data source: wiretap

Caller:  
AKSYONOV, Sergey

Recipient:  
GIRKIN, Igor



(...)

About fifteen minutes later GIRKIN is called back by SHEREMET who then hands over the phone to another identified Crimea State official (AKSYONOV).

AKSYONOV tells GIRKIN that he is aware of the situation and has informed other people about it. That evening he will have another meeting about the necessary support. AKSYONOV informs GIRKIN that he will contact him again after that meeting through a secure line. Moreover he mentions that a joint coordination center has already been set up and the documents necessary for the support are being prepared.

(...)

SHEREMET: 'I'll hand the phone over to Pervyi!'

AKSYONOV: 'Hey there, (...). Good job, you're in your usual self, as I see. Now, in a nutshell, here's the story: on Tuesday I went to, err... to where I was supposed to go in the light of this situation... If it weren't for all those visits yesterday and today which, err, prevented (...) from coordinating action / briefing in relation to the picture... At 22 or so tonight I'll get in touch with... well, with those who are, err... who have already made this decision. Just now...'

GIRKIN: 'Uh-huh.'

AKSYONOV: 'Just now I got a visit from those who had worked here - you surely know all of them in the line of this situation...'

GIRKIN: 'Well, yes, yes..'

AKSYONOV: 'Now all of them have already received the entire picture. I mean, all who sort of been to both buildings back then, err... Well you remember...'

GIRKIN: 'I see what you mean.'

AKSYONOV: 'Yes, everyone has received the picture. I mean, we... I will need you to (...) over the same channel/line at 22-22:30 today, me and you will need to talk over the same channel/line. I will then coordinate/brief you openly, and... There's already a person and a joint coordination center in place that are dealing with this situation... I mean those who are/have been coordinating this picture - I just don't want to give surnames openly over the phone.'

GIRKIN: 'I understand. OK, I'll be available at that time. But, in general, do you understand what the situation is like and that (...inaudible)?'

AKSYONOV: 'I do understand what the situation is like, (...). Listen up, that's right what I told them on Tuesday, that if we don't take certain steps... I mean, I was, err, where I was sort of supposed to be in the light of this situation, and the message I brought along was that if no concrete steps are taken, then we're going to sort of lose all these commodity markets which we're sort of speaking about in terms of this picture.'

GIRKIN: 'OK then, they just (...inaudible)...'

AKSYONOV: 'That's what I was saying: we're about to lose these

	<p><i>commodity markets. Well, me and you, we understand what that means.'</i></p> <p><b>GIRKIN:</b> <i>'Yes, yes.'</i></p> <p><b>AKSYONOV:</b> <i>'And I sort of made it clear for [...], and right in my presence the guy rang up another pal who is responsible for the conduct of [...], then I had a talk with him about it once again on Wednesday, and then with (...) on Thursday, and today I'm still waiting – it's just because all of them are gone for two days, were in different places, and that's why, err, that's why they asked to sort of [...] for these two days because of this picture.</i></p> <p><i>Anyway, the documents necessary for the support are already being prepared... I will also be [...] about all this stuff tonight, I will be coordinating/briefing (...) in relation to all this cookery. And at 22–22:30 today I will coordinate/brief you on all points of contact necessary for the entry.'</i></p> <p><b>GIRKIN:</b> <i>'OK, I'll be waiting for you call.'</i></p> <p><b>AKSYONOV:</b> <i>'Now (...) that's what I told them, "If we didn't know Each other, If we didn't keep in touch, I wouldn't care that much", I said. "It would be easier for me", I told to my boss, "it would be easier for me to withdraw someone and just say that, err... that it didn't make sense." But, I said, "I've sort of seen this picture and I can't just abandon them guys in this situation". So all necessary orders have been sort of given right in my presence, and... Now, (...) let's get in [...] at 22:30, over the same channel/line...'</i></p> <p><b>GIRKIN:</b> <i>'OK then, I'll be waiting.'</i></p> <p><i>(...)</i></p>
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**Remarks:**

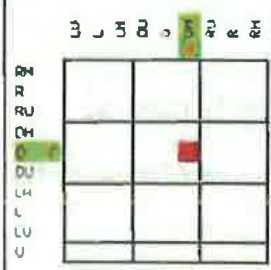
- a) with regard to Crimea it is important to notice that on 18 March 2014 an agreement was signed by the President of the Russian Federation (PUTIN), the Chairman of the State Council of the Republic of Crimea (KONSTANTINOV), the Prime Minister of the Republic of Crimea (AKSYONOV) and Chairman of the Coordinating Council for the establishment of the Sevastopol municipal administration (CHALY), on the accession of 'the Republic of Crimea' to the Russian Federation<sup>2</sup>. On 20 March 2014 the State Duma ratified the agreement and one day later, on 21 March 2014, PUTIN signed federal constitutional laws formally admitting the Republic of Crimea (and the city of Sevastopol) to the Russian Federation<sup>3</sup>.
- b) With regard to the relationship between GIRKIN and AKSYONOV it is relevant to know that GIRKIN states on 20 November 2014, in an interview with the Russian newspaper 'Zavtra' that:
- he was an adviser to AKSYONOV in Crimea;

<sup>2</sup> <http://en.kremlin.ru/events/president/news/20603> en <http://en.kremlin.ru/events/president/news/20604>

<sup>3</sup> <http://en.kremlin.ru/events/president/news/20625>

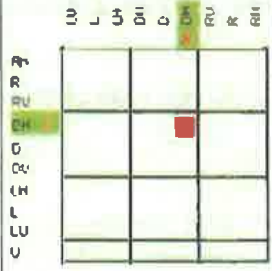
- he was in command over a unit of the Crimean militia which carried out special combat missions;
- AKSYONOV appointed him as adviser on the Northern territory / Novorossiya issues and Girkin started to work with delegates from Odessa, Nikolaev, Kharkov, Luhansk and Donetsk that frequently came to Crimea for help.

<p><b>Date: 15 July 2014</b>  <b>Time: afternoon</b>  <b>Data source: wiretap</b></p> <p>3 1 5 3 0 8 2 R HT</p> <table border="1"> <tr><td>RH</td><td></td><td></td><td></td></tr> <tr><td>R</td><td></td><td></td><td></td></tr> <tr><td>RU</td><td></td><td></td><td></td></tr> <tr><td>UH</td><td></td><td></td><td></td></tr> <tr><td>O</td><td></td><td></td><td></td></tr> <tr><td>DU</td><td></td><td></td><td></td></tr> <tr><td>LH</td><td></td><td></td><td></td></tr> <tr><td>L</td><td></td><td></td><td></td></tr> <tr><td>LU</td><td></td><td></td><td></td></tr> <tr><td>U</td><td></td><td></td><td></td></tr> </table>	RH				R				RU				UH				O				DU				LH				L				LU				U				<p>In July 2014 the Ukraine army starts a successful offensive against the separatists with the use of heavy artillery and air support.</p> <p>In the conversation below an identified DPR separatist and an unidentified person talk about air raids by the Ukrainian army and their hope that Russia will help them with surface-to-air missiles. The separatist claims that they have people in their midst who served in the Russian army and have experience with air defense systems.</p> <p>(...)</p> <p><b>Recipient:</b> <i>'There's only one hope – Russia.(...) I wish they give us surface to air system.'</i></p> <p><b>Coller:</b> <i>'That's what I'm telling. I wish they give you at least something. If you can't come, don't come. Give something, they will deal with it.'</i></p> <p><b>Recipient:</b> <i>'[inoudible] We have air defence guys. We have everyone. Everyone was serving in the Soviet army. Give us that weapon. (...)</i></p> <p>(...)</p>
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<p><b>Date: 17 July 2014</b>  <b>Time: 09:08:26</b>  <b>Data source: wiretap</b></p> <p>3 1 5 3 0 8 2 R HT</p> <table border="1"> <tr><td>RH</td><td></td><td></td><td></td></tr> <tr><td>R</td><td></td><td></td><td></td></tr> <tr><td>RU</td><td></td><td></td><td></td></tr> <tr><td>UH</td><td></td><td></td><td></td></tr> <tr><td>O</td><td></td><td></td><td></td></tr> <tr><td>DU</td><td></td><td></td><td></td></tr> <tr><td>LH</td><td></td><td></td><td></td></tr> <tr><td>L</td><td></td><td></td><td></td></tr> <tr><td>LU</td><td></td><td></td><td></td></tr> <tr><td>U</td><td></td><td></td><td></td></tr> </table>	RH				R				RU				UH				O				DU				LH				L				LU				U				<p>In the morning of 17 July 2014, at 09:08:26, an identified DPR separatist calls the identified DPR commander Sergey Nikolayevich DUBINSKIY to inform him that he has arrived in Donetsk with the BUK. DUBINSKI asks him if there's a crew with the BUK. The separatist answers confirmative. The commander tells him that there is no need to hide the BUK since it needs to go 'there' right away. The separatist tells him that 'they' need time to have a look at it.</p> <p>(...)</p> <p><b>Coller:</b> <i>'And where should we unload this beauty, Nikoloyevich?' (...)</i></p> <p><b>DUBINSKIY:</b> <i>'The one I'm thinking about, yes? The one that is M?' (...)</i></p> <p><b>Coller:</b> <i>'Yes, yes, yes, yes. Buk.' (...)</i></p> <p><b>DUBINSKIY:</b> <i>'Is it with a crew?'</i></p> <p><b>Coller:</b> <i>'Yes, it's with a crew.'</i></p> <p><b>DUBINSKIY:</b> <i>'You don't need to hide it anywhere. It will go over there now. Did you understand where I mean?'</i></p> <p><b>Coller:</b> <i>'I understood. But they need at least... time so that they have a look at it.'</i></p> <p>(...)</p>
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<p><b>Date: 17 July 2014</b>  <b>Time: beginning of the afternoon</b>  <b>Data source: Internet</b></p>	<p>In the beginning of the afternoon an Associated Press (AP) reporter sees seven tanks parked at a gas station outside Snizhne. He also observes a BUK missile system in the town itself.</p> <p>Around 13:05 some AP journalists see the BUK missile system moving through Snizhne in a convoy with two civilian cars. A man from the convoy, addresses the journalists to check if they made photographs or videos.</p> <p><i>"The vehicles stopped in front of journalists from the Associated Press. A man wearing unfamiliar fatigues, speaking with a distinctive Russian accent, checked to make sure they weren't filming. (...)</i></p> <p><i>A man in sand-colored camouflage without identifying insignia – different from the green camouflage the rebels normally wear – approached the journalists. The man wanted to make sure they had not recorded any images of the missile launcher. Satisfied that they hadn't, the convoy moved on."</i></p> <p>These quotes come from the article "What happened? The day flight 17 was downed" by Peter Leonard en Yuras Kanmanau (AP) that was published on 25 July 2014<sup>4</sup>.</p> <p>A year later, on 17 July 2015, the author Peter Leonard posts a tweet about this encounter with the crew, as a response to a message from someone else:</p> <p><i>"@Millermena To be exact, *two* AP reporters (and our driver) saw Buk and spoke to its crew, who stopped to ensure no photos were taken."<sup>5</sup></i></p>
<p><b>Date: 17 July 2014</b>  <b>Time: 21:32:39</b>  <b>Data source: wiretap</b></p> 	<p>In the evening of 17 July 2014 at 21:32:39 the identified DPR commander KHARCHENKO is called by an identified DPR commander who tells him that a fighter has lost his BUK-crew and is there with him at the checkpoint.</p> <p>(...)</p> <p>Caller: <i>'...[inaudible] a fighter has got lost there from this one... [inaudible] launcher. He has fucking lost his crew, fuck!'</i></p> <p>KHARCHENKO: <i>'What a launcher?'</i></p> <p>Caller: <i>'From a Buk.' (...)</i></p> <p>KHARCHENKO: <i>'And where is he, fuck?'</i></p> <p>Caller: <i>'Here he is standing at the checkpoint.'</i></p> <p>KHARCHENKO: <i>'Take him and bring in here, fuck, I'll be waiting for him in Snizhne near ...[inaudible].'</i></p> <p>Caller: <i>'Ok.'</i></p> <p>(...)</p>

<sup>4</sup> <http://bigstory.ap.org/article/what-happened-day-flight-17-was-downed>

<sup>5</sup> <https://twitter.com/peterleonard/status/622101713390940160>

<p><b>Date: 17 July 2014</b> Time: evening Data source: wiretap</p> 	<p>About ten minutes later a DPR commander calls another identified DPR commander to ask if he knows where the other fighters have gone and if he can contact them.</p> <p>(...)</p> <p>Caller: <i>'Can you contact these fighters from this new box, can't you? Where have they fucking gone at all? And where have they driven to? (...) I've arrived in there and there is no one within the meeting point. (...) And they have lost their fucking fighter.'</i></p> <p>Recipient: <i>'A fighter of mine?'</i></p> <p>Caller: <i>'Their one! Their one!'</i></p> <p>Recipient: <i>'And... there is one their fighter with you, yes? (...) And there is none of them... I'll try to contact him. I got you... because I was failing to comprehend the information.'</i></p> <p>(...)</p>
<p><b>Date: July 2014</b> (after 17<sup>th</sup> of July) Data source: NT</p>	<p>After the 17<sup>th</sup> of July 2014 an identified DPR separatist is said to have told his associates, presumably under the influence of alcohol, that he personally shot down flight MH17 with the BUK-missile that was brought in by the Russians. The JIT investigates the plausibility of the statement. Evidence confirms this separatist has been trained in Missile Air Defense and was active in air defense for the separatists in summer 2014. However, the Investigation has so far not yielded any supporting evidence for the veracity of the statement that he, in person, operated the BUK TELAR that shot down MH17.</p>
<p><b>Date: 9 January 2015</b> Data source: Internet</p>	<p>In January 2015 the investigative journalists organization CORRECTIV publishes the report "Flight MH17 – Searching for the truth". One of the chapters addresses the question who could have launched the BUK-missile. They have interviewed several experts (international air warfare experts and former soldiers of air defense brigades) and two DPR separatist leaders (KHODAKOVSKIY and PURGIN) and came to the conclusion that the separatists did not have the expertise to operate such equipment<sup>6</sup>. KHODAKOVSKI stated in the interview that:</p> <p><i>"We don't have and didn't have specialists who can operate such high precision weapons systems".</i></p>

<sup>6</sup> <https://mh17.correctiv.org/english/> (p. 28-30) and [http://4free.russia.org/putin\\_wor](http://4free.russia.org/putin_wor) (p. 45)

### 3. INDICATIONS THAT TWO DPR-SEPARATIST LEADERS SEEM TO BE STATE OFFICIALS OF THE RUSSIAN FEDERATION

There are indications that some of the senior separatist commanders in charge of military operations in Donbas have close ties to the Russian Federation and seem to be state officials of the Russian Federation.

In the next paragraphs the relevant indications for two separatist leaders who have been involved in transporting, placing and guarding the BUK-TELAR, will be provided.

#### 3.1 DPR separatist leader A

##### 3.1.1 Nationality and current country of residence

A is born in Moscow and has the Russian nationality. Since his return from Donbas in August 2014 he lives in the Russian Federation again.

##### 3.1.2 Served in the Russian Armed Forces and a Russian Intelligence agency

A served in the Russian Armed Forces and the Federal Security Service of the Russian Federation (FSB).

In a press conference in 2014, A states that he was part of the staff of the Federal Security Service (FSB) until 2013.

In September 2014 A publicly wears a military uniform with several military ribbons, including one that is only issued by the FSB.

##### 3.1.3 Was present in several Russian military conflict areas

In several interviews A states that:

- he took part in the wars in Chechnya, Transnistria and Bosnia;
- he was in command over a unit of the Crimean militia which carried out special combat missions during the Russian annexation of Crimea<sup>7</sup>.

With regard to Russian annexation of Crimea it is relevant to know that Russian president PUTIN, in an interview for the Russian documentary film "Crimea: The way back home", announced that the decision to annex Crimea was taken in the night of 22/23 February 2014 and that he was personally orchestrating the operations of the Russian forces in Crimea<sup>8</sup>. He gave orders and instructions to the Minister of Defense to deploy a special division of the Main Intelligence together with naval infantry forces and paratroopers.

On 17 April 2014 president PUTIN states in his Annual press conference 'Direct Line with Vladimir Putin' that<sup>9</sup>:

*'(...) in my conversations with my foreign colleagues I did not hide the fact that our goal was to ensure proper conditions for the people of Crimea to be able to freely express their will. And so we had to take the necessary measures in order to prevent the situation in Crimea unfolding the way it is now unfolding in southeastern Ukraine. (...) Of course, the Russian*

<sup>7</sup> The annexation of Crimea by the Russian Federation took place in February/March 2014.

<sup>8</sup> Release date 15 March 2015. Broadcasted on the state-run channel Rossiya-1 and <http://www.youtube.com/watch?v=t42-71RpRgl>

<sup>9</sup> <http://en.kremlin.ru/events/president/news/20796>

*servicemen did back the Crimean self-defence forces. They acted in a civil but a decisive and professional manner, as I've already said.'*

### 3.1.4 Became separatist leader within the DPR

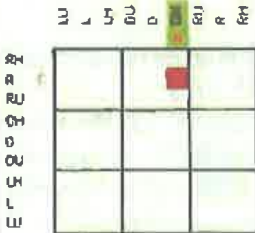
In April 2014, after his time in Crimea, A goes to the Donbas region to help (organize) the DPR<sup>10</sup> separatists. In May 2014 he joins the DPR in a leading position.

With regard to the formation of the DPR 'government' it is relevant to know that on 11 May 2014 the Donetsk and Luhansk regions organize a referendum to vote on their independency from the Ukraine. According to the organizers a large majority voted in favour of self-rule. The week after the referendum, government bodies were formed within the DPR and LPR<sup>11</sup>. There are indications that the candidates for posts in the DPR 'government' had to be approved by state officials of the Russian Federation.

<p><b>Date: 13 May 2014</b> Data source: internet</p>	<p>In October 2016 a hacker group called "Cyber Hunta" leaked a cache of emails from a mailbox alleged to belong to SURKOV<sup>12</sup>.</p> <p>One of the mails was sent to SURKOV by someone from the Marshall Group, probably on behalf of MALOFEEV, on 13 May 2014. The mail contained an attachment with a list of candidates for the government of the DPR.</p>
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### 3.1.5 Receives orders from Moscow and reports to Moscow

Indications that A receives orders from Moscow and reports to Moscow are found in several phone conversations:

<p><b>Date: 13 April 2014</b> Time: afternoon Data source: wire tap</p> 	<p>A receives a phone call from a contact in Russia with close ties to senior government officials. A informs him about their successful offensive against 'the enemy' and is asked if he has already reported this to AKSYONOV. A replies that he hasn't succeeded yet to get in contact with him. The caller has a meeting with AKSYONOV the next day, so he tells A to get in touch with AKSYONOV before that.</p> <p>(...)</p> <p>Other person: '(...) Good morning. So, what's up?'</p> <p>A: 'So, we have defeated the attack. The enemy has retreated in all directions with big losses. (...) They got in our ambush. (...)... our team shot at three VIP class vehicles .....</p> <p>Other person: 'And from our side?...'</p> <p>A: 'We have no wounded or killed from our side. The guys did a great job.'</p> <p>Other person: 'Have you reported to Aksionov?'</p> <p>A: 'No, I haven't reported yet. I didn't manage to establish communication with him. (...).'</p>
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<sup>10</sup> Donetsk People's Republic

<sup>11</sup> Luhansk People's Republic

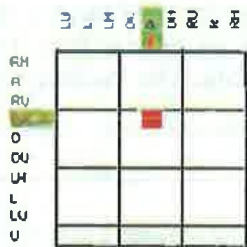
<sup>12</sup> The Kremlin denies that these mails belong to SURKOV. The Digital Forensic Research Lab on the other hand determined that the emails are authentic (<https://medium.com/dfrlab/breaking-down-the-surkov-leaks-b2feec1423cb>).

<p><b>Date: 17 July 2014</b>  <b>Time: morning</b>  <b>Data source: wire tap</b></p>	<p>An identified DPR commander tells an unidentified DPR separatist that:</p> <p><i>'I had a talk with Moscow yesterday. Pervyl<sup>15</sup> had a talk with Moscow too.(...). We've reached the top level.(...) The instruction is as follows. (...).'</i></p>
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**3.1.6 Use of a special (encrypted / secure) phone that seems to be provided by FSB**

It is apparent from intercepted phone calls that several separatists have encrypted / secure telephones (that cannot be wiretapped) via which they communicate when they share sensitive information.

According to DPR separatist leader B (see § 3.2) these 'special phones' are delivered by the FSB.

<p><b>Date: 3 July 2014</b>  <b>Time: evening</b>  <b>Data source: wire tap</b></p> 	<p>In the following phone call DPR separatist leader B asks another DPR separatist if he is interested in getting a secure phone. If so, he can arrange it for him. In that way it will be easy and safe to contact the others who also have a secure phone. By dialing a 3 digit number other users can be called. The phones are delivered by the FSB.</p> <p><b>B:</b> <i>'(...) How are you about those special communication telephones, you know, that we have? Those that go through the Internet, do you know? Secure. (...).'</i></p> <p><b>Other person:</b> <i>'Well, I don't know. Say, if there is a need we'll get some. What telephones are those?'</i></p> <p><b>B:</b> <i>'You don't need to get them. Those are special phones, you cannot buy them. They are got through Moscow. Through FSB. (...) In short, want one to be installed for you? It will be easier for us to communicate then.'</i></p> <p><b>Other person:</b> <i>'OK, go ahead.'</i></p> <p><b>(...)</b></p> <p><b>B:</b> <i>'So, I'll give your phone number to our signalman. He will give you a call on this. (...)</i>  <i>It goes through the Internet, but there is a special communication there, it isn't wiretapped. (...) I'm telling you, it is easier to contact everyone,...</i>  <i>{B then mentions several names}</i>  <i>(...) Those are the ones who ... now... who have those direct phones. So, you dial 3 figures...'</i></p> <p><b>Other person:</b> <i>'OK'</i></p> <p><b>B:</b> <i>'So... He will dial you, yeah?.. and he'll install the phone. It is all free and so forth...'</i></p> <p><b>(...)</b></p> <p>B mentions the names of several commanders who use such a phone, including DPR separatist leader A and AKSYONOV.</p>
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<sup>15</sup> Pervyl is translated as 'First Man' or 'Number One' and is often used as a title/call sign for a person who is the first in the line of command within a given agency (most likely military or paramilitary) of which the speaker is a member. In this case, it refers to separatist leader A.



Other phone calls in July 2014 confirm that DPR separatist leader A actually uses a secure phone (besides his regular phone that is wiretapped).

### 3.1.7 Returns to Russia

A leaves the East Ukraine conflict area in August 2014. This can be concluded from A's statements in interviews and intercepted phone calls.

<p><b>Date: August 2014</b>  <b>Data source: wire tap</b></p> <p>Э 3 5 8 0 2 4 6</p> <p>       R        A        R        U        N        D        O        U        L        H        L        U        U     </p> 	<p>In August 2014 A informs another identified separatist leader (hereinafter referred to as separatist leader C) that he is returning to the Staff.</p> <p>C: <i>'Hello?! Where are you?'</i>        A: <i>'Well, I'm returning to the Staff.'</i>        C: <i>'Are you returning to the Staff?'</i>        A: <i>'Yes, I am. The whole concept is changing there. I mean, we are not rich cattle industry owners anymore, but poor street... what's it... beggars.'</i>        C: <i>(...) 'So, what are we doing? Are we going to the Staff?'</i>        A: <i>'Yes-yes-yes! Go back to the Staff. (...) Bye!'</i>        C: <i>'Ok then! That's it! Ok! We are going to the Staff! Uh-huh... (...)</i>  <i>[Speaking to the side] 'As usual we are going...'</i></p> <p>Also A's assistant talks about his departure in a phone conversation:</p> <p>(...)        Other person: <i>'All of us are upset. (...) The Commander has left... (...) Will he come back? Where is he? How is he doing? They told he had already left for Russia.'</i>        A's assistant: <i>'Well, yes, ...[inaudible] there. (...)</i>        (...)</p>
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### 3.2 DPR separatist leader B

#### 3.2.1 Nationality and current country of residence

B is born in Donetsk, has the Russian nationality and according to several sources lives in the Russian Federation.

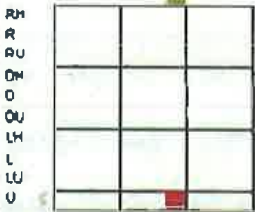
#### 3.2.2 Served in the Russian Armed Forces and a Russian Intelligence agency

B served in the Russian Armed Forces and, according to several sources, is supposed to have served in the Main Directorate of the General Staff of the Armed Forces of the Russian Federation (GRU).

In an interview that was published at the end of 2014, B states that he has over 30 years of service in the Soviet and Russian armies.

According to his own statement he retired in April 2014.

In some of his intercepted phone calls indications are found of his supposed GRU background.

<p><b>Date: December 2014</b>  <b>Data source: wire tap</b></p> <p>3 2 3 3 0 2 α α &amp;</p> 	<p>An unidentified person asks B to hand over a package to some cadets in Rostov so they can deliver it to the person who needs to receive it. When they talk about the location where B has to deliver the package, B tells that it is near his brigade - the 22<sup>nd</sup> - and his apartment.</p> <p>(...)</p> <p><b>Other person:</b> <i>'You'll then take it to Rostov and the cadets will take it, I mean, the children.'</i></p> <p><b>B:</b> <i>'Do you mean the cadet corps?'</i></p> <p><b>Other person:</b> <i>'The cadet corps! Yes! (...).'</i></p> <p><b>B:</b> <i>'Is this our one which is in Steponoye, Rassvet?'</i></p> <p><b>Other person:</b> <i>'In Rassvet. Yes! (...).'</i></p> <p><b>B:</b> <i>'It's right near my brigade, near the 22<sup>nd</sup> one. Just right there.'</i></p> <p><b>Other person:</b> <i>'Yes-yes-yes! Yes-yes-yes! Right there! Will you be there... drop in?'</i></p> <p><b>B:</b> <i>'I have an apartment there, in the town.'</i></p> <p><b>Other person:</b> <i>'Well perfect. Just nearby. (...).'</i></p> <p>(...)</p> <p>The 22<sup>nd</sup> most likely refers to the 22<sup>nd</sup> 'Spetsnaz' Brigade of the GRU<sup>16</sup>.</p>
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#### 3.2.3 Was present in several Russian military conflict areas

B took part, amongst others, in the wars in Afghanistan and Chechnya. In Chechnya he served together with DPR separatist leader A. This is confirmed by B in several interviews.

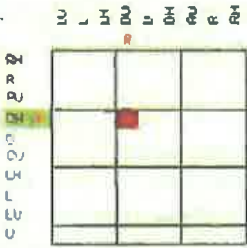
#### 3.2.4 Became separatist leader within the DPR

In an interview that was published at the end of 2014, B states that after his retirement in April 2014, he got in contact with DPR separatist leader A and decided to go to Donbas to help (organize) the DPR separatists and become the deputy of A. He set up the intelligence department of the DPR.

<sup>16</sup> <http://www.w2.dk/new/army/gru/22obrsn.htm>

### 3.2.5 Contacts officials in Russian Federation and follows orders from Moscow

Indications that B has contact with officials in the Russian Federation and follows orders from Moscow are found in several phone conversations:

<p><b>Date: 4 July 2014</b>  <b>Time: evening</b>  <b>Data source: wire tap</b></p> 	<p>B is talking to an unidentified DPR separatist about their possible withdrawal from Slavyansk. B tells him that they are waiting for an answer from Moscow.</p> <p><i>{...} we may surrender Slavyansk, you see...that's the point. {...} we are waiting for the Moscow's decision on whether Slavyansk is to be taken out {...}.</i></p> <p>Moreover, the other separatist heard a rumor that there will be a change of the DPR political structure and wonders if B knows more about this. B confirms the rumor. He mentions the names of two DPR 'politicians' who flew to Moscow that morning so more will be known soon:</p> <p><i>Other person: '{...} he says, most probably there will a complete change of the commanders' staff of the DPR... well, exactly not of that of the commanders' stuff but of the political one. {...}..Well, is it so?'</i></p> <p><i>B: 'Yes, there is such an order {...}. [DPR Separatist leader C and D] are in Moscow now, both of them. They've flown to Moscow today morning... As soon as they arrive it will be known what the decision is, understood, yeah?'</i></p> <p><i>Other person: 'Aha, you are to define for us who is a friend and who is a foe.'</i></p> <p><i>B: 'It goes without saying. It will be defined {...}'</i></p>
<p><b>Date: 17 July 2014</b>  <b>Time: morning</b>  <b>Data source: wire tap</b></p>	<p>In a phone call B tells a unidentified DPR separatist who encounters some problems, that:</p> <p><i>'I had a talk with Moscow yesterday. Pervyi<sup>17</sup> had a talk with Moscow too.{...} . We've reached the top level.{...} The instruction is as follows. {...}'</i></p>

### 3.2.6 Use of a special (encrypted / secure) phone that seems to be provided by FSB

It is apparent from intercepted phone calls that several separatists have encrypted / secure telephones (that cannot be wiretapped) via which they communicate when they share sensitive information.

According to DPR separatist leader B these 'special phones' are delivered by the FSB.

<sup>17</sup> Pervyi is translated as 'First Man' or 'Number One' and is often used as a title/call sign for a person who is the first in the line of command within a given agency (most likely military or paramilitary) of which the speaker is a member. In this case, it refers to separatist leader A.

**Date: 3 July 2014**  
**Time: evening**  
**Data source: wire tap**

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In the following phone call DPR separatist leader B asks another DPR separatist if he is interested in getting a secure phone. If so, he can arrange it for him. In that way it will be easy and safe to contact the others who also have a secure phone. By dialing a 3-digit number other users can be called. The phones are delivered by the FSB.

**B:** (...) How are you about those special communication telephones, you know, that we have? Those that go through the Internet, do you know? Secure. (...)

**Other person:** 'Well, I don't know. Say, if there is a need we'll get some. What telephones are those?'

**B:** 'You don't need to get them. Those are special phones, you cannot buy them. They are got through Moscow. Through FSB. (...) In short, want one to be installed for you? It will be easier for us to communicate then.'

**Other person:** 'OK, go ahead.'

(...)

**B:** 'So, I'll give your phone number to our signalman. He will give you a call on this. (...) It goes through the Internet, but there is a special communication there, it isn't wiretapped. (...) I'm telling you, it is easier to contact everyone,... [B then mentions several names] (...) Those are the ones who ... now... who have those direct phones. So, you dial 3 figures...'

**Other person:** 'OK'

**B:** 'So... He will dial you, yeah?... and he'll install the phone. It is all free and so forth...'

(...)

B mentions the names of several commanders who use such a phone, including DPR separatist leader A, DPR separatist leader C and AKSYONOV.

Other phone calls in July 2014 confirm that DPR separatist leader B actually uses a secure phone (besides his regular phone that is wiretapped).

**3.2.7 Returns to Russia**

According to some sources, B left the Donbas region in the beginning of 2015. Indications for this are also found in intercepted phone conversations and 'cell phone' location information.<sup>18</sup>

<sup>18</sup> Location of the antenna's/cell towers to which the phone was connected.

### 3.3 Statements of the two separatist leaders on their presence in Donbas

Both separatist leaders state in interviews that they participated in the military conflict in Donbas as Russian volunteer. They decided themselves to protect and serve the local people in Donbas.

### 3.4 Statements of Russian Federation on the presence of Russian servicemen in Donbas

On 17 April 2014 president PUTIN states in his Annual press conference 'Direct Line with Vladimir Putin' that<sup>19</sup>:

*'There are no Russian units in eastern Ukraine – no special services, no tactical advisors. All this is being done by the local residents (...).'*

When asked if he is planning to send a limited contingent of troops to southeastern Ukraine to protect its Russian-speaking population he answers:

*'We believe that we ought to do everything we can to help these people defend their rights and determine their fate on their own. This is what we will fight for. Let me remind you that the Federation Council of Russia gave the President the right to use the Armed Forces in Ukraine. I very much hope that I will not have to exercise this right and that, through political and diplomatic means, we will be able to resolve all the pressing, if not say burning, issues in Ukraine.'*

In his annual news conference on 17 December 2015, when PUTIN is asked about two Russian servicemen that were captured in Donbas in May 2015, PUTIN replies that<sup>20</sup>:

*'We've never said there are no people there who deal with certain matters, including in the military area, but this does not mean that regular Russian troops are present there. Feel the difference.'*

## 4. CLOSURE

Done as an official report, drawn up under oath of office and concluded and signed by me, Gerardus Wilhelmus Christiaan THIRY, in Driebergen on Monday the 7<sup>th</sup> of October, 2019.



<sup>19</sup> <http://en.kremlin.ru/events/president/news/20796>

<sup>20</sup> <http://en.kremlin.ru/events/president/news/50971>



**Annex 375**

*Ukraine and the Netherlands v. Russia*, Applications nos. 8019/16, 43800/14 and 28525/20,  
Further Observations of the Russian Government on Admissibility (Regarding East Ukraine),  
paras. 390-402, 8 November 2019

(excerpt)





Application no. 8019/16

TO THE EUROPEAN COURT OF HUMAN RIGHTS

UKRAINE

V.

RUSSIA

---

FURTHER OBSERVATIONS  
OF THE RUSSIAN GOVERNMENT  
ON ADMISSIBILITY  
(REGARDING EAST UKRAINE)

---

Moscow

8 November 2019

388. This site is an archive and mirror site, so that it is not possible to use the youtube-dl programme to extract data about the video and/or audio files that link to the archived YouTube page.
389. However, the archived version of the YouTube page contains source-code, which includes a link to two archived YouTube files, one video and one audio.<sup>253</sup>
390. Before addressing the data associated with these files, it is necessary to note a feature of YouTube. When a file is uploaded to YouTube, it is encoded in a Google format compatible with YouTube's systems. The encoding date should conform to the upload date. Conceivably, it could be later, if there were a good reason for re-encoding the file later. It could not be earlier.
391. Remarkably, the encoded date of the video file is given as follows:

“Encoded date: UTC 2014-07-16 16:42:05”

This is the day *before* MH17 was shot down. This corresponds to 18.42 in Ukraine, on 16 July 2014.

This is not a mistake. The audio file has the same encoded date as follows:

“Encoded date: UTC 2014-07-16 16:42:05

It is an IsoMedia File Produced by Google.

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<https://web.archive.org/web/20140717182910/https://www.youtube.com/watch?v=vIOqhnodT70> (Annex 114).

<sup>253</sup> Archived version of Snizhne video, available via web.archive at [https://web.archive.org/web/20140717182911oe\\_/http://r4---sn-jc47eu7r.googlevideo.com/videoplayback?source=youtube&ratebypass=yes&ipbits=0&key=cms1&ip=207.241.237.109&sver=3&expire=1405645200&signature=1ED048BC6D3F6C25759EE327C6FC1517009105DC.7DE8CBD5D9E79BA8D787EBD557BDFE20033448&itag=22&id=o-APHyJEk\\_j\\_4LJ366fT0YvQ5m5p6ZsBmyTpsc4Nkbqzvw&upn=2oOfsu1kfbM&fexp=901803%2C902408%2C908584%2C910118%2C913430%2C924213%2C924217%2C924222%2C927622%2C930008%2C931975%2C934024%2C934030%2C941366%2C948110&params=expire,id,initcwndbps,ip,ipbits,itag,ratebypass,source,upn&signature=&redirect\\_count=1&req\\_id=93d58e95421a03e4&cms\\_redirect=yes&ms=tsu&mt=1405621710&mv=m&mws=yes](https://web.archive.org/web/20140717182911oe_/http://r4---sn-jc47eu7r.googlevideo.com/videoplayback?source=youtube&ratebypass=yes&ipbits=0&key=cms1&ip=207.241.237.109&sver=3&expire=1405645200&signature=1ED048BC6D3F6C25759EE327C6FC1517009105DC.7DE8CBD5D9E79BA8D787EBD557BDFE20033448&itag=22&id=o-APHyJEk_j_4LJ366fT0YvQ5m5p6ZsBmyTpsc4Nkbqzvw&upn=2oOfsu1kfbM&fexp=901803%2C902408%2C908584%2C910118%2C913430%2C924213%2C924217%2C924222%2C927622%2C930008%2C931975%2C934024%2C934030%2C941366%2C948110&params=expire,id,initcwndbps,ip,ipbits,itag,ratebypass,source,upn&signature=&redirect_count=1&req_id=93d58e95421a03e4&cms_redirect=yes&ms=tsu&mt=1405621710&mv=m&mws=yes), through which the video file in Annex 114 was uploaded. The file size is 4,716,676 bytes, the SHA1 hash sum is “AE8045E87EBDC8BC46228F32BC1AC37A5D9F9DE3” (See data reproduced at para. 1 in Anonymous Expert Report, Annex ER-1).

392. It follows inexorably that the earliest available video and audio files of the BUK allegedly near Snizhne were uploaded onto YouTube on 16 July 2014. This is totally incompatible with the Bellingcat and JIT narrative, and JIT’s reliance on an anonymous witness who allegedly saw the BUK in the area on 17 July 2014 with the BUK allegedly having travelled from the Russian border “along a certain route ... in the previous hours”<sup>254</sup>.
393. Currently, on YouTube, there is a video called “The Weapon that Killed the Malaysians, Snizhne, 17 July 2014”<sup>255</sup>. It has the file name: MiI9s-zWLs4.
394. This video is recorded as having been uploaded by Brown Moses on 17 July 2014 – in other words, Eliot Higgins still in his Syria guise, although Bellingcat got underway on 14 July 2014. It is important to note a number of points.
- (1) As noted above, the YouTube link in fact goes to a number of files, and YouTube chooses which to present to a user clicking the link according to various factors, like the speed of their connection and the characteristics of their device.
  - (2) The best quality file is identified as the one with the Format Code 22.
  - (3) This file has an encoded date of 14 August 2017, three years after the uploaded date, and the name is different. It is recorded as being “an ISO Media file produced by Google Inc.”
  - (4) The file is poor quality with a resolution of 408 x 720.
  - (5) It has a length of 35 seconds, 267 milliseconds with a frame rate of 15 frames per second (“FPS”) (which, curiously, is 4 milliseconds shorter than the parallel audio file).<sup>256</sup>
395. The encoded date of 14 August 2017 means that the file currently on YouTube is not the file uploaded by Brown Moses. It also

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<sup>254</sup> Mentioned at 1 minute 30 seconds into a JIT video presentation “MH17 Animation regarding the transport route and the launch site”, available at <https://www.youtube.com/watch?v=Sf6gJ8NDhYA> (Annex 116).

<sup>255</sup> Video “The Weapon that Killed the Malaysians, Snizhne, 17 July 2014”, available at <https://www.youtube.com/watch?v=Mii9s-zWLs4> (Annex 117).

<sup>256</sup> See data reproduced at para. 2 in Anonymous Expert Report (Annex ER-1).

obscures the original encoded date of the earliest video – 16 July 2014 – as set out above.

396. There is a further oddity in relation to the Brown Moses/Bellingcat version. Whilst the first uploaded version has gone, there is an archive link – again at archive.org – to an archive of the original “Brown Moses” YouTube page, which was archived on 18 July 2014.<sup>257</sup> That archived link contains a link to what should be an archived version of the video, archived on the same date. However, the version of the video at the archived link was archived on 17 December 2014.<sup>258</sup> This is difficult to understand, and the effect is that even the version claimed by Eliot Higgins is not presently available.
397. There is a further YouTube version of the Snizhne video and also uploaded, supposedly, on 17 July 2014 with the title “AA “BUK” vehicle Pro-Kremlin fighters going from Torez to Snizhne”<sup>259</sup>.
- (1) Again, the YouTube link goes to a number of files.
  - (2) Again, the best quality file has the Format Code 22.
  - (3) Again, its encoding date is different from the upload date – 14 August 2017 – three years after the loss of MH-17.
  - (4) This file however, has better (apparent) quality, with a resolution of 1280 x 720.

<sup>257</sup> Archived video “The Weapon that Killed the Malaysians, Snizhne, 17 July 2014”, available via web.archive at <https://web.archive.org/web/20140718170501/https://www.youtube.com/watch?v=Mii9s-zWLS4> (Annex 118).

<sup>258</sup> See [https://web.archive.org/web/20141217165205oe\\_/https://r5---sn-jc47eu7d.googlevideo.com/videoplayback?upn=iMaooo3AkqM&sparams=dur,expire,id,init,cwndbps,ip,ipbits,itag,mm,ms,mv,ratebypass,requiresl,source,upn&requiresl=yes&expire=1418856715&itag=22&key=cms1&dur=35.317&fexp=900718%2C927622%2C930676%2C932404%2C936102%2C9405587%2C943917%2C947209%2C947218%2C948124%2C952302%2C952605%2C952901%2C955301%2C957103%2C957105%2C957201&id=o-AIErnszNaqW5w\\_9GtCoHpG2JRnFHsMa46BGyV3GaulYr&sver=3&signature=239CCA1930B253AC56F5A01AD6469F3C6B76FA39.4CD617B7F83FC1B64C360E092C5E468639C9F495&ratebypass=yes&ipbits=0&ip=207.241.237.141&source=youtube&signature=&redirect\\_counter=1&req\\_id=41363a279adaa3ee&cms\\_redirect=yes&mm=26&ms=tsu&mt=1418835074&mv=m](https://web.archive.org/web/20141217165205oe_/https://r5---sn-jc47eu7d.googlevideo.com/videoplayback?upn=iMaooo3AkqM&sparams=dur,expire,id,init,cwndbps,ip,ipbits,itag,mm,ms,mv,ratebypass,requiresl,source,upn&requiresl=yes&expire=1418856715&itag=22&key=cms1&dur=35.317&fexp=900718%2C927622%2C930676%2C932404%2C936102%2C9405587%2C943917%2C947209%2C947218%2C948124%2C952302%2C952605%2C952901%2C955301%2C957103%2C957105%2C957201&id=o-AIErnszNaqW5w_9GtCoHpG2JRnFHsMa46BGyV3GaulYr&sver=3&signature=239CCA1930B253AC56F5A01AD6469F3C6B76FA39.4CD617B7F83FC1B64C360E092C5E468639C9F495&ratebypass=yes&ipbits=0&ip=207.241.237.141&source=youtube&signature=&redirect_counter=1&req_id=41363a279adaa3ee&cms_redirect=yes&mm=26&ms=tsu&mt=1418835074&mv=m). (Annex 118).

<sup>259</sup> Video “AA ‘BUK’ vehicle Pro-Kremlin fighters going from Torez to Snizhne”, available at <https://www.youtube.com/watch?v=wkgwxxhJlk4> (Annex 119). See data reproduced at para. 3 in Anonymous Expert Report (Annex ER-1).

- (5) It has a length of 35 seconds, 271 milliseconds with a frame rate of 29.970 FPS – virtually double the Brown Moses version, so frames have been added.
  - (6) Interestingly, the audio file has a different encoding date: 26 August 2016. Again it is an ISO Media file produced by Google Inc.
  - (7) This video is recorded as having been uploaded by Euromaydan – again, not a disinterested source.
398. If this is a version of the Brown Moses video, or some common underlying file, this EuroMaydan version has been cropped, and it has undergone stabilisation, with more frames added, to make it smoother.
399. A yet further version of the Snizhne video was supposedly uploaded on 14 October 2015. Again, the title is “AA BUK vehicle Pro-Kremlin fighters going from Torez to Snizhne”<sup>260</sup>.
- (1) Again the YouTube link goes to a number of files.
  - (2) The best has the Format Code 18.
  - (3) The quality is poor – a resolution of only 640 x 360.
  - (4) It has a length of 35 seconds 202 milliseconds with 29.970 FPS.
  - (5) The audio file has an encoded date of 14 October 2015, consistent with the video file. Its title is ISO Media File produced by Google, 5-11-2011 indicating that it was encoded by Google, apparently using software from 2011. Oddly, this has a duration of 35 seconds 270 milliseconds – longer than the video file.
400. Interestingly, this date of 14 October 2015 is the earliest encoded date amongst current versions of the Snizhne video on YouTube. Oddly, the quality of this video is the lowest. Better versions appear later.

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<sup>260</sup> Video (2) “AA ‘BUK’ vehicle Pro-Kremlin fighters going from Torez to Snizhne”, available at <https://www.youtube.com/watch?v=YxZhjyZILgU> (Annex 120). See data reproduced at para. 4 in Anonymous Expert Report (Annex ER-1).

401. Once again, it is unclear why there has been a cleaning of the earliest files uploaded. One obvious purpose might be to hide the date problem in relation to the encoding and uploading of the Snizhne video above. Another, may be to obstruct forensic analysis. It will be recalled that forensic analysis is already obstructed by the mere uploading to social media, because the social media strips away data in a “lossy” compression process which removes data important for forensic examination. Obviously, eliminating the earliest versions of files make it even more difficult to identify when, where and why changes may have been made.
402. The Snizhne video deserves forensic attention, because it contains faults and possible artefacts that suggest falsification.

#### ***3.11.1.1. The Vertical Line Artefact***

403. In order to create a fake video of a BUK travelling along a road, a process of layering would have been required: filming of the background; insertion of the BUK layer; and addition of a foreground layer.
404. In this video, a tree in the foreground has not been rendered correctly in all frames of the video as the BUK launcher supposedly crosses behind it. A vertical line appears, part of the tree disappears and there is a hard line of contrast between the remaining vegetation and part of the BUK launcher.<sup>261</sup>

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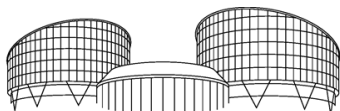
<sup>261</sup> “MH17: The Buk videos are fake”, *energia.su*, 23 February 2016, available at [https://energia.su/mh17/buk\\_vids/fake\\_buk\\_vids.html](https://energia.su/mh17/buk_vids/fake_buk_vids.html) (Annex 121).

**Annex 376**

European Court of Human Rights, *Case of Ukraine and the Netherlands v. Russia* (applications nos. 8019/16, 43800/14 and 28525/20), Letter, 10 June 2021







EUROPEAN COURT OF HUMAN RIGHTS  
COUR EUROPÉENNE DES DROITS DE L'HOMME

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Mr Andrey Mikhailovich FEDOROV  
Head of the Office of the  
Representative of the Russian Federation  
at the European Court of Human Rights  
14 Zhitnaya str.  
119991 Moscow  
RUSSIA

**GRAND CHAMBER**

ECHR-LE21.14G

10 June 2021

**BY E-TRANSMISSION ONLY**

**Ukraine and the Netherlands v. Russia**  
**(applications nos. 8019/16, 43800/14 and 28525/20)**

Dear Sir,

I acknowledge receipt of your letter of 21 May 2021 containing your Government's further memorials on the above case together with the accompanying documents and with a USB key containing some of the annexes; and of your subsequent letter of 7 June 2021 asking to receive the additional written observations of your Government and the Government of the Netherlands as soon as practicable. A copy has been sent to the Governments of Ukraine and the Netherlands for information.

I enclose, for information, the further memorials of the Governments of Ukraine and the Netherlands dated 21 May 2021 together with accompanying documents.

Following the receipt of the parties' further memorials, the formal written procedure is now closed.

I would inform you that the President of the Court has refused to grant the Ukrainian Government' request to file an expert report by Mr Elliot Higgins, the founder and Director of Bellingcat.

**I would also inform you that, following the completion of the formal written procedure stage, the President of the Court has directed that an oral hearing on the admissibility of the above applications shall take place on 24 November 2021.** In setting this date, the President has had regard to the nature of the cases pleaded by the parties and, in particular, to the substantial factual disputes between the parties and the significant amount of factual material submitted by the parties both in the memorials and in annexes. As your Government and the Government of Ukraine both declined, in their respective letters of 2 September 2019 and 30 August 2019, an opportunity to test the factual evidence prior to the admissibility hearing, the Court will be required to reach the factual findings necessary at this stage based solely on the material in the written file. As a result, additional time will be needed to prepare the file for the admissibility hearing. Please note that the President has also taken account of and allowed for the change of representative of your Government.

Finally, the President has decided that any comments the parties may wish to make in reply to each other's observations should be included in their oral pleadings at the public hearing on the above mentioned date. Further details concerning the hearing will follow in due course.

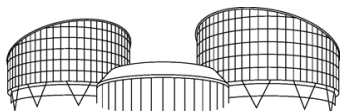
I enclose copies of my letters of today's date to the other parties, for information.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Søren Prebensen', with a stylized flourish at the end.

Søren Prebensen  
Deputy Grand Chamber Registrar

Enc.



EUROPEAN COURT OF HUMAN RIGHTS  
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Mr Ivan LISHCHYNA  
Agent of the Government of Ukraine  
before the European Court of Human Rights  
Ministry of Justice  
13 Gorodetsky Str.  
01001 Kyiv  
UKRAINE

**GRAND CHAMBER**

ECHR-LE21.14R

10 June 2021

**BY E-TRANSMISSION ONLY AND BY POST**

**Ukraine and the Netherlands v. Russia**  
**(applications nos. 8019/16, 43800/14 and 28525/20)**

Dear Sir,

I acknowledge receipt of your letter of 21 May 2021 containing your Government's further memorials on the above case together with the accompanying documents. A copy has been sent to the Governments of the Russian Federation and the Netherlands for information.

I enclose, for information, the further memorials of the Governments of the Russian Federation and the Netherlands dated 21 May 2021 together with accompanying documents (and a DVD disc containing some of the annexes); and a letter of 7 June 2021 from the Government of the Russian Federation.

Following the receipt of the parties' further memorials, the formal written procedure is now closed.

I would inform you that your request to file an expert report by Mr Elliot Higgins, the founder and Director of Bellingcat, by 31 July 2021 has been refused by the President of the Court. I refer in this connection to the Court's letter of 15 May 2019 in which your Government and the Government of the Russian Federation were invited to provide submissions to the Court on what should be the format of any fact-finding in respect of the admissibility of the application. In reply, in their respective letters of 30 August 2019 and 2 September 2019, your Government and the Government of the Russian Federation expressed the view that there was no need for the Court to hear oral testimony to test the evidence at the admissibility stage. In fact, in its letter, your Government insisted that the parties should confine any documentary evidence to their written submissions on admissibility and there was no need for the Court to take oral testimony during the pre-admissibility phase. In light of your position in this respect and considering that your Government has had every opportunity to submit any expert reports they considered necessary or desirable in the form of an annex to their memorials during the written procedure, further exchanges of (expert) evidence at this stage are not in the interests of the proper administration of justice and would cause further delays in the examination of the case (Rule 38 § 1, second sentence, of the Rules of Court).

**I would also inform you that following the completion of the formal written procedure stage, the President of the Court has directed that an oral hearing on the admissibility of the**

**above applications shall take place on 24 November 2021.** In setting this date, the President has had regard to the nature of the cases pleaded by the parties and, in particular, to the substantial factual disputes between the parties and the significant amount of factual material submitted by the parties both in the memorials and in annexes. As your Government and the Government of the Russian Federation have both declined an opportunity to test the factual evidence prior to the admissibility hearing, the Court will be required to reach the factual findings necessary at this stage solely based on the material in the written file. As a result, additional time will be needed to prepare the file for the admissibility hearing.

Finally, the President has decided that any comments the parties may wish to make in reply to each other's observations should be included in their oral pleadings at the public hearing on the above mentioned date. Further details concerning the hearing will follow in due course.

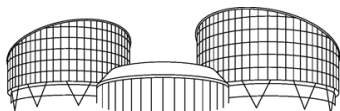
I enclose copies of my letters of today's date to the other parties, for information.

Yours faithfully,

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Søren Prebensen  
Deputy Grand Chamber Registrar

Enc.



EUROPEAN COURT OF HUMAN RIGHTS  
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**GRAND CHAMBER**

ECHR-LE21.14R

10 June 2021

**BY E-TRANSMISSION ONLY AND BY POST**

**Ukraine and the Netherlands v. Russia**  
**(applications nos. 8019/16, 43800/14 and 28525/20)**

Dear Sir,

I acknowledge receipt of your letter of 21 May 2021 containing your Government's further memorials on the above case together with the accompanying documents.

A copy has been sent to the Governments of the Russian Federation and Ukraine for information.

I enclose, for information, the further memorials of the Governments of the Russian Federation and Ukraine dated 21 May 2021 together with accompanying documents (and a DVD disc containing some of the annexes); and a letter of 7 June 2021 from the Government of the Russian Federation.

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**I would also inform you that following the completion of the formal written procedure stage, the President of the Court has directed that an oral hearing on the admissibility of the above applications shall take place on 24 November 2021.** In setting this date, the President has had regard to the nature of the cases pleaded by the parties and, in particular, to the substantial factual disputes between the parties and the significant amount of factual material submitted by the parties both in the memorials and in annexes. As the Governments of the Russian Federation and Ukraine, in their respective letters of 2 September 2019 and 30 August 2019 (copies enclosed), both declined an opportunity to test the factual evidence prior to the admissibility hearing, the Court will be required to reach the factual findings necessary at this stage based solely on the material in the written file. As a result, additional time will be needed to prepare the file for the admissibility hearing.

Finally, the President has decided that any comments the parties may wish to make in reply to each other's observations should be included in their oral pleadings at the public hearing on the above mentioned date. Further details concerning the hearing will follow in due course.

I enclose copies of my letters of today's date to the other parties, for information.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Søren Prebensen', with a stylized flourish at the end.

Søren Prebensen  
Deputy Grand Chamber Registrar

Enc.

**Annex 377**

The Dutch Public Prosecution Service, *Status of the investigation and position on the progress of the trial – part 2* (10 March 2020)





## **Status of the investigation and position on the progress of the trial - part 2 (10-3-2020)**

Pronounced before the full-bench chamber of The Hague district court.

We will now explain what applications we are making in regard to further investigation. On certain points, we will also explain that we seek no further investigation, as we do not believe that it would add anything meaningful to the case file. We will explain our thinking because we believe that the defence or the court may take a different view. By indicating at this early stage the areas in the case file where further investigation may be considered, we aim to facilitate the progress of the investigation. We also believe this will help enable the court to arrive at an opinion. After all, the court itself has a responsibility to ensure that the trial is sufficiently comprehensive, and it can order further investigation *ex proprio motu*.<sup>[1]</sup>

We are applying for further investigation only in the case against Pulatov. In major criminal cases with multiple defendants, investigation in the case against one defendant is often ordered in the cases against the other defendants as well, even if those other defendants have not requested it. There is a practical reason for such parallel investigation: if other defendants should later request such investigation, it does not need to be carried out all over again.

In this case, the Public Prosecution Service would explicitly recommend that this not be done, because of the differences between the trials in absentia of Girkin, Dubinskiy and Kharchenko on the one hand, and the defended action involving Pulatov on the other. If further investigation in the case against Pulatov is simultaneously allowed in the cases against the other defendants, this could lead to a situation in which the other defendants who are currently abroad have to be notified in writing about various investigative activities, particularly with regard to threatened witnesses (article 226b, paragraph 1 of the Code of Criminal Procedure) and expert witnesses (article 228, paragraph 1 of the Code of Criminal Procedure). Experience has taught us that sending formal notifications to the other three defendants by means of requests for legal assistance is extraordinarily time-consuming and seldom successful. This results in unnecessary delay. We must assume on the basis of the case file that the three other defendants are aware of this criminal trial but have chosen not to participate in it. If investigation in the case against Pulatov should result in information that is relevant to the cases against the other defendants, that information can be added to their case files too. Any exculpatory information will in any event be added to their files. If the position of the three defendants should change in the future, and they should wish to participate in their trial after all, they can still invoke all of their rights as defendants (see article 280, paragraph 3 of the Code of Criminal Procedure). Until such time we will submit applications for further investigation only in the case against Pulatov, and we ask the court not to order further investigation *ex proprio motu* in the cases against the other defendants.

We will now discuss the following categories in turn:

further investigation by experts of intercepted telephone conversations;

further investigation by experts of visual materials;

witnesses to be examined further;

viewing of the reconstruction of MH17.

## **Intercepted phone conversations**

Earlier we explained our comprehensive approach to validating the intercepted phone conversations that Ukraine provided. As far as the Public Prosecution Service is concerned, the authenticity and content of the intercepted calls have hence been investigated as fully as possible, using different methods. We do not rule out further investigation, but we consider that it would only be meaningful if it were based on serious and concrete new information about the intercepted calls.

As to the question of whether new information about the intercepted phone conversations does or does not warrant further investigation, it is necessary to look critically at the source of that new information. Specific accusations of manipulation are for example contained in a report by the Malaysian investigator A. Rosen that was published online. The investigation team analysed that report and added it to the case file. The following elements are worthy of note:

Rosen investigated videos posted by the SBU on YouTube containing fragments of intercepted calls. In other words, this was not an investigation of the intercepted calls themselves. This leads for example to the – unsurprising – conclusion that the conversations in the YouTube videos had been edited. That conclusion is undoubtedly true, but it says nothing about the complete intercepted conversations that are contained in the case file and have been thoroughly investigated.

Rosen writes that access to the original material – the intercepted calls – is necessary to be able to draw conclusions about its authenticity and that he does not have access to that material, but then goes on nevertheless to draw numerous conclusions about the authenticity of the conversation fragments. We cannot reconcile these assertions.

Finally, Rosen labels at least one conversation as fake and inauthentic, but one of the participants has publicly confirmed that he took part in that conversation. This is a conversation of 17 July 2014 involving a certain Kozytsin. In an interview with a journalist from VICE News, the separatist Kozytsin acknowledged that he took part in that conversation and explained how, in his view, it should be interpreted.

Our conclusion at this stage, based on these findings, is that Rosen's report may say something about the clips in the YouTube videos that he investigated, but this report does not provide any compelling reason to doubt the authenticity of the intercepted calls included in the investigation. A

specialist in forensic speech analysis from the Netherlands Forensic Institute (NFI) informed us of ways to investigate the authenticity of intercepted conversations, referring to Rosen's report as an example of how not to go about this task. This NFI specialist said of Rosen's report:

‘A proper investigation of authenticity must be carried out on the basis of a specific manipulation hypothesis and, where possible, using the alleged original recordings. Rosen's report fails to comply with either principle. The report's findings therefore have no relevance to question whether the underlying intercepted conversations are authentic.’

We therefore see no reason in Rosen's report to apply for further investigation.

We enquired among specialists about how further investigation into disputed intercepted conversations could be carried out in a meaningful way. The following picture emerged. General accusations of manipulation – such as the contention that all intercepted calls have been falsified – cannot be meaningfully investigated. But specific and concrete information can. If such information comes to light, preferably as a result of a suspect adopting a specific position on an intercepted conversation attributed to them, there are various ways in which it could be investigated. Technical investigation of alleged anomalies or abnormalities, such as noises that can be heard or an alleged lack of background noise, can be carried out by forensic experts. More technical further investigation into the authenticity of conversations could be conducted by having a Russian-speaking forensic audio specialist assess one or more conversations regarding issues such as possibly illogical sentence structure or word order in sentences that were spoken. An investigation of this kind could possibly be carried out in one of the Baltic states. We expect that Russian-speaking forensic audio specialists can be found there who can carry out expert investigation into this case with sufficient impartiality. Finally, it would be logical to also perform tactical investigation into the disputed conversations. This involves analysing, with reference to other information from the investigation, whether – in the light of the conversation's content – there is reason to believe that a conversation has been manipulated.

In short, we are not now applying for further investigation into the authenticity of intercepted conversations in the case file because we believe these conversations have been investigated sufficiently. At this time we see no information that is sufficiently specific and objective to cause us to doubt that authenticity. If nevertheless an intercepted conversation is disputed in a sufficiently specific manner, on the basis of a serious source, we will gladly express a view on what kind of meaningful investigation thereof can be performed. In order to facilitate the progress of these proceedings, we have already obtained information about how meaningful further investigation could be performed if the court should deem such investigation necessary. In view of the time such further investigation would be likely to take, it is important to decide on this matter as soon as possible. With this in mind, it is especially relevant to ascertain whether the defendants, and Pulatov in particular, dispute specific intercepted conversations.

## **Photographic and video material**

We now come to the possible investigation of photographic and video material. The case file contains seven videos and three photographs of the TELAR, which according to the investigation were made on 17 and 18 July 2014 in eastern Ukraine. We have already explained with reference to one photograph how we validated these images. Again, further investigation is only meaningful if there are sufficient and concrete indications that these images have been manipulated.

### **Image manipulation**

The Russian Ministry of Defence alleges that a number of these images have been manipulated. It made this claim at a press conference on 17 September 2018.

The allegation of manipulation provided food for thought. With regard to a video of the TELAR in Luhansk, the Russian Ministry of Defence said on 21 July 2014 that the image was accurate, but that the recording had not been made in Luhansk but in Krasnoarmiysk, a town that was under the control of the Ukrainian armed forces. That assertion was based on an address that was, it was said, on an advertising sign. That address cannot be seen on the video itself. Geolocation techniques drawing on specific characteristics of the video revealed that the video had indeed been made in Luhansk and not, as claimed by the Russian authorities in their press conference, in Krasnoarmiysk. At the press conference held four years later the location of the recording was not discussed, and the claim was made that the images themselves had been manipulated.

This was not the first about-turn on the part of the Russian Ministry of Defence. On 21 July 2014 and 26 September 2016 it offered contradictory interpretations of the same radar plots: first it claimed that the reflections were from a Ukrainian fighter aircraft, and subsequently it said they were from debris from flight MH17. At the same press conference on 21 July 2014, the Russian Ministry of Defence also presented satellite photographs purportedly showing a Ukrainian Buk system that disappeared from view near Donetsk prior to 17 July 2014, reappeared on 17 July 2014 near Zaroshchenske and disappeared again a day later. In so doing it suggested that the missing Ukrainian Buk system was responsible for downing flight MH17. Satellite images from the European Space Agency and Google Earth and meteorological investigation by the KNMI demonstrated that the Russian photographs could not have been taken on the dates claimed.

There was therefore every reason to be sceptical about the Ministry of Defence's latest allegations in 2018 that the images of the TELAR had been manipulated. Anyone who falsifies evidence and repeatedly produces contradictory versions of events cannot be considered the best source to evaluate the authenticity of other evidence. Nevertheless, these images and the Russian claims concerning them were referred to experts at the NFI. According to the NFI, there are no indications that the disputed images were manipulated.

Shortly before this hearing began we learned of new Russian accusations of manipulation. They are included in the written statement of the Russian Federation of 31 December 2019 in proceedings before the European Court of Human Rights. Those proceedings were initiated against the Russian state by various next of kin of victims of the downing of flight MH17. In this written statement, the

Russian Federation asserts that other images of the TELAR were also 'fake'. It even alleged a series of manipulated images, a 'false digital story'.

The Russian Federation's written statement presents various images. With the exception of a photograph and a video of a TELAR moving under its own power in Snizhne, these images had already been mentioned by the Russian Ministry of Defence and investigated specifically by the NFI. That investigation satisfactorily refuted the Russian claims. According to the NFI, there are no indications of manipulation. That leaves the photograph and the video of the TELAR in Snizhne. They had not been disputed before. Various comments are made about how the photograph was exhibited in a JIT presentation, but the statement does not explain why the image itself is allegedly a fake. Specific, alleged indications of manipulation are only mentioned in respect of the video in Snizhne.

We asked ourselves whether these claims warranted further investigation of the images. Specifically, we considered how far we should go in validating images, what further investigation into image manipulation would add to the investigation that has already been performed, and how seriously we can still take Russian accusations in the light of all the demonstrable untruths already propagated by the Russian authorities in recent years. Nevertheless, at this early stage of these proceedings we consider that it still makes sense to have this specific example of alleged image manipulation investigated by experts. If such an investigation begins promptly it need not hold up these proceedings.

### **Metadata**

This investigation only examined metadata on original image files such as photographs and videos. Investigating other files would have served no purpose because metadata can change when resaving, sending or uploading files on services such as YouTube. In such cases, therefore, metadata sheds little light on when an image file was created or modified.

The Russian Federation's written statement in the ECtHR proceedings claims that a YouTube version of the video of the TELAR in Snizhne gives 16 July 2014 as its 'encoded date', i.e. one day before the downing of flight MH17 and the making of the other images of the TELAR. The Russian Federation argues that the encoded date can never be earlier than the date on which the video is actually uploaded, and consequently the video must already have been uploaded on 16 July 2014.

That does not tally with the findings of the investigation. We can point to other evidence from various sources of a TELAR moving under its own power through Snizhne on 17 July 2014. We are also curious as to why a video which – if the Russian Federation is to be believed – was produced 'with a propaganda motive' on the part of the JIT was made on a date that is not consistent with the 'propaganda' message. At the same time, expert knowledge is needed to respond to the substance of this point concerning the encoded date. The NFI report referred to earlier does not address this new question. We would like this point also to be referred to an expert.

## **Conclusion photographic and video material**

In brief, in regard to investigation of photographic and video material, we see grounds for an application for referral to the examining magistrate to order an expert examination of the video of the TELAR in Snizhne. Specifically, this examination should address:

possible indications of image manipulation of the two versions of the same video of the TELAR in Snizhne included in the case file, partly in the light of the claims made by the Russian Federation; the contention that the version referred to by the Russian Federation of the same video must already have been uploaded on 16 July 2014 and hence must have been recorded before then.

## **Witnesses**

We now come to the further examination of witnesses by the examining magistrate. We have already explained that we are now making applications for the further examination of witnesses because of the expected preparation time that will be required. In this regard, moreover, we expressly reserve the option of applying later, during the pre-trial review, for more witness examinations. First we will indicate the security issues surrounding the further examination of witnesses. We will then set out, in respect of several witnesses, the grounds on which we are applying for them to be examined further.

We will always refer to witnesses as 'he'. If the identity of a witness is protected, it is possible that a female witness is being referred to. References to 'he' must therefore be understood to mean 'he or she'.

## **Procedure**

We have already explained why the examining magistrate decided not to include the identity of dozens of witnesses in the case file. The threat from the DPR in eastern Ukraine and the fact that the Russian Federation is going to great lengths to conceal its involvement in this case have significant consequences for the investigative activities that still need to be carried out in the coming period.

Every effort will have to be made to ensure witnesses can be heard safely. The safe examination of witnesses whose identity has been protected on the orders of the examining magistrate will not be possible in court. We must be mindful of the fact that anonymous witnesses can only be safely examined by the examining magistrate without the defence and the Public Prosecution Service being present. After all, in view of the nature of the threat, the mere fact of the time and place of a witness examination becoming known could give rise to an unacceptable security risk. That risk does not arise if the examining magistrate hears witnesses at a time – over an extended period – and in a manner unknown to others, on the basis of written questions from the Public Prosecution Service and the defence. Previously, the examining magistrate considered it necessary to remove from the case file the dates of the interviews conducted under article 226a of the Code of Criminal

Procedure because those dates could provide clues to the identity of witnesses. That risk will be no different now.

The Public Prosecution Service considers that the examining magistrate is ideally placed to decide how new witnesses can be safely heard, while at the same time ensuring the defence can exercise its right to examine witnesses. The examining magistrate is in possession of the most information and has by now acquired considerable experience in examining threatened witnesses in this case. Referral to the examining magistrate will in any case be required in respect of all witnesses whose identity has been protected under article 149b of the Code of Criminal Procedure, because an assessment will have to be made of how they can be examined in a manner consistent with the earlier decision to omit their identity from the case file.

It would not be logical for the panel of judges hearing this case to designate one of its own number as examining magistrate. If it were subsequently to be determined that defence counsel and the Public Prosecutor may not be present at the examination of a witness, which is the expectation, that judge may no longer take part in the trial (article 316 paragraph 2 of the Code of Criminal Procedure). If the court were to take cognizance of information that cannot be added to the case file for security reasons, it would find itself in the unfortunate situation of knowing more about a witness than the defence does. This strikes us as undesirable. The Public Prosecution Service would therefore express its opposition in advance to the possible designation as examining magistrate of one of the judges hearing this case.

If the examining magistrate decides to examine witnesses without the Public Prosecution Service and the defence being present, it is conceivable that several rounds of written questions may be needed for some witnesses. It goes without saying that this will have an impact on the time it takes for the examining magistrate to hear witnesses. For witnesses who have not been heard before by the examining magistrate, an assessment will have to be made of how the process should be managed in practical and procedural terms, and time-consuming procedures under article 226a of the Code of Criminal Procedure may have to be followed. Given also that in many cases the examining magistrate will have to find an extremely discreet manner of acquiring the necessary international legal assistance for these examinations, it is clearly vital that they can begin this important task as soon as possible.

In this process, the basic principle must of course be to amply facilitate the defence in the exercise of its right to examine witnesses. Given the exceptional security risks in this case, careful account must be taken of a fair weighing of the interests at stake when determining how the defence will be able to exercise that right. In this case file we see no witnesses who could be viewed in due course as 'sole and decisive' within the meaning of the case law of the ECtHR. The anonymous witnesses in this case file are a considerable group of witnesses who in particular can provide statements about the delivery and removal of the Buk TELAR and the firing of the Buk missile. There is no single witness in the case file in its current form whose testimony could be considered potentially decisive for a conviction. This circumstance is relevant to weighing, on the one hand, the interests

of the defendants in having witnesses examined and, on the other hand, the interests of witnesses in giving evidence in a safe manner.

## **M58**

The case file contains statements from witness M58. This witness eventually put their name to a statement, but at this stage of the proceedings we see no reason to disclose that name. This witness states, in summary, that in the summer of 2014 they were operating as a Russian volunteer in a separatist unit in the self-declared republic of Donetsk. They indicate that, on 17 July 2014, at the time flight MH17 was downed, they were at a crossroads south of Snizhne, in the vicinity of a Buk TELAR at the moment a missile was launched. They, together with others, were given the task of guarding the site. This witness also talks about other separatists who were at the launch site, and about various details of that location. M58 states that those present were initially pleased because they were told that a military transport plane had been shot down. However, when the first people returned from the crash site they said that it was a civilian aircraft.

In view of the content of M58's statement and their personal situation, specific measures have been taken to protect them. These protection measures have an impact on M58's (further) effective availability to the investigation, the court, the Public Prosecution Service and the defence. For this reason M58 was examined in October 2019 by the examining magistrate. These sessions took place without the defence or the Public Prosecutor being present and were filmed. Measures were taken to conceal M58's identity on the recording. Experience shows that it is beneficial to the safety of protected witnesses to examine them as soon as possible because the process – especially in cases in which there is great media interest – can draw attention to such witnesses.

The Public Prosecution Service is applying for a further examination by the examining magistrate so that the Public Prosecution Service and, if desired, the defence can put questions to this witness. The witness's statements are consistent and clear, but there are a number of subsidiary points where they leave questions open, for example concerning the dates of a number of events in the run-up to 17 July 2014. The Public Prosecution Service would also like to ask further questions about what the witness observed at the launch site, for example concerning the people who were present. The witness addresses these points at certain moments. He states, for example, that he recognised Russian accents among the military personnel present at the launch site, that Russian military personnel were present with the Buk and that he heard from his companions that people from the FSB were present at the shooting down of the aeroplane.

The audiovisual recordings of the examination of M58 are in the possession of the examining magistrate. The Public Prosecution Service requests that the court instruct the examining magistrate to make a compilation of relevant parts of the recordings that, having regard to the security measures in place to protect the witness, could be added to the case file and if desired could be shown in court. The examining magistrate should take account the viewpoints of the Public Prosecution Service and the defence when selecting, on the basis of the official report of



statement, the relevant parts of the examination.

We assume that safety considerations will make it impossible to examine M58 in court. The prior disclosure of the time and place of the examination in court and the associated travel required would pose too great a security risk. If the court were to consider an examination in court we would ask it to consider seeking the views of the examining magistrate at an early stage on whether this can be done in a responsible manner. This is because of the importance, for security reasons, of not examining a witness like M58 more often than necessary.

### **S21 and S07**

Witness S21 states, in summary, that in the summer of 2014 they belonged to a separatist unit that was operating in the area around Donetsk. They reported to the defendant Kharchenko. S21's duties included manning checkpoints, patrolling, and guarding locations and assets. On the day that flight MH17 was downed, S21 was deployed together with others in the evening to transport a Buk TELAR from Snizhne. They transferred the TELAR to others in the vicinity of Debaltseve.

Witness S07 stated that they too were active in the period in question in a separatist unit that was under the leadership of Kharchenko. S07 is not very specific about his activities on 17 July 2014. S21 stated that S07 was also present when the Buk TELAR was removed after the downing of flight MH17. S07 did not acknowledge this when interviewed.

The Public Prosecution Service wishes to question S07 further on this point and put S21's statements to them. The Public Prosecution Service would also like to ask S21 questions arising from the statements given by S07 and M58. For example, M58 describes the situation at the launch site and in the surrounding area, and the people who were present. S21 was also present at these locations.

### **S17, S27 and S32**

Witness S17 was interviewed in 2015. In their statement they describe being shown a video on 17 July 2014, before the downing of flight MH17, in which an air-defence system resembling a tank could be seen. The person who had recorded the video had done so earlier that day. In the meantime, of course, several images from 17 July 2014 showing a Buk TELAR have come to light. The Public Prosecution Service would like to put further questions to S17 in order to determine whether the video concerns one of these images.

Witness S27 was also interviewed in 2015. According to their statement they saw a Buk TELAR at two different moments and locations on 17 July 2014. One of those locations is Illicha Avenue in Donetsk. A photograph of the Buk TELAR was also taken there. S27 also describes the people who were with the Buk TELAR and recognises specific uniforms they wore. S27's statement also refers to conversations with people who heard the missile being launched. The Public Prosecution Service would like to interview S27 in more detail about the grounds on which S27 concluded that a Buk TELAR was involved. At the current stage of the investigation the Public Prosecution Service would

also like to ask S27 more specifically about the people with the Buk TELAR.

S32 stated in 2016 that, in July 2014, they filmed a BUK with an accompanying convoy using their dashboard camera, and had someone else upload it on YouTube.

All three of these witnesses were interviewed quite some time ago, and have not yet been interviewed by the Public Prosecution Service. With respect to all three witnesses, we had intended to apply earlier – before June 2019 – for them to be examined by the examining magistrate on the basis of article 226a of the Code of Criminal Procedure. When we were preparing these applications, however, it transpired that it was not feasible to speak to the witnesses at that time, because they could no longer be contacted or could not be examined by the examining magistrate in a manner that would ensure their safety.

This situation may now have changed with the passage of time. We believe it is necessary for the examining magistrate to hear these three witnesses now, if possible, in a safe manner, either in accordance with the procedure under article 226a of the Code of Criminal Procedure or otherwise. Further questions can then be put by the Public Prosecution Service and the defence and, if the examination is conducted in accordance with the procedure under article 226a of the Code of Criminal Procedure, the examining magistrate may carry out an investigation of witness reliability on the basis of article 226e of the Code of Criminal Procedure. The statements of all three of these witnesses are important as regards to the assessment of the video and photographic material relating to the Buk TELAR in the case file. As we have just explained, doubt has been cast in some quarters as to the authenticity of this video and photographic material. It therefore makes clear sense for these witnesses to be examined in more detail.

## Viewing

Lastly there is the possibility of a viewing of the wreckage. Giving the court, the defence and the Public Prosecution Service the opportunity to see the wreckage of MH17 for themselves would deepen their insight into the forensic case file. In that way the participants in the proceedings would be able to get a sense of the perforations and pitting on the left side of the aircraft, and of the various pieces of wreckage where the fragments struck and were removed that show similarities to a Buk missile of the 9M38 series. A viewing would help create that broader picture of the damage, as it is difficult to capture it effectively in photographs. The case file includes a 3D reconstruction of the wreckage. It provides a clearer picture than photos do, but it still does not give the same impression as viewing the wreckage in person would.

The reconstruction made by the OVV of the front of the aircraft is in Gilze-Rijen: the outside of the cockpit, the business class section and a small part of the economy class section. Most of the pieces of wreckage in which fragments were found that match parts of a Buk missile can be seen in this reconstruction. Only the left wing, in which several such pieces were found, is stored at a different location. The same goes for the various larger and smaller fragments that match various parts of a Buk missile, both visually and in terms of element composition. They were removed not only from

the wreckage, but also from the bodies of victims and the crew's flight documents. Larger parts were found separately at the crash site. These parts, which are thought to be from a missile, are stored elsewhere. The same goes for the parts of the various dismantled and detonated reference missiles from Ukraine and Finland, which were compared to the fragments found, and the aluminium witness plates used for the arena tests. We believe the photos in the case files provide a clear enough picture of these, so they do not need to be viewed in person. If necessary, smaller fragments can be shown in the courtroom at a later date. A viewing of the reconstruction will suffice to create a broader picture of the damage. We therefore apply to the court to move the hearing to the hangar at Gilze-Rijen Air Base at a date to be determined. If the court would prefer to view the other items we just mentioned that are stored elsewhere, it can of course decide that *ex proprio motu*.

Such a viewing will require sufficient familiarity with the forensic case file on the part of the defence. A viewing could therefore also take place in June or even later. In this case, too, we think it would be desirable for the court to make a decision now, so that the necessary logistic preparations can be made and the further scheduling of hearings can take account of it.

### **Access to documents for Pulatov's counsel**

This brings us to the issue of access to documents. As we have noted, the Public Prosecution Service will actively offer the defence access to various documents that are not in the case file because we did not consider them relevant, but about which the defence may think differently. After all, in assembling the case file we have not yet been able to take into account any defence from Pulatov, as none has been disclosed so far. The defence is also free to request, giving reasons, access to other documents that are not in the case file, to substantiate specific defences. The case file sets out why several specified documents have not been included. If the defence wishes to access such documents, that is of course possible. The Public Prosecution Service would only refuse such a request if that were necessary on serious grounds (article 187d of the Code of Criminal Procedure), such as the safety of witnesses or the interests of the ongoing investigation into other persons of interest. If the Public Prosecution Service and the defence disagree as to whether such access can be given, the court will decide. To expedite these proceedings, the Public Prosecution Service proposes that the examining magistrate be instructed to rule, in between hearings, on behalf of the court on any objection the defence may lodge against any refusal on the part of the Public Prosecution Service to give them access. We think that this, too, would be in the interests of the investigation and of the progress of the trial.

### **Translation for Pulatov's counsel**

It may also be in the interests of the defence to have a translation of case documents. Before this hearing, the Public Prosecution Service provided a Russian translation of the notice of summons and accusation and the general account. That account is a detailed summary of the case file

comprising (in the Dutch version) 147 pages. This took a considerable amount of time. In addition, the Public Prosecution Service has undertaken to provide a Russian translation of the personal case file: an overview of the investigation with regard to the defendant Pulatov of (in the Dutch version) 68 pages. This translation is nearly completed. After the defence notified the court that they would act as counsel, the Public Prosecution Service also added to the case file the audio files of the intercepted telephone conversations most relevant to the evidence, so that the defence would have access to the original Russian-language audio files. This too will help the defendant gain insight into important evidence against him.

The Public Prosecution Service believes that these documents will provide the defendant with sufficient insight into the charges and the evidence adduced by the Public Prosecution Service. On the basis of these documents and the further discussion of other information in the case file in the consultations with his counsel (with the aid of an interpreter or his Russian lawyer), the defendant should be able to carefully determine the course of action he wishes to adopt during the proceedings. It can then be assessed on the basis of specific, substantiated requests whether it is in the interests of the defendant to have Russian translations of other documents.

Before this hearing, the Public Prosecution Service already discussed the fact with the defence that any requests for translation of additional documents must always explain why the defence considers translation necessary. This is in accordance with Dutch (article 32a, paragraph 1 of the Code of Criminal Procedure) and European legislation. According to the relevant European Directive, these must be documents which are essential to ensure that the defendant is able to exercise their right of defence (article 3, paragraph 1 of Directive 2010/64/EU). Documents or parts of documents to which this does not apply, need not be translated (article 3, paragraph 4 of the Directive).

From this point onwards any requests for translation will have to be submitted to the court. Here, too, we propose that the court instruct the examining magistrate to decide, in between hearings, on behalf of the court on any requests for translation from the defence, in order to expedite the proceedings.

## **Next of kin**

Like the defendants, the victims' next of kin also have certain rights. For instance, they too are entitled to gain access to case documents, in so far as that is in their interests (article 51b, paragraphs 1 and 6 of the Code of Criminal Procedure). Certain documents may be relevant to any statement they wish to make in exercising their right to address the court, or to the substantiation of any claims for damages.

On the other hand, in providing copies of case documents to next of kin the Public Prosecution Service must take into account possible consequences for the present criminal proceedings. On account of the exceptional media interest in this case and the large number of next of kin, there is a real chance that case documents may end up in the public domain. We believe it would not be in

the interest of due process if this were to occur before those case documents had been examined at a public hearing. The Public Prosecution Service therefore adopts a restrictive approach vis-à-vis the provision of case documents to next of kin, assessing each request individually in terms of whether there are arguments in favour of deviating from that general restrictive approach.

In view of the interests of the next of kin, we do believe we can provide a copy of the summary of the investigation (the general account), as soon as the consideration of the merits has taken place. We have previously undertaken to do so. We have also undertaken to ensure in any event that they will receive that summary no later than four weeks before they are asked to submit their claim. To that end, sufficient time – at least four weeks – will have to be scheduled between the completion of the consideration of the merits and the submission deadline for the claims of injured parties. Now that the hearing is under way, the court will have to decide on any requests for access to or copies of case documents. We hold the view that the rights of next of kin are best served when a substantial presentation of several parts of the case file is given during the preliminary phase of the trial. We will elaborate on this.

In addition to the right to information, the next of kin also have the right to be heard in court during the criminal proceedings and the right to claim damages. The next of kin have been asked about this, and as it stands, 49 persons wish to exercise their right to be heard in court, 84 wish to submit a claim as an injured party and 82 wish to submit a victim impact statement. This is just a first estimate. All next of kin are free to change their minds on this matter. In the interests of the process, it would be our preference for the next of kin to exercise their right to be heard in court before the closing statements. The same goes for the first clarification of the claim for damages.

We would ask the court to take the above into account when scheduling the rest of the trial.

## **Looking ahead to the consideration of the merits**

We would like to conclude with a look ahead to the assessment of the merits of the case. It is partly influenced by the way efforts to establish the truth in this case have been obstructed over the years, since 17 July 2014.

Over the past few years, public awareness of the dangers of disinformation has grown.

‘Disinformation’ is the deliberate, often covert, dissemination of misleading information, with the aim of damaging (inter alia) the public debate, democratic processes and the rule of law. These days, states try to exert influence and mislead by means of manipulated information. Democratic states that respect the rule of law now widely recognise that disinformation forms a serious threat to the stability and quality of democracy, the rule of law and an open society. Like the European Union[2] and many other countries, the Dutch government has taken measures to counter the dangers of disinformation campaigns.[3]

After MH17 was shot down, a disinformation campaign began that continues to this day. Using open sources and intercepted telephone conversations we can pinpoint the start of that campaign

very precisely. In the first few hours after the crash, what little information existed was still being shared without any kind of filtering. For instance, the pro-Russian television station LifeNews reported as follows on 17 July from 16.34, i.e. within 15 minutes of the crash:

‘Rebels inform us that they have succeeded in downing another transport aircraft of the Ukrainian air force. This occurred above the city of Torez in the self-proclaimed Republic of Donetsk. This was around 5.00 Moscow time. An AN-26 was flying over the city. A missile suddenly penetrated the aircraft. An explosion followed and the aircraft began to fall. Black smoke could be seen in the air. The AN-26 fell down on the side of the mine and the residential areas. I would add that Torez is not far from the town of Snizhne and the Saur-Mogila hill. These areas are controlled by rebels.’

It can be noted that in this early media coverage important elements are mentioned that came to be established later on in the investigation: the involvement of the ‘rebels’, who apparently themselves claimed to journalists that they shot the aircraft down; the use of the missile; and the link with the area around Snizhne, which was controlled by the ‘rebels’. Only the nature of the downed aircraft was incorrect.

There is more evidence in the case file that the DPR openly claimed to have shot down an aircraft shortly after the crash of MH17. For instance, a photographer who was in the area described in a World Press video interview how he was phoned by the press spokesperson of the separatists after the crash of MH17, who told him that they had shot down a military aircraft belonging to Ukraine. He received this phone call before it became known what type of aircraft had been shot down.

When it became clear in the following hours that the target hit was not a military aircraft but civilian flight MH17, the disinformation campaign started immediately. The pro-Russian television stations changed their reporting. On LifeNews, for example, by around six o’clock the claim by the ‘rebels’ and the eyewitnesses about the missile were gone entirely. Instead it was reported at 18.02 that MH17 had been shot down with an S-300 missile system belonging to the Ukrainian armed forces. Just under half an hour later, that version was replaced by the report that the Boeing had been shot down by a Ukrainian fighter aircraft, which was then in turn shot down by the ‘people’s army’.

A few days later, the Russian Ministry of Defence adopted this line of reporting, in a press conference in 21 July 2014 which we have referred to before. During that press conference the Ministry suggested two scenarios, saying on the one hand that MH17 may have been shot down by a Ukrainian fighter aircraft; and on the other hand pointing to a Ukrainian Buk system. From then on, both scenarios were maintained by, among others, the Ministry of Defence, Buk manufacturer Almaz Antey, the Russian criminal investigation authority, the deputy Prosecutor General, the Minister of Foreign Affairs and the foreign ministry spokesperson. Until mid-2015, an attack by a Ukrainian fighter aircraft was the dominant scenario. Once the OVV published its draft and final report, however, the emphasis shifted to a Ukrainian Buk missile. Various interpretations were given as to what type of missile and what type of warhead were thought to have been used, and it was repeatedly asserted that the Russian armed forces no longer used those types. As of 26

September 2016, the scenario of a Ukrainian fighter aircraft faded into the background. That is the date on which it was announced that Russian radar data had been found, and that those radar images did not show a fighter aircraft. From then on, the Ukrainian Buk missile became the dominant scenario. This was confirmed in 2018 by the presentation of documents that allegedly show that the Buk missile responsible was delivered to a Soviet unit in Soviet Ukraine as early as 1986. According to the Russian Ministry of Defence, the missile remained there all that time. The same line was taken by the Russian deputy Prosecutor General in early 2019. He too pointed to the evidence of it being a Ukrainian missile. Nevertheless, the Russian Federation has continued to keep both options open: its response in the proceedings before the ECtHR only went as far as referring to the 'alleged shooting down of MH17 by a BUK missile'. To this very day, the Russian authorities have never taken a definitive position on what exactly they think happened on 17 July 2014.

The Russian narrative is aimed solely at sowing doubt about the evidence pointing to a Russian Buk missile and at disqualifying the JIT's investigation. For instance, the JIT has been accused of being biased, using falsified information and not taking the Russian information seriously. At the same time, the Russian authorities have provided plainly incorrect information about satellite and radar images, while refusing to provide any information about the Buk TELAR that was identified in the JIT's investigation as being the system used to shoot down MH17. In 2019, the deputy Prosecutor General stated that there was no reason to interview Russian citizens, as there was no evidence of their involvement. [4] He did, however, ask the Dutch Minister of Justice and Security to transfer the prosecution of the three Russian suspects to the Russian Federation.

The fate of flight MH17 has become known as a textbook example of a disinformation campaign by the Russian government. It is clear we have not yet seen the end of it. In a letter to parliament in 2019, the Dutch government said the following on this issue:

'One of the subjects about which disinformation is deliberately being disseminated is MH17. As the Minister of Justice and Security, as the coordinating minister for state threats, said during his meeting with the parliamentary committee on national security and crisis management, theories abound about the circumstances of the crash. Many of those theories have proven to be untrue. In some cases it transpired they had been created deliberately in order to sow confusion. On behalf of the government the Minister of Justice and Security has said before that in the run-up to and during the criminal proceedings with regard to MH17 we must be prepared for disinformation aimed at adversely affecting the criminal proceedings and undermining trust in the independent judiciary.' [5]

That warning turned out to be justified. Shortly before the hearing, a number of documents from the JIT's investigation were made public on a website.[6] One of those documents is part of an image report by the Australian Federal Police. It discusses the metadata of four digital image files of the TELAR that were found on the internet. They are two photos from Paris Match of a TELAR on a trailer behind a Volvo lorry in Donetsk, a photo of a TELAR on a trailer in Torez and a photo

of a TELAR moving under its own power in Snizhne. The leaked part of this report mentions the metadata of these files. According to the Australian investigators these files 'appear to have been manipulated', because the 'modified' date of the files is earlier than the 'created' date. That is not a conclusion about actual manipulation, because such differences can be due to image files being re-saved, transmitted or uploaded. The Australian investigators say as much themselves: 'Various reasons could explain why this is so [...].' More important is the fact that over the years much more investigation has been conducted of these images than this report from 2015 shows. For instance, the video has been secured from which the two Paris Match stills were taken. Investigation of this video has shown that according to the metadata it was shot on 17 July 2014 at 10.23.54 at a GPS location on Makeevka Highway in Donetsk. On the basis of the shadows in the footage, the KNMI estimated that the video had been shot at around the same time. A comparison of visual elements in the footage with Google Streetview confirmed the same location. The NFI investigated this video and found no indications of manipulation. In addition the presence of the TELAR at this location is confirmed by witness statements and telecom data. The other two photos in the Australian report, taken in Torez and Snizhne, were also subject to more in-depth investigation, which showed that these photos were made public as early as 17 July 2014. That is earlier than the Australian report had been able to establish on the basis of the metadata. These photos were validated too, by means of investigation by the KNMI, comparison with information on Google Streetview, witness statements and telecom data. So although the published Australian report does show how critically the JIT has assessed the evidence obtained, it has now been superseded by all the validation that has taken place in the years since the report was drawn up.

Incidentally, the full version of that report mentions another video file: a video shot in Zuhres. This part of the report was not published on the website in question. According to the information in the original report, this video was shot on 17 July 2014 at 11.37.58 local time, at a GPS location in Zuhres. This information is confirmed by other sources in the case files.

Apparently the website saw reason to publish only those investigation results that could be used to suggest visual material had been manipulated. Parts of the report that confirm the authenticity of a video were not published. This website's goal is therefore not to share information in a responsible, journalistic manner, but rather to spread disinformation.

This is borne out by two other leaked documents, which are in the case file. These are official reports by the Netherlands Defence Intelligence and Security Service (MIVD) that provide information about the locations of Ukrainian and Russian Buk systems in the region where MH17 was shot down. These two leaked reports refer to a previous report which clearly states that this military information is limited to locations where 'activity [involving Buk systems] has been observed over longer periods of time in June and July 2014'. So the MIVD does not conclude that there was no Russian Buk system present in eastern Ukraine on 17 July 2014, as suggested by the website. The MIVD report concerns only locations where Buk systems were stationed for longer periods of time. Short operations, whereby a Buk system is delivered, used and removed



immediately, fell outside the scope of the MIVD's observations, as described in the reports.

Last Saturday, the makers of this website have made public new documents. These were minutes of a closed JIT-meeting. These minutes contain what has been brought up by us earlier: that the JIT-countries deliberated about what investigative work could be done. Such meetings are not relevant to this trial. What is relevant, is the investigative work that has actually been conducted. You will find this in the case files. It is apparent that we can expect further publications like these in the course of the proceedings.

We have looked at how these documents could have been obtained. Only the Netherlands, Belgium, Australia and Malaysia had access to all the published documents. So far none of these four JIT states has been able to identify any leaks. There are indications, however, of previous attempts by the Russian GRU to hack the Malaysian police and attorney general's office. On 4 October 2018 the Dutch and UK authorities held a press conference on the thwarted GRU cyber operation that had targeted the OPCW in The Hague. The Dutch Ministry of Defence announced that one of the Russian intelligence officers involved in this operation had previously been active in Malaysia, targeting the MH17 investigation.[7] This was confirmed by the UK authorities. They said the GRU operation in Malaysia was aimed at obtaining information about the MH17 investigation from the Malaysian attorney general's office and the Malaysian police.[8] Given these circumstances, we must take into account the possibility that the published documents were obtained following a successful GRU hacking operation in one of the four JIT countries mentioned above. In this respect, we note that information about anonymous threatened witnesses has been stored at another, more heavily secured, digital location than the documents that have been disclosed thus far. At this stage, there are no indications that information about such witnesses has fallen in the wrong hands.

The cynical disinformation campaign regarding the fate of flight MH17, which has gone on for more than five years now, places a heavy strain on many of the next of kin. As we already stressed in our opening statement, the next of kin of victims of serious offences deserve to receive clarity about what happened and who is responsible, at the earliest possible moment. Especially if government authorities are involved.

One of the next of kin has worded this appropriately in a Dutch newspaper last week:

“On 17 July 2014, 298 people lost their lives in a violent manner. 80 of them were children. For such a loss, the scale of human emotion is insufficient. That is the immensity of the MH17 tragedy. Just as immense is the importance of this trial. The question of why happened what happened is particularly significant to the next of kin. Their questions are still as numerous as their grieving is deep. The truth also lays the necessary legal foundation for justice and accountability”.[9]

For many next of kin such information it is an important step in the grieving process. Due to the large number of next of kin in this case, that information cannot be shared with them in a meeting with the Public Prosecutor; it has to be done at the public hearing, as soon as the proceedings will

allow.

But there is also a wider public interest in the swift sharing of information at this hearing. In the case of grave human rights violations such as in this case, not only the next of kin but the wider public too have a right to know what happened and who is responsible. The ECtHR has said the following in this respect:

‘Furthermore, where allegations of serious human rights violations are involved in the investigation, the right to the truth regarding the relevant circumstances of the case does not belong solely to the victim of the crime and his or her family but also to other victims of similar violations and the general public, who have the right to know what has happened. An adequate response by the authorities in investigating allegations of serious human rights violations may generally be regarded as essential in maintaining public confidence in their adherence to the rule of law and in preventing any appearance of impunity, collusion in or tolerance of unlawful acts. For the same reasons, there must be a sufficient element of public scrutiny of the investigation or its results to secure accountability in practice as well as in theory [...]’.[10]

Partly for that reason, the JIT has previously shared a limited amount of information about the cause of the crash of flight MH17.

In 2006 the United Nations High Commissioner for Human Rights also pointed out the right of next of kin and the wider public to the truth following grave human rights violations. That includes not only information about the circumstances, but also about the ‘progress and results of the investigation’.[11]

Thus, international human rights bodies emphasise the right of the next of kin and the public to information, including during the investigation. Of course a balance must be struck between the rights of the next of kin and the public on the one hand, and the defendants’ rights on the other. But especially in a criminal trial during which disinformation is constantly being spread, placing a heavy strain on the next of kin, the shutters cannot be kept down much longer.

We have to assume that further investigation in this case will not be completed before the end of this year. The consideration of the merits will therefore not begin until some point in 2021. In the meantime, the disinformation campaign will no doubt continue.

And in the meantime, there are also ongoing proceedings against the Russian Federation, brought before the ECtHR by next of kin. The Dutch government has announced it will intervene in those cases. In those proceedings too, the Russian state has cast doubts on the evidence in the case file of the criminal trial. We have already discussed the allegations that visual material was manipulated. The next of kin have contacted us, asking how they are meant to respond to these allegations if they have no access to the case file. The Public Prosecution Service is authorised to disclose criminal case information, but has been cautious in doing so, in the interest of due process. We hope that we do not have to disclose information until that information has been discussed at a public hearing. That way the court retains control of the case file. But the longer it takes before the

consideration of the merits can begin, the more compelling the interests in other proceedings become. The next of kin will then have to be given the opportunity to refute any unjustified accusations of manipulation of visual material before the ECtHR. They will have to be able to adduce information in those proceedings about the validation of intercepted telephone conversations and the results of the extensive forensic investigation. If such subjects cannot be discussed at the hearing in June, there is a reasonable chance that the Public Prosecution Service will have to consent to disclosing that information on the basis of requests by next of kin on the grounds of section 39f, subsection 1 of the Judicial Data and Criminal Case Information Act.[12] This would be beyond the scope of the court.

Lastly, there is the size and the complexity of the case file to consider. It contains information about how radar systems work, the capabilities of the Buk missile system, the forensic investigation and vast amounts of Ukrainian telecom data. In addition, it reports on the extensive investigation by the JIT into scenarios other than the one named in the indictment: the possibility of an explosion inside the aircraft, of an attack by a fighter aircraft and of a Buk missile fired from Ukrainian territory. These are all complex issues that must be discussed at the hearing but are not directly related to the defendants' involvement.

If we look at all of this in conjunction – the disinformation campaign, next of kin's and broader public's right to information, the exceptional public interest in this case, the ongoing state responsibility procedures and the size of the case file – we believe there is reason to adopt a staged approach to this trial.

By that we mean that the consideration of the merits should take place in several stage. For instance, the alternative scenarios that are not under discussion or the (technical) subjects with regard to which the investigation has already been completed could be discussed in terms of merits at the hearings in June or September.

If the defence agrees with the Public Prosecution Service that an explosion on board MH17 or an attack by a fighter aircraft can be ruled out, the court could already discuss those matters at the hearing. There would be nothing strange about that: these scenarios have previously been rejected by the OVV, and the Russian Federation now appears to have abandoned them as well. By now there is even more objective evidence ruling out these scenarios: forensic evidence and primary radar data. Or to put it another way: if the defence wanted to hear eyewitnesses of an attack by a fighter aircraft, it would be the same as hearing a so-called eyewitness to a stabbing in a case where the victim had died of bullet wounds. So those alternative scenarios could be discussed at an earlier stage.

The same goes for other subjects. If the defence agrees with the Public Prosecution Service that every possible forensic investigation has been conducted, or that no more investigation is needed into radar data and the functioning of the TELAR, the court could already discuss these investigation results. Even if the Public Prosecution Service and the defence were to disagree about the interpretation of these investigation results, that would not preclude consideration of the

merits in this respects. The court can, for example, discuss which radar data has been sought after by the Prosecution Service, which data has been received, and the expert analysis conducted in relation to the data. This is all included in the case files. The court can present this factual information, or ask the Prosecution Service to elaborate on this information. Should the defence and prosecution differ in their views on the evidential value of this radar data, this can be debated during later stages of this trial.

An approach in stages is in the interests of progress in the proceedings and the right to information of the next of kin and the wider public. It will put people's minds at ease and provide clarity; without such a prior discussion the public will struggle to follow what is being discussed at the hearings. To our minds such a state of affairs is not reconcilable with the requirements of 'accessibility' and 'scrutiny' which the ECtHR sets in cases like these.[13]

It is also in the interests of the defendants and of the quality of the hearing. It will focus the debate between the Public Prosecution Service and the defence: the most important points will be discussed last.

It will also clamp down on the disinformation campaign. In so far as the court examines the case file in stages, the public will be able to gain timely knowledge of the indications for various scenarios and of incriminating or exculpatory evidence. On the basis of that information the public will be able to come to an informed opinion step by step.

We therefore request the court to consider such an approach in stages, once it is known what the defence's course of action during the proceedings will be. The court could set a deadline before the next pre-trial review hearing by which the Public Prosecution Service and the defence have to state in writing what they wish to have investigated in relation to the whole case file or at least parts thereof. On the basis of those wishes, the court could decide what subjects require further investigation and what subjects can already be discussed in the pre-trial review process. The court could consider examining certain subjects itself, or first inviting the Public Prosecution Service and the defence to put forward their standpoints.

## **Conclusion and applications**

In the case against Pulatov we apply on the grounds of article 328 of the Code of Criminal Procedure for the following:

1. that the hearing be moved to Gilze-Rijen Air Base for a viewing of the reconstruction of flight MH17, at a date to be determined by the court;
2. referral to the examining magistrate of the following:
  - a. the examination of witnesses M58, S07, S17, S21, S27 and S32 in a safe manner, to be determined by the examining magistrate;
  - b. the composition of a video recording of the previous examination of witness M58, after the

defence and the Public Prosecution Service have had the opportunity to express their wishes with regard to that composition;

c. that an expert be requested to investigate:

possible indications of manipulation of visual material with regard to two versions of the same video of the TELAR in Snizhne (included in the case file), partly in the light of the assertions by the Russian Federation;

the contention that the version referred to by the Russian Federation of the same video must already have been uploaded on 16 July 2014 and hence must have been recorded before then;

d. the setting of a deadline by which Pulatov's counsel must comment, with reasons, regarding:

Pulatov's wish to be examined as a witness at the hearing or by the examining magistrate and his willingness to answer questions at that time;

Pulatov's (possible) disputing of one or more intercepted telephone conversations, of which the audio files have been provided;

e. the (possible) preparations for examining Pulatov as a witness;

f. further decisions on:

a possible objection by the defence to possible (partial) refusal by the Public Prosecution Service to give the defence access to documents that are not part of the case file; and

possible requests by the defence for translation of case documents.

In addition we request that the court consider:

3. in the case against Pulatov, setting a deadline in good time before the hearing in June by which the Public Prosecution Service and the defence state in writing what they wish to have investigated in relation to the whole case file or at least parts thereof; and

4. on the basis of those wishes, deciding which subjects can be discussed in terms of merits in the cases against Pulatov, Girkin, Dubinskiy and Kharchenko at the hearings in June and September.

## Footnotes

[1] E.g. Kamerstukken II 2006/07, 31 116, nr. 3, p. 3 ("De rechter heeft een zelfstandige verantwoordelijkheid voor de deugdelijkheid, volledigheid en grondigheid van het onderzoek dat onder zijn leiding plaats vindt. Hij dient daarbij "the best available evidence" na te streven.") and Kamerstukken II 2003/04, 29 271, nr. 1, p. 9.

[2] E.g. <https://euvsdisinfo.eu>.

[3] E.g. Kamerbrief Beleidsinzet bescherming democratie tegen desinformatie, 18 October 2019, <https://www.rijksoverheid.nl/documenten/kamerstukken/2019/10/18/kamerbrief-over->

beleidsinzet-bescherming-democratie-tegen-desinformatie.

[4] <https://ria.ru/20190121/1549650959.html>. English translation at: [https://sputniknews.com/interviews/201901211071672704-mh17-crash-jit-russian-prosecutor/?utm\\_source=https://t.co/7F1ipQFzqy&utm\\_medium=short\\_url&utm\\_content=k6vB&utm\\_campaign=URL\\_shortening](https://sputniknews.com/interviews/201901211071672704-mh17-crash-jit-russian-prosecutor/?utm_source=https://t.co/7F1ipQFzqy&utm_medium=short_url&utm_content=k6vB&utm_campaign=URL_shortening).

[5] Kamerbrief Beleidsinzet bescherming democratie tegen desinformatie, 18 October 2019, p. 5. At <https://www.rijksoverheid.nl/documenten/kamerstukken/2019/10/18/kamerbrief-over-beleidsinzet-bescherming-democratie-tegen-desinformatie>.

[6] [us4.campaign-archive.com/?e=&u=055d0542fc506a8c7b6067843&id=098c0bc601](https://us4.campaign-archive.com/?e=&u=055d0542fc506a8c7b6067843&id=098c0bc601).

[7] <https://www.defensie.nl/actueel/nieuws/2018/10/04/mivd-verstoort-russische-cyberoperatie-bij-de-organisatie-voor-het-verbod-op-chemische-wapens>.

[8] <https://www.gov.uk/government/speeches/minister-for-europe-statement-attempted-hacking-of-the-opcw-by-russian-military-intelligence>.

[9] [volkskrant.nl/cs-b7cbc2fe](https://volkskrant.nl/cs-b7cbc2fe).

[10] ECHR, Al Nashiri against Poland (Nr. 28761/11 July 2014, at 495.

[11] Office of the United Nations High Commissioner for Human Rights, Study on the right to the truth, E/CN.4/2006/91, para. 38 (8 February 2006).

[12] E.g. Appeals Court The Hague, 23 November 2010, ECLI:NL:GHSGR:2010:BO4912, at 4.1-4.7.

[13] E.g. ECHR (grand chamber), *Güzelyurtlu and Others tegen Cyprus and Turkije* (Nr. 36925/07), 29 January 2019, r.o. 219.

**Annex 378**

Hromadske, *Deadly “Friendly Fire”*: *Why 5 Policemen Were Killed in Knyazhychi*  
(4 December 2016)

(translation)





Translation

**Hromadske, *Deadly "Friendly Fire": Why 5 Policemen Were Killed in Knyazhychi* (4 December 2016), available at: <https://hromadske.ua/posts/specoperaciya-knyazhichi-vbivstvo-policeiskih>.**

## **Deadly "friendly fire": Why 5 policemen were killed in Knyazhychi**

The prosecutor's office will investigate the shootout between law enforcement officers. The police themselves will conduct an internal review

On the night of December 4, a shooting took place in the village of Knyazhychi near Kiev between police officers, criminal investigation operatives, and members of the Rapid Operational Response Unit (KORD) special forces. The shootout allegedly took place during a special operation to detain a particularly dangerous gang of criminals. As a result of the "friendly fire", 5 people were killed: two from the security police, two operatives and one KORD special forces officer. The media also reported a sixth victim, but this information has not been confirmed. According to the National Police, the perpetrators were directly related to law enforcement.

The press service of the Kiev regional prosecutor's office later reported on its website that KORD officers were the first to open fire on their colleagues, and that the security police and criminal investigation officers began to shoot back.

Advisor to the Minister of Internal Affairs Anton Gerashchenko was the first to report the tragic shooting. According to him, the Kiev Criminal Investigation Department was working to detain a dangerous gang of robbers who had been systematically robbing homes in Kiev and Kiev region.

*"That night, the Criminal Investigation officers received operational information that another robbery could take place in the village of Knyazhychi. The detention team of the Criminal Investigation and the KORD special forces went there. On a street in the village of Knyazhychi, police scouts were stationed in a private house under construction, whose task was to monitor the situation and give a command to detain the bandits,"* Gerashchenko wrote.

The minister's advisor claims that law enforcement officers planned to carry out a classic operation to detain a gang of robbers. However, in one of the neighbouring houses "the burglar alarm went off automatically". It was a country house at 22 Korneychuk Street. There is an unfinished building next to it, where, according to Gerashchenko, the covert surveillance was conducted.

A unit of the state security service arrived at the scene, noticed and detained two police scouts.

*"At the same time, the capture group apparently decided that the intelligence officers were in trouble, captured by the criminals who had discovered them, and drove a minibus to the street where the security police detained the police scouts,"* Gerashchenko wrote.

Then a shootout ensued between the security police officers and the capture group, which, according to eyewitnesses, lasted less than a minute but took away five lives.

*"There was a car, the lights were on and people were running. I heard about 20 to 30 seconds of machine gun fire. After that I heard an explosion. They say it was a stun grenade. Later, I saw this car (of the security police - ed.). I can't say that it was completely riddled with bullets, but the glass*

*was smashed,"* a local resident Sergey told "Hromadske". His house is located 100 meters away from the shooting scene.

*"It is possible that a stun grenade was used under the car to neutralise those who were in it - and these may have been criminals - as the KORD officers thought,"* Nikolay Zhukovych, a spokesman for the Kiev regional police department, told "Hromadske".

At the same time, he did not answer whether the leadership of the security police knew about the special operation.

*"The security police received a signal about the alarm at 22 Korneychuk Street. After that, a group was sent. Whether they knew about the special operation or not will be the subject of investigation,"* he concluded.

*Photo from Facebook by Anton Gerashchenko*

Four of the five people killed in Knyazhychi were shot dead in a marked State Protection Service car, according to a spokesman for the Kiev regional police department. *"There were police officers in the car, and it was shot. The police guarded it,"* Zhukovych said. Now it has been taken away by a tow truck.

Thus, apparently, two officers of the State Guard and two intelligence officers were fatally wounded in the car. The fire was apparently from the KORD special forces.

The robbers themselves, according to the Interior Ministry, heard the shooting and fled. They were detained on their way to Kiev. The police claim that the three robbers were traveling in two large Toyota Land Cruiser 200 jeeps. Artem Shevchenko, Director of the Communications Department of the Ministry of Internal Affairs, explained on "Hromadske" TV that the criminals were well trained and changed cars. "It was a very well-armed and organised gang. They left in several cars, changing them," Shevchenko said.

In the evening of December 4, acting head of the National Police Vadim Troyan said during a meeting with the president that the gang consisted of several people, including those already convicted of robbery and people who worked or **were related to law enforcement agencies**. However, Troyan did not specify which ones. The head of the National Police also reported that all members of the criminal gang had been detained. The operational video footage shows the aforementioned Toyota Land Cruiser jeeps, as well as many weapons.

However, in a conversation with "Hromadske" journalists, law enforcement experts called the official version of the Ministry of Internal Affairs absurd. In particular, according to Denys Kobzin, director of the Kharkov Institute for Social Research, the information from Anton Gerashchenko "does not stand up to criticism" and was made public in order to hide the real circumstances of the tragic conflict between law enforcement officers.

One of the most likely causes of the tragedy is the lack of coordination and proper interaction between law enforcement agencies during such special operations. The former head of the criminal police and now the head of the Zakarpatskaya Regional State Administration, Gennadiy Moskal, claims that the tragedy occurred because of the lack of coordinated actions between law enforcement agencies.

*"Before the special operation, headquarters should have been set up to monitor the operation around the clock and respond to calls that were not foreseen in the plan. This headquarters should have known that an alarm went off in the house next door, and the security police arrived at the scene. It should have immediately warned both the leadership of the security police that a special operation of the criminal investigation was being prepared nearby and its operatives that the security police would be on the scene. The Prosecutor General's Office should answer these questions during the investigation of the tragedy, but I am 99.9 percent sure that there was neither a plan for a special operation nor the headquarters itself!"* Moskal wrote on Facebook.

According to him, now the security police are not subordinated to the Kiev regional police, which was supposed to prepare the special operation, but are directly subordinated to the Ministry of Internal Affairs:

*"Therefore, when the security guards went to the house where the alarm went off, they did not know that there were operatives waiting for armed bandits nearby. And the operatives did not know about the security police,"* Moskal added.

At the same time, according to Vadym Bartenev, former commander of the "Titan" special police unit, the security police should not have known about the special operation, as such events are held in secret.

*"When the criminal police conduct a special operation, they don't report it, and they shouldn't, because it's a specific operation. They report only to their superiors. We live in such times that information could leak out, even by accident. Of course, the criminals would know about it. That is why such operations are conducted in secret. It was like that before, and it is like that now,"* explains the former "Titan" commander.

According to him, security police officers usually arrive in uniform and in cars with identification marks. Therefore, the criminal police officers had to see them:

*"I don't know who opened fire first, but when the criminal police officers were detained, they had to introduce themselves and say that a special operation was being conducted here. It was not difficult to contact the management, who would have confirmed that an operation was underway,"* Bartenev said.

### **Who will be held responsible?**

At present, the police leadership is trying not to disclose information about the causes and consequences of the shooting, saying that the details of the tragedy will be made public after the investigation. The prosecutor's office will investigate the shootout between law enforcement officers. The police officers themselves will conduct an internal review, the results of which will be submitted to the prosecutor's office for legal assessment. Several high-profile statements have already been made, including President Petr Poroshenko and Prosecutor General Yuriy Lutsenko's assurances that they are taking personal control of the investigation into the killing of the five police officers.

The President expressed hope that the National Police and other law enforcement agencies will draw appropriate conclusions that will prevent **miscalculations in planning** in the face of the increased danger of robberies and the availability of a large number of weapons.



**Annex 379**

UNIAN, *Kholodnytskyi Accuses Sytnyk of Using National Anti-Corruption Bureau of Ukraine for Revenge and “Satisfying His Own Complexes”* (19 September 2018)

(translation)



**Translation**

**UNIAN, Kholodnytskyi Accuses Sytnyk of Using National Anti-Corruption Bureau of Ukraine for Revenge and "Satisfying His Own Complexes" (19 September 2018), available at: <https://www.unian.ua/politics/amp-10267230-holodnickiy-zvinuvativ-sitnika-u-vikoristanni-nabu-zadlya-pomsti-ta-zadovolennya-vlasnih-kompleksiv.html>.**

## **Kholodnytskyi accuses Sytnyk of using National Anti-Corruption Bureau of Ukraine for revenge and "satisfying his own complexes»**

*UNIAN editorial office*

The Specialized Anti-Corruption Prosecutor's Office (SAPO) emphasised that Artem Sytnyk's further stay as the head of the bureau is incompatible with the tasks of the law enforcement agency.



Nazar Kholodnytskyi and Artem Sytnyk had a final row. / UNIAN

The director of the National Anti-Corruption Bureau of Ukraine (NABU), Artem Sytnyk, is using the agency under his control to take revenge and satisfy his complexes.

According to a UNIAN correspondent, the head of the Specialized Anti-Corruption Prosecutor's Office, Nazar Kholodnytskyi, said this at a briefing on today's incident between NABU special forces and SAPO employees.

"What the NABU director is doing, using it for his own revenge and to satisfy his own insignificant complexes of the NABU as an institution, is unacceptable," said the head of the SAPO.

According to Kholodnytskyi, "NABU detectives often conduct investigations of poor quality," but he hopes that the SAPO will support the results of such investigations in courts. At the same time, he assured that the SAPO would not do this.

"There is an ongoing attack on the SAPO, which does not allow to detain innocent people. We will make such facts public, as it is no longer possible to tolerate this," he said.

Kholodnytskyi also criticised the work of NABU detectives as unprofessional: "And when they write works of art instead of evidence in suspicions, and then say that we are slowing down something, this is not the best way to show that we are fighting and everyone else is interfering. We approve all suspicions where there is sufficient data to approve them and will send such cases to court," summarised the SAPO head.

Meanwhile, in a commentary posted on Facebook, the SAPO called on international partners "not to fall for Artem Sytnyk's provocations" and to provide an objective assessment of today's events.

"Such a person's tenure as director of the NABU is incompatible with the tasks of the said law enforcement agency," the statement said.

As UNIAN reported, today, September 19, Kholodnytskyi reported an attempt to install a wiretap in the SAPO office. He hinted that NABU might be behind it.

In their turn, NABU representatives stated that they did not install bugging devices in the SAPO, and no one detained their employees for this.

Later, the SAPO reported a conflict with NABU employees near its office after a new wiretap was found in the courtyard. According to the SAPO, NABU employees found illegally installed means of covertly collecting information in the courtyard of the prosecutor's office, after which the car was blocked by the National Police and the State Protection Department for urgent investigative and procedural actions.

"In order to save the employees from exposure, from the detection of illegal and unregistered means of information gathering, Artem Sytnyk (NABU Director) used a law enforcement unit of the NABU, which, using firearms, used violence against law enforcement officers, damaged the property of citizens, preventing the conduct of investigative actions," the SAPO said.

The prosecutor's office also reported that NABU employees ran over other law enforcement officers, causing bodily harm and damaging citizens' property.



**Annex 380**

Hromadske, *Budanov about Denis Kireev's death: "He was killed in an SBU car"*  
(22 January 2023)

(translation)



**Translation**

Hromadske, *Budanov about Denis Kireev's death: "He was killed in an SBU car"* (22 January 2023), available at: <https://hromadske.ua/ru/posts/budanov-o-gibeli-denisa-kireeva-byi-ubit-v-mashine-sbu>.

**Budanov about Denis Kireev's death: "He was killed in an SBU car"**.***Banker Denis Kireev****Wikipedia*

The head of the Main Directorate of Intelligence of Ukraine Kirill Budanov said that banker Denis Kireev was killed in a car of the Security Service of Ukraine on March 5, 2022.

The GUR head said it in an interview with Radio Svoboda. "I share the opinion and believe the facts that Mr. Kireev was killed in an SBU car when they (SBU officers - ed.) were on a task related to him. This fact is recorded, it is in the materials of the investigation. Everything else is investigated by the SBU. I have no right to comment on this information. The fact that he was killed by officers in that car is a fact," Budanov said.

He added that Kireev was the SBU's agent and was, according to Budanov, detained by members of the SBU's Alfa special unit about 200 metres from the SBU headquarters.

‘The facts are as follows: a man who was on his way to the SBU building at the invitation of the SBU, is intercepted 200 metres from the building, taken a little further than that building, and then the corpse is thrown into the street. These are the facts,’ the intelligence chief noted.

Budanov also said in an interview that he spoke with the then head of the SBU, Ivan Bakanov, afterwards, and it was ‘the last conversation with him,’ at which ‘he was unable to explain anything properly’ about Kireev's death. The head of the SBU said that he had sent Kireev to Gomel to negotiate with the Russian side in spring 2022 in order ‘to drag out the process and buy time, because Mr. Kireev personally knew two people from that negotiation process who represented the Russian side.

According to the head of the intelligence service, he is sure that Kireev was not a spy and ‘no one expected such a reaction’ from SBU officers towards the SBU officer.

We shall remind you that the advisor to the head of the presidential office, Mikhail Podolyak, earlier said that the death of banker Denis Kireev was due to poor coordination of the Ukrainian special services at the beginning of a full-scale Russian invasion. He stressed that Kireev was not a Russian agent.

What is known about Kireev?

The Wall Street Journal found out that Kireev had connections in Russian and Ukrainian business and financial sectors. According to the WSJ, Budanov became interested in these connections in 2021. In the spring of that year, when Russia began amassing troops on the border with Ukraine, Budanov suggested that Kireev cooperate with Ukrainian intelligence. He encouraged the banker to use his connections to infiltrate Russian military intelligence. ‘He had the necessary circle of acquaintances. Financial transactions were conducted through him. So he communicated with everyone, including very influential people,’ Budanov told reporters.

According to the WSJ, Kireev agreed to cooperate. So the security team took Kireev to Kharkov, and from there the banker travelled to Russia with another intelligence officer. A few days later, Kireev returned and reported back to Budanov, according to intelligence sources.

Kireev learned from his sources that Moscow was preparing for an invasion and told Budanov so. And on February 23, Kireev gave Budanov an update: Russian President Vladimir Putin had given the order for an invasion in the morning.

At the start of the full-scale war, Kireev was involved in negotiations with the Russian side. According to the WSJ, the banker agreed to take part in the talks despite the fact that it was risky, as he had been maintaining ties in both Ukraine and Russia for some time.

Ukrainian media quoted sources in early March 2022 as saying that Kireev was shot dead by the SBU during his detention. He was allegedly suspected of high treason. But there was no official proof of this.

Subsequently, the Main Directorate of Intelligence of the Ukrainian Defence Ministry reported about three reconnaissance officers who had died while carrying out special tasks while defending Ukraine. Among them was Denis Kireev.

**Annex 381**

*MK.ru, SBU: Slavyansk 'people's mayor' discussed with Russian GRU officer how to get rid of  
MP Rybak's corpse (24 April 2014)*

(translation)



**Translation**

**MK.ru, SBU: Slavyansk ‘people's mayor’ discussed with Russian GRU officer how to get rid of MP Rybak's corpse (24 April 2014), available at:**  
<https://www.mk.ru/incident/article/2014/04/24/1019785-sbu-narodnyiy-mer-slavyanska-obsuzhdal-s-ofitserom-gru-rf-kak-izbavitsya-ot-trupa-deputata-ryibaka.html>.

## **SBU: Slavyansk ‘people's mayor’ discussed with Russian GRU officer how to get rid of MP Rybak's corpse**

*Photo: AP*

The Ukrainian security services have released an audio recording of a conversation about a high-profile murder.

In a recording provided by the Security Service of Ukraine (SBU), the leader of the Russian saboteurs asks the ‘people's mayor’ of Slavyansk to ‘deal with the dead body”, to which the mayor replies: ‘With the corpse? I’ll go right now and solve the issue of burying that rooster.’ Besides, Lieutenant Colonel Bezler of the Russian GRU discusses the kidnapping of the Gorlovka MP.

The SBU suspects the leader of the Donbass people's militia and Slavyansk ‘people's mayor’ Vyacheslav Ponomaryov, Lieutenant Colonel of the Russian Chief Intelligence Directorate (GRU) Igor Bezler (personal callsign ‘Bes’) and GRU officer Igor Strelkov in direct involvement in the recent brutal murder of Gorlovka city council member Vladimir Rybak.

To confirm its ‘suspicions’, the SBU released an audio recording of talks in which Ponomaryov, Bezler and Strelkov discuss Rybak's murder. In particular, it can be heard how the ‘people's mayor’ of Slavyansk discusses with the head of Russian saboteurs where to dispose of the corpse. Strelkov asks Ponomaryov to ‘deal with the corpse’ (‘Slava, please deal with the corpse. Take him away from us quickly. It lies around and stinks here’), to which he replies: ‘With the corpse? I’ll go right now and solve the issue of burying that rooster.’ Besides, Lieutenant Colonel Bezler of the Russian GRU discusses the kidnapping of the Gorlovka MP.

To remind, on 17 April, a local town council member from the Fatherland party Vladimir Rybak, who had earlier torn the flag of the self-proclaimed Donetsk people's republic from the building of Gorlovka Town Council and was generally known for his sympathies for Maidan (he had organized rallies ‘For United Ukraine’ in Gorlovka), was kidnapped in Donetsk Oblast. According to a witness and CCTV footage, four men in camouflage and wearing masks forced him into a car and drove him away in an unknown direction.

On 19 April, the bodies of the MP and another man were found in a river near the town of Slavyansk. According to the Ukrainian Ministry of Internal Affairs, the cause of the both victims’ death is combined body injury due to torture, followed by the drowning of unconscious victims who were still alive.

On 23 April, the SBU released the assumed version of the murder. According to the SBU, Lieutenant Colonel Bezler of the Russian GRU instructed the head of the self-proclaimed

Gorlovka police to 'neutralize' Rybak. He ordered a Russian serviceman to kidnap the MP, put him in a car, take him to an agreed location and beat him up. Bezler planned to visit the place himself where the MP was being held. In his turn, 'Strelok' (Igor Strelkov) ordered to take Rybak to the separatists' headquarters in Slavyansk in order to talk to him personally. Later, Strelkov instructed the 'people's mayor' of Slavyansk Vyacheslav Ponomaryov to remove the body of the murdered Rybak from the headquarters.

Lieutenant Colonel of the Russian GRU Igor Bezler had appeared already in the Ukrainian media before. In mid-April, a video appeared on the Internet showing a man introducing himself as 'a lieutenant colonel of the Russian army', who was speaking to police officers after the Gorlovka department of the Interior Ministry had come under the control of the self-defence forces. Ukrainian media later recognized this man in camouflage as local resident Igor Bezler. As reported by the UNIAN news agency, citing the Donetsk portal Ostrov, earlier Bezler 'was director of the Prostor undertaker's bureau in Gorlovka, from which he was fired in 2012 for stealing 38 fences and monuments, as well as for extorting money from elderly people for a place in the cemetery. Meanwhile, according to the Internet portal URA-Inform, Bezler is indeed a retired lieutenant colonel, however not of the Russian but of the Ukrainian special forces.



**Annex 382**

Gazeta.ua, *Farmer Was Kidnapped from His Car in the Middle of the Road* (19 August 2016)

(translation)



**Translation**

**Gazeta.ua, *Farmer Was Kidnapped from His Car in the Middle of the Road* (19 August 2016), available at: [https://m.gazeta.ua/articles/np/\\_fermera-vikrali-z-mashini-posered-trasi/718318](https://m.gazeta.ua/articles/np/_fermera-vikrali-z-mashini-posered-trasi/718318).**

## Farmer was kidnapped from his car in the middle of the road



**Vladimir Zorenko, 64, from the village of Verbovatovka, Yurievsky district, Dnepropetrovsk region, was abducted by unknown persons in the middle of the highway.**

His Hyundai jeep with the doors open was found on the Pavlograd-Lozova highway. One shoe was lying next to it. The man has a farm and volunteers to help the military in the ATO.

This was told to Gazeta.ua by the wife of the missing man, **Tatiana Ivanovna**.

"Around 10:00 p.m. on August 17, Volodya said he was going to check on the farm. He often went to the tractor yard to check on the work of the tractor drivers. He was dressed in work clothes. He got into his car and drove away. From there, he called his son and said he would be there in half an hour. When he did not arrive, my son called back. The phone was already turned off. The head of security at our farm went to look for Vladimir. Within a few minutes, he reported that he had found the car. It was on the highway, near the turnoff to the farm," says Tatiana Ivanovna.

The family immediately called the police and filed a missing persons report. However, there has been no news so far. The relatives themselves are considering several versions.

"There are constant raider attacks on our farm. We know who organises them, we have been suing this man for years. A week ago, 40 people came with weapons, attacked the mechanised site, and took the sprayer for the fields. The police did not react in any way. Another version is volunteer activity. From the very beginning of the ATO, we have been helping the military with food and clothing. And the third is an active civic position. He is a fighter for truth and justice. I think the man came around a bend, saw a man lying on the road, stopped, and that's how he was kidnapped," the woman adds.

The villagers say that Zorenko is responsible for the village's development. He built 9 houses for his workers, renovated the club and gym, built a fountain, and repaired the roads. So they are ready to go in search of their fellow villager themselves.

Author: Anna BOVA



**Annex 383**

Interfax-Ukraine, *Farmer was robbed at night in Zaporozhskaya Oblast* (8 August 2017)

(translation)



**Translation**

**Interfax-Ukraine, *Farmer was robbed at night in Zaporozhskaya Oblast* (8 August 2017), available at: <https://interfax.com.ua/news/general/440950.html>.**

## **Farmer was robbed at night in Zaporozhskaya Oblast**

*Interfax-Ukraine*

05:32 08.08.2017

A farmer was robbed at night in Zaporozhskaya Oblast.

In the village of Matveyevka, Volnyanka district, Zaporozhskaya Oblast, unidentified persons in balaclavas on the night of Monday broke into the house of a local farmer, tied up the owners and stole a safe with \$500 thousand.

‘Around 1 a.m. on August 7, three masked intruders broke into the home of a farmer born in 1964. They tied him up, as well as his wife, and demanded to show them the place where they were hiding the money. The criminals took a safe from the house, which the landlady said contained \$500,000 that the couple had accumulated over 20 years of farming,’ said Ekaterina Lyudvik, head of the Communications Department of the Chief Directorate of the National Police in Zaporozhskaya Oblast.

She said that the criminals had fled the scene.

Criminal proceedings have been opened under Article 187.4 of the Criminal Code of Ukraine (robbery aimed at the theft of property on a large/very large scale, or committed by an organized group, or combined with inflicting grievous bodily harm.) An investigation is under way.

According to fellow villagers of the robbed farmer, he had recently sold his rapeseed crop, and the criminals might have found out about the deal.





**Annex 384**

Hromadske, *Odessa Tragedy: Why the Court Acquitted the “Anti-Maidan Activists”*

(22 September 2017)

(translation)



**Translation**

**Hromadske, *Odessa Tragedy: Why the Court Acquitted the “Anti-Maidan Activists”* (22 September 2017), available at: <https://hromadske.ua/amp/posts/odeska-trahediia-sud-vypravdav-antymaidanivtsiv>.**

## **Odessa tragedy: Why the court acquitted the “anti-Maidan activists”**

On 18 September 2017, the court delivered the first verdict in the May 2 case. It only concerned the episode in the area of Grecheskaya Square, where the first clashes occurred and six people died. All 19 defendants were acquitted.

*"Pokos-8! Pokos-8! Help is needed! We were ambushed! I have four 200s. - Roger that! Hold out for twenty minutes. The helicopter is on its way to you!"*

This is the third time in half an hour that such a "ringtone" has been heard from the speaker of Aleksandr Sukhanov's phone. "It's an army memorabilia. It's a radio interception of the 18th Special Forces group of the Russian GRU, which was ambushed," he explains.

Sukhanov is one of 19 anti-Maidan activists accused of organising mass clashes on May 2 in the center of Odessa. He is a former soldier of the Russian Internal Troops, a participant in the war in Chechnya. He became a Ukrainian citizen in 2005. In the spring of 2014, he was the deputy commandant of the anti-Maidan camp on Kulikovo Pole.

On May 2, 2014, massive clashes broke out between supporters of Euromaidan and representatives of the anti-Maidan movement in the city center and on Kulikovo Pole. The result was a fire in the Trade Union Building. That day, 48 people died and more than 200 were injured.

Sukhanov and a group of his "subordinates" were detained on the afternoon of May 2, 2014, in the Athens shopping center, not far from the site of the confrontation. They were detained before the events on Kulikovo Pole and the fire in the Trade Union Building. He spent the next year and a half in a pre-trial detention center, then was released from custody to house arrest.

We are talking to Sukhanov in a forest on the outskirts of Odessa. It was here that some anti-Maidan protesters moved from the city center, namely Kulikove Pole, on 1 May 2014, the day before the tragedy.

*"If the court of appeal confirms the decision of the court of first instance, I plan to move to Russia. I do not know what I will do there. I will definitely not go into politics,"* says Sukhanov.

Aleksandr Sukhanov is one of 19 anti-Maidan activists accused of organising mass clashes on May 2 in the center of Odessa.

### **The acquittal**

On 18 September 2017, the court delivered the first verdict in the May 2 case. It concerned only the episode in the area of Grecheskaya Square, where the first clashes occurred and six people died. All 19 defendants were acquitted.

The case was considered by the court of Chernomorsk (formerly Illichivsk). Odessa-based journalist Tatiana Gerasimova came to the hearings every morning.

*"Every day there were new witnesses and documents. The judges organised the process in such a way that everything was continuous and consistent. Observers and participants in the trial could see with their own eyes the wretchedness of the prosecution,"* the journalist says.

Together with her colleagues, Gerasimova created the May 2 Expert Group. For several years, they collected and processed photos and videos, talked to participants in those events, and conducted examinations. Last year, the group published a reconstruction film about the events of May 2, as well as the role of participants in the clashes from both the Euromaidan and anti-Maidan sides.

*"The prosecutor's office has not proved anything of what they (the anti-Maidan protesters - ed.) were charged with. For example, that they seized the Athens shopping center, allegedly resisted the police, smashed cars, and threw stones,"* Gerasimova said.

Odessa journalist Tatiana Gerasimova and her colleagues created the May 2 Expert Group in Odessa, which has been collecting and processing materials about the events of May 2 for several years, and created a reconstruction film.

The acquittal of 19 defendants was announced in 4 hours. The court concluded that the investigation in the case was poorly conducted and pointed to a number of shortcomings and gaps in the investigative actions. For example, during the investigation, only one police officer out of those who were present on Grecheskaya Square was questioned.

The court was also not satisfied with the photo and video materials provided by the prosecution. According to the court, the prosecutor's office could not confirm that the photos and videos depicted the defendants.

### **Responsibility for the investigation**

Ruslan Forostiak, an advisor to the chief of police of Odessa region, is convinced that law enforcement officers should not be held responsible for the failed investigation. It is worth noting that in the spring of 2014, Forostiak was one of the leaders of the Odessa Euromaidan.

*"The case file and indictment were sent to court back in 2014. All this time they have been considered in courts. Therefore, I do not understand how today's police or today's prosecutors can have any responsibility for the assessment or quality of the investigation,"* Forostiak said.

Prosecutor General Yuriy Lutsenko said that the prosecution would appeal and demand a new trial in the court of first instance.

*"The court refused to accept, from our point of view, absolutely reasonable evidence of the involvement of individuals in the events in question - video of the events, testimony of witnesses who identify specific defendants, and the confession of one of those who was on the side of the Russian Spring and exposes like-minded people. But the court refused to accept all of this,"* Lutsenko said on September 20 during a speech in Dnepr, Ukrinform reports.

### **The captain of separatism**

On September 18, as soon as the judges finished reading the verdict, representatives of the Security Service of Ukraine entered the courtroom and detained two acquitted anti-Maidan activists - Russian Yevgeny Mefyodov and Ukrainian Sergey Dolzhenkov, aka "Captain Cocoa," who was one of the leaders of the Odessa anti-Maidan. The judges read out the acquittals of 19 accused anti-Maidan activists, two of whom were immediately detained by the SBU - Russian Yevgeny Mefyodov (bottom left) and Serhiy Dolzhenkov (bottom right): Mikhail Steckel/RadioSvoboda.org.

They were both charged with separatism. At the same time, clashes broke out near the court building. Representatives of right-wing radical organisations fought with the National Guard.

*"I wouldn't look for constructive things in these clashes. This fight is just an expression of indignation of society,"* says Sternenko. At the time of the May 2 events, he was one of the leaders of the Odessa-based Right Sector. Today, Sternenko positions himself as a public activist. He is known for organising rallies against the performance of Russian stars in Odessa.

*"Most of those in the dock are ordinary participants in the events. But Mefyodov and Dolzhenkov are figures of higher importance. They (the anti-Maidan activists - ed.) and the others had to be tried in different criminal proceedings,"* Sternenko explains.

### **Waiting for the appeal**

The key question in the case of the events on Grecheskaya Street is who is to blame for the deaths of six people? The investigation suspects Vitaliy Budko, nicknamed "Boatswain," on the part of the anti-Maidan protesters. Video footage shows him firing a weapon that looks like a Kalashnikov assault rifle. After the events of May 2, Budko fled Ukraine. It is not known exactly where he is hiding.

There is also an accused in the shooting from the Euromaidan side, Sergey Khodiyak. According to the investigation, a man resembling him fired from a balcony in the direction of the anti-Maidan participants on Grecheskaya Street. Since April 2015, the court has not started hearing the case on the merits: either the judge recused himself or the prosecutor's office took the indictment back for revision.

We tried to contact Khodiyak for a comment. But he refused to talk to us.

The acquitted anti-Maidan activists are now awaiting an appeal, which they believe should put an end to their involvement in the May 2 tragedy.

Several other separate criminal cases are being investigated into the events of May 2. In particular, the fire in the Trade Union Building on Kulikovo Pole, where 42 people died, as well as the case of the former head of the Odessa regional police, Petr Lutsiuk, and his deputy for public security, Dmitriy Fuchezhi.

The investigation is also looking into the inaction of rescuers in the first minutes of the fire in the Trade Union Building, where former head of the Odessa regional Ministry of Emergency Situations Vladimir Bodelan is accused.

Both Bodelan and Fuchezhi fled the country.



**Annex 385**

RIA Novosti, *Investigative Committee reveals new details of investigation into Andrei Stenin's death* (2 August 2017)

(translation)





**Translation**

**RIA Novosti, *Investigative Committee reveals new details of investigation into Andrei Stenin's death* (2 August 2017), available at: <https://ria.ru/20170802/1499592355.html>.**

## **Investigative Committee reveals new details of investigation into Andrei Stenin's death**

*MOSCOW, 2 Aug - RIA Novosti.*

The Investigative Committee has revealed details of the investigation into the murder of Russia Today photo correspondent Andrei Stenin, who died in August 2014 while on a business trip to Donbass.

### **The evening of his death**



Andrei Stenin's last war

As the investigation established, in the evening of August 6 the photo correspondent was driving a Renault Logan as part of a convoy of refugees along the Snezhnoye-Dmitrovka road. To the north-west of Dmitrovka, the Ukrainian military, presumably the 79th Aeromobile Brigade, opened fire on the convoy using IFVs and a tank.

‘More than ten vehicles carrying civilians were destroyed as a result of the shelling. Several people managed to escape and hide in the roadside woodland,’ Svetlana Petrenko, the agency's spokeswoman, told RIA Novosti.

After the shooting, the attackers inspected the cars and then purposely burned them down to hide traces of the mass shooting of civilians.

‘Not only did they inspect the destroyed cars and bodies of the dead, but according to eyewitnesses, they also loaded things from the destroyed cars into their vehicles and searched the bodies of the dead,’ Petrenko added.



**Annex 386**

Fishki.net, *Ukraine draws in BUK missile defence systems to Donetsk Oblast* (8 March 2014)

(translation)



Translation

Fishki.net, *Ukraine draws in BUK missile defence systems to Donetsk Oblast* (8 March 2014), available at: <https://fishki.net/1249959-ukraina-podtjagivaet-v-doneckuju-oblast-zrk--buk.html>.

## Ukraine draws in BUK missile defence systems to Donetsk Oblast

*George Bush*

8 March 2014 20:36



A resident of Gorlovka, on his way to work in Soledar, encountered an entire column of military machines.

The description of the video shows that the man met the convoy at around 4am near the KNAUF plant in Soledar.



According to experts, they are Buk surface-to-air missile systems. To note, those are the same systems that successfully shot down several Russian planes in Georgia in 2008.

At the same time...

The Ukrainian 95th Airmobile Brigade stationed in Zhytomyr is leaving its permanent base in full alert today, and is likely headed to Crimea.

Video footage published on the Internet captures military equipment and soldiers leaving the base. 'There were about 200 vehicles and 50 APCs, and this is just the beginning,' eyewitnesses note.

PS: Talked to a friend from Zhytomyr from 95th, and he said: 'We will not surrender Crimea!'

**Annex 387**

UNIAN, *The Ukrainian air forces receive reconditioned Buk-M1 anti-aircraft missile system*

*(photo)* (6 June 2014)

(translation)





**Translation**

**UNIAN, *The Ukrainian air forces receive reconditioned Buk-M1 anti-aircraft missile system (photo)* (6 June 2014), available at: <https://www.unian.net/army/926317-vozdushnyie-silyi-ukrainyi-poluchili-otremontirovannyiy-zenitnyiy-raketnyiy-kompleks-buk-m1-foto.html>.**

## **The Ukrainian air forces receive reconditioned Buk-M1 anti-aircraft missile system (photo)**

*UNIAN*



*The reconditioned Buk-M1 / Ministry of Defense of Ukraine*

A commission comprising representatives of the anti-aircraft missile forces of the Air Force of Ukraine, the Scientific Centre of Kharkov Air Force University, specialists of the military unit where it will be deployed, and the repair enterprise have completed an operational check of the repaired machine.

The Air Force Command noted that Buk-M1 was the latest anti-aircraft missile system of the Ukrainian Armed Forces that had been mastered at Ukroboronprom repair enterprises. The difficulty was that, unlike many other weapons and pieces military equipment, anti-aircraft missile systems of that type had never before been developed, produced or repaired in Ukraine.



*Buk-M1 was never developed or repaired in Ukraine before / Ministry of Defence of Ukraine*

‘In the near future the first Buk-M1 antiaircraft missile system repaired in Ukraine will be put on combat duty,’ reported Major General Dmitry Karpenko, Head of Anti-Aircraft Forces of the Armed Forces of Ukraine. ‘The signing of the acceptance act shows that the domestic enterprise has mastered the repair of anti-aircraft missile systems of this type.’



*Combat-ready Buk-M1 / Ukrainian Ministry of Defence*

**Annex 388**

UNIAN, *Ukraine's first reconditioned Buk-M1 SAMS tested in Khmelnytchyna* (27 June 2014)

(translation)



**Translation**

UNIAN, *Ukraine's first reconditioned Buk-M1 SAMS tested in Khmelnytchyna* (27 June 2014), available at: <https://www.unian.net/army/933846-na-hmelnitchine-istryityivayut-pervyyi-otremontirovannyiy-v-ukraine-zrk-buk-m1.html>.

**Ukraine's first reconditioned Buk-M1 SAMS tested in Khmelnytchyna**

17:22, 27.06.14



*Buk-M1 is being tested / Ministry of Defence*

These SAMS are among the latest models of weapons of the Armed Forces of Ukraine, repair of which was mastered by Ukroboronprom. The difficulty was that, unlike many other types of armaments and military equipment, those types of SAMS had never been developed or repaired in Ukraine. The repair of anti-aircraft missile systems in Ukraine prompted specialists of Ukroboronprom to carry out not only the organization of repair work. Key electronic components of such complexes are now manufactured only in Russia, or are not manufactured at all. Ukroboronservis has successfully dealt with the task and in cooperation with partners and suppliers mastered the repair not only of chassis, but also of high-tech units and assemblies.

Specialists of the state enterprise carried out a complex set of works to replace such units with similar ones produced in Ukraine.

‘The equipment is in fully serviceable condition, the repair has been carried out with high quality, at a sufficiently high level,’ said the deputy commander of the unit for armament.

The Regiment's Acting Commander emphasized that after completion of the acceptance tests the reconditioned Buk-M1 SAMS will be ready for combat duty in the anti-aircraft defence system of the state.



**Annex 389**

Dutch National Police Crime Squad, Official Report Concerning the Buk Surface-to-Air Missile System, 7 October 2019





ANONYMISED

Central Unit, National Crime Squad

**OFFICIAL REPORT concerning the Buk Surface-to-Air Missile System**

My name is Gerardus Wilhelmus Christiaan THIRY, chief inspector with the National Crime Squad of the Dutch National Police. I have been working as coordinating team leader of the criminal investigation since the start of the investigation into the downing of MH17.

I have over 42 years' experience of combating organised crime, international crimes, gathering criminal intelligence, infiltration, and murder investigations. In addition I have been stationed abroad on several occasions as a liaison officer.

The investigation team I lead consists of investigators and experts with specific skills or knowledge, such as aviation experts, high-tech crime specialists and analysts. In addition, as and when necessary, use was made of experts sworn in by the examining magistrate.

This official report was drawn up by Primo-625 and its contents were read and approved by me.

On the basis of the findings of the investigation and my knowledge of the facts, I declare as follows:

## ANONYMISED

### 7.2.2 Detecting a target

- The BUK-TAR's Snow Drift radar provides a 360-degree view of the airspace with a maximum range of between 100 and 160 kilometres. The TELAR's Fire Dome radar provides a 120-degree view with a maximum range of between 85 and 95 kilometres. The TELAR too can have a range of 360 degrees, but must turn its turret twice to achieve this. In the meantime, the crew cannot see the remaining 240 degrees. This takes time, which may mean a target will be detected later and there is less opportunity to identify it.

### 7.2.3 Identification of a target

There are several ways to identify an intended target. These methods, and their limitations in the case of an autonomous TELAR, are discussed below.

#### *By means of the brigade radar and the national defence radar network*

- The CP is connected to the brigade radar or the national radar and defence network. This network contains a wealth of information about military and civilian flights. In addition, information on civil aviation is publicly available online and via mobile apps such as Flightradar24. The CP therefore has access to plenty of information to identify potential targets. When it operates in autonomous mode, the TELAR lacks (much of) this up-to-date information. In this case the crew is (to a large extent) dependent on the flight information it has been given and has collected beforehand.

#### *By means of the IFF procedure*

##### *Section 3.3.1*

- Before the IFF procedure begins, a blip is shown on the TELAR's radar screen with a 'neutral' symbol. A target that responds with the correct signal during an IFF interrogation is shown with a 'friend' symbol. Any other target is automatically shown as 'foe'. The neutral option is no longer shown, so that all aircraft not identified as friendly are designated as foes.

##### *Section 3.3.1*

- Commercial international scheduled flights do not have IFF transponders. They therefore fly in a designated corridor. The only signal that they can emit that can be received by a TELAR is the international distress signal, which appears on the radar screen as a boot-shaped symbol. However, this signal will almost never be emitted. The TELAR will be unable to identify a commercial international scheduled flight by means of the IFF system.

## ANONYMISED

*By means of radar**Section 3.5.4.3*

- Radar data give a TELAR's crew information about the nature of the target: size, speed, mobility, altitude and route. Based on these characteristics, it is possible to distinguish between hostile (military) and neutral (civilian) targets. This distinction becomes more difficult without comparative material; without a radar image of other aircraft. In the case of a radar with a more limited range or if the radar is used for a shorter period for fear of being discovered, a smaller radar image will be obtained. Since a smaller radar image provides less comparative material, it will be less straightforward to identify a target. An autonomous TELAR has a more limited radar range and runs a greater risk of being discovered. This limits its options in terms of identifying a target.

*By means of audio or visual recognition**Section 3.3.1**Section 3.5.1.2**Section 5.1.3*

- Without access to a larger radar image, an autonomous TELAR depends on its own, alternative identification options: audio and visual recognition.
- It is not clear at what range audio recognition becomes feasible, but the SOP mentions a maximum window of five seconds after a target has been locked in which the commander can perform audio identification.
- The TOD can be used for visual identification, with a maximum range of 40 kilometres. If a target is flying above the clouds, it is out of reach of the TOD. This limitation is foreseeable by the TELAR's crew and higher command.

**7.3 The time factor***Section 3.5.4.2*

- Sections 3.2 and 3.5.1.3 discussed the fact that one of the reasons behind the TELAR's development was the ease with which the specific radar emission from a fire-control system could be detected by the enemy, which could then take countermeasures. These countermeasures could entail the launch of a missile directed at this radar emission. Once the radar is turned on, the TELAR is at risk of being destroyed. If it is deployed as part of a

## ANONYMISED

battalion, the TELAR's radar is turned on only once the central target acquisition radar has found a target, the command post has selected the target and the first IFF procedure has been completed. In an autonomous situation, the TELAR is not provided with this information. As a consequence, its radar will have to be on for longer to acquire target data, increasing the risk that it will be destroyed by an enemy missile. Depending on the nature of a (potential) threat, an autonomous TELAR will limit its radar image. This diminishes its capacity to identify a target.

- As explained above, the TELAR's Fire Dome radar not only has a more limited range, but also a limited scan sector compared with the central Snow Drift radar. Depending on the source that is used, the range is between 15 and 60 kilometres smaller, and the scan sector covers only a third of the airspace. In a blog on MH17, the former commander of a Russian air defence radar writes: 'The radar of the [TELAR] has a limited field of view that is rather small. [...] The field of view of the [TAR] is four times bigger. [T]he radar of the [TELAR] is rather weak. It is efficient within the [BUK-]system. Catching a plane with a cruising speed of 900km/h at an altitude of 10km is extremely difficult, one needs to know what direction it comes from. This way there is little time to launch, also because preparations need to be made.' In a battalion deployment, the TELAR's radar is immediately turned in the right direction, so that the process of acquisition, tracking and locking can start immediately. This is another reason why an autonomous TELAR has less opportunity to identify a target.
- Finally, the composition of the TELAR's crew has an impact on opportunities to identify the target. If a commander is in the cabin by himself or only with the second operator, they have less time to carefully complete the identification procedures. Working independently, a commander has a diminished view of the instrument panel, including the altitude and speed meters used for identification purposes. The operators can be called upon – especially during operation in autonomous mode – to carry out tasks outside the cabin, such as guarding the TELAR.

### 8. In conclusion

Done as an official report, drawn up under oath of office and concluded and signed by me, Gerardus Wilhelmus Christiaan Thiry, chief inspector, coordinating team leader of the MH17 investigation, employed by the National Crime Squad of the Dutch National Police, in Driebergen on Monday 7 October 2019.

[signature]

**Annex 390**

JIT, Transcript of press conference JIT MH17, 8 February 2023



# Transcript of press conference JIT MH17 on 8 February 2023

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2. [Topics](#)
3. Transcript of press conference JIT MH17 on 8 February 2023

**On this page you can read the full transcript of the press conference of the JIT MH17, held in The Hague on February 8<sup>th</sup>, 2023, including the media that was presented.**

Good morning,

We are meeting here today to update you, possibly for the last time, about the criminal investigation into the downing of flight MH17. This summer it will be nine years since 298 passengers lost their lives. As in previous years, we stand here together as members of the Joint Investigation Team (JIT). We would like to thank Eurojust, as the JIT's dedicated partner, for facilitating this event.

In 2016 and 2018 we told you about how the MH17 disaster came about, and in 2019 we explained that three Russians and a Ukrainian were suspected of being responsible for the downing of the aircraft. In July 2014 these men were military leaders of the so-called Donetsk People's Republic, the DPR. On 9 March 2020 the criminal trial of these four defendants began in the Netherlands. On 17 November 2022 The Hague District Court found three of them – Igor Girkin, Sergei Dubinskiy and Leonid Kharchenko – guilty of downing flight MH17, resulting in the deaths of all 298 persons on board, and the murders of those persons. The court sentenced the three men to life in prison. The fourth defendant, Oleg Pulatov, was acquitted. No appeal was lodged against these judgments.

In addition to considering the culpability of members of the DPR, the JIT conducted a wide-ranging investigation into the crew of the Buk TELAR and the parties responsible for providing the weapon. To this end the investigation team issued various witness appeals, and in 2021 it launched a media and letter campaign, aimed at residents of Kursk and members of the 53rd Anti-Aircraft Missile Brigade (AAMB). Various witnesses were interviewed, including members of the 53rd AAMB. In addition, the team reviewed a large number of intercepted phone conversations and other telecom data. It also investigated satellite images, gathered information about military radar systems, conducted covert investigative activities with the authorisation of the examining magistrate, and examined both public and classified sources in depth. The JIT also received information from the European Space Agency and the Netherlands Defence Intelligence and Security Service (MIVD).

The investigation has now reached its limit: all leads have been exhausted. The investigation is therefore being suspended. At the present time the findings are insufficient for the prosecution of new suspects. We will be making the findings of the investigation public. That is the purpose of the presentation for the next of kin, this press conference, and the report that will be published today. In this way we are complying with our national and international obligations to keep both the next of kin and the public at large informed. This information may also be relevant to the ongoing state responsibility proceedings.

We will now present a summary of the report. We will be sharing the main findings of the investigation into the crew, their superiors and the parties responsible for providing and deploying the Buk TELAR. For reasons of security and privacy, we are not able to release all the information uncovered in the investigation. This decision is also motivated by the possibility of further investigation and future prosecutions. We will not be mentioning any individuals by name, except

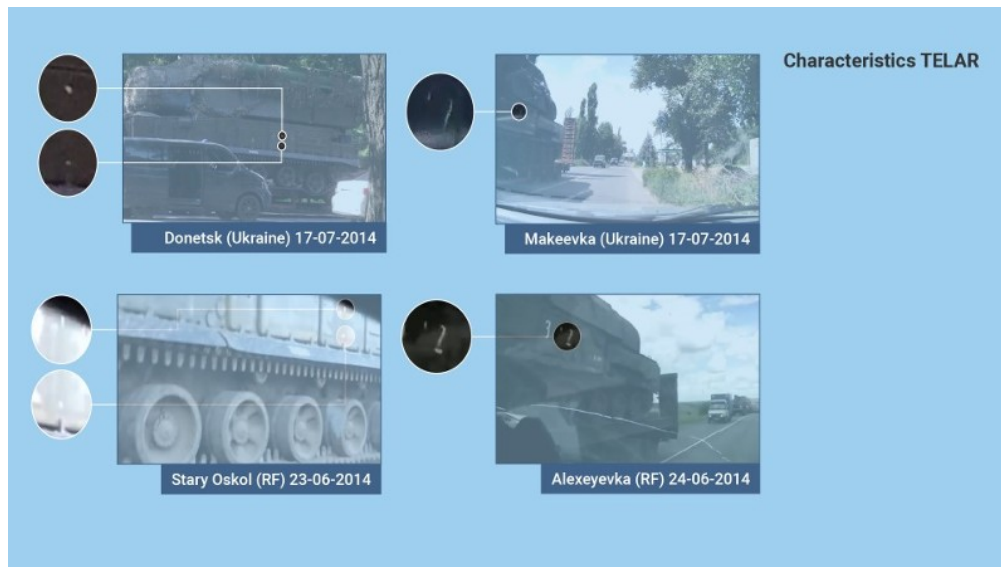
for public figures or in cases where the relevant names have already been made public. All of them should be considered innocent until a court finds that the reverse has been proven.

We will start with the further investigation into the origin of the Buk TELAR that was used to shoot down MH17 and the crew members and their superiors. We will then discuss those responsible for supplying the weapon system, and finally we will turn our attention to the parties involved in the deployment of the Buk TELAR.

This presentation is based on the facts established by the court in its judgment of 17 November. Specifically, the court held that:

- as of mid-May 2014, the Russian authorities exerted far-reaching control over the conflict being waged by the DPR;
- the Buk TELAR used to shoot down MH17 came from the Russian Federation, complete with a crew;
- everyone who made a contribution to the deployment of the Buk TELAR bears responsibility for the downing of MH17;
- the exact actions of the crew during the launch of the Buk missile at MH17 are unknown, nor is it known who gave the order to fire;
- to this day, the Russian authorities continue to deny any involvement in the conflict in eastern Ukraine and they have presented falsified evidence on multiple occasions.

The court also concluded that the images of the Buk TELAR captured in Ukraine on 17 and 18 July 2014 are authentic. As a result, they could be used for identification purposes. As the JIT has previously explained, this Buk TELAR has 15 specific features. A Buk TELAR with the same features was found to be part of a Russian military convoy, originating in Kursk, which followed a southerly route along the Russian-Ukrainian border from 23 to 25 June 2014. We call it Buk TELAR '3X2' because of the markings on its left side. The JIT was able to establish that this weapon system was from the Russian 53rd Anti-Aircraft Missile Brigade in Kursk.



Characteristics Buk TELAR

In order to determine why flight MH17 was shot down, an investigation was conducted into the identity of the crew and their superiors. After all, they should be able to answer that question. A complicating factor was the absence of any telecommunications involving the crew. The telephone number which the court attributed to a crew member was active in Ukraine only on 17 July. This number was not tapped, nor was it in contact with any numbers that were tapped.

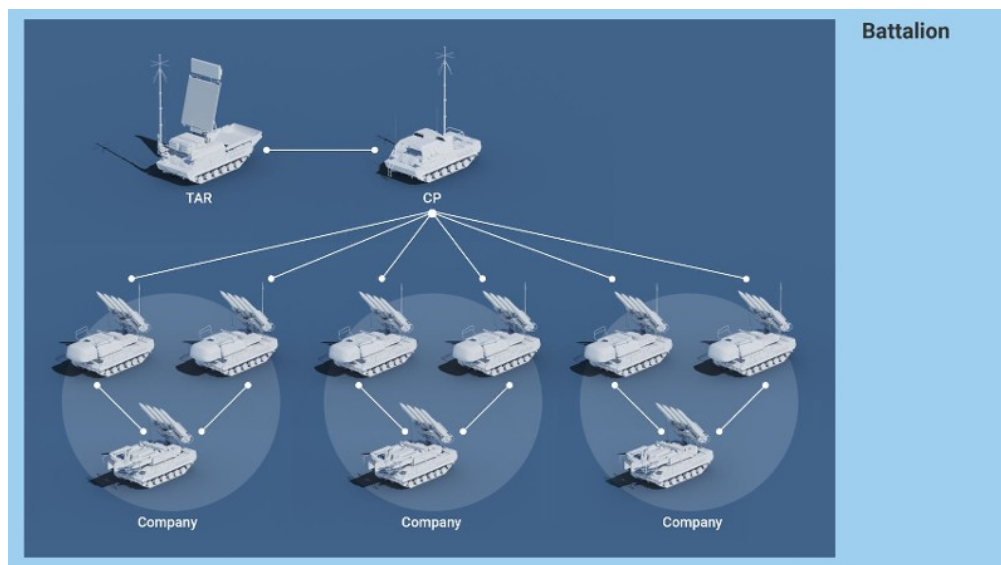
This is why we first looked at the composition and organisation of the 53rd Brigade, which consists of approximately 700 people: conscripts, contract soldiers and officers. In 2014 the 53rd AAMB consisted of a staff and communications company, a technical support company and three



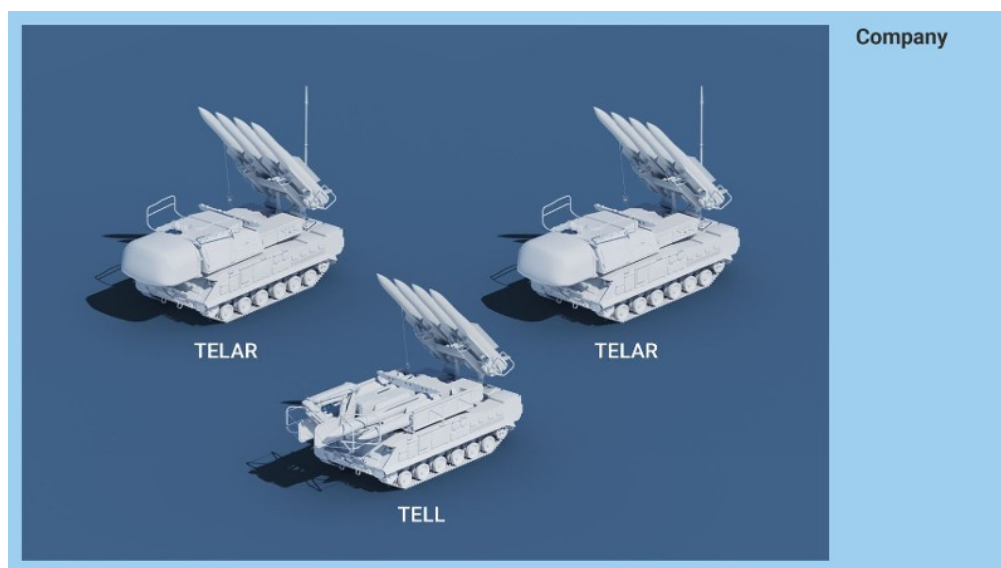
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Transcript of press conference JIT MH17 on 8 February 2023

operational battalions. Each battalion has a full Buk system consisting of 11 Buk vehicles: a command vehicle, a radar vehicle, three launch vehicles without radar (the TELL), and six launch vehicles with radar (the TELAR). A battalion is led by a commander and his deputy, and has its own staff. Each battalion is divided into three companies. A company consists of two TELARs and one TELL.



Battalion



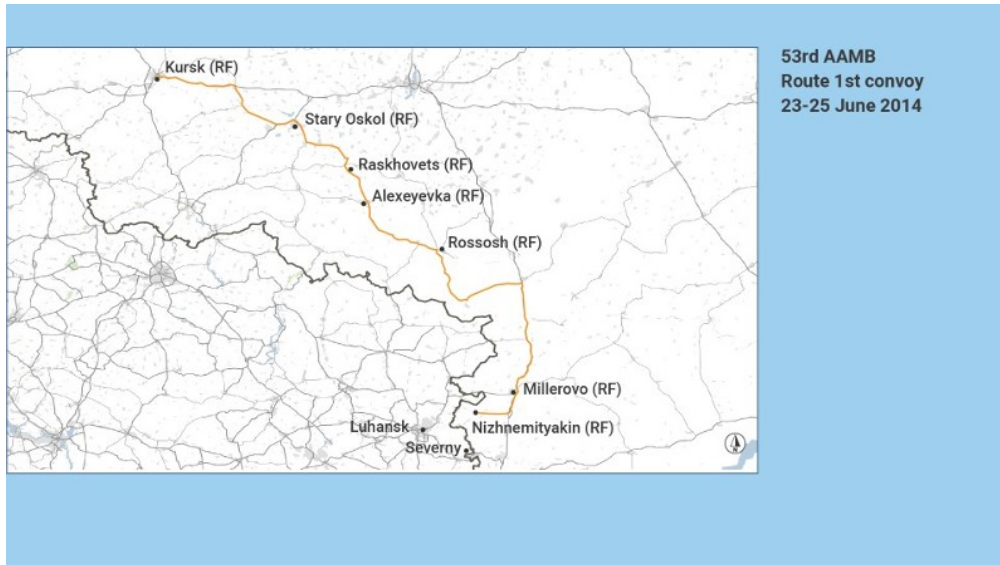
Company

As the court established, MH17 was shot down by a Buk TELAR. Generally, the crew of this weapon system consists of four personnel: a commander, a first and second operator and a driver. The commander is in charge of the vehicle and communicates with the battalion or brigade command. He is the only person on board who is authorised to launch a missile.

In 2014, Colonel Sergei Muchkaev was in charge of the 53rd Brigade. According to Russian military law, as commander he was responsible for carrying out operational missions and keeping track of his units' position. At that time Muchkaev was under the command of the Chief of the General Staff of the Russian armed forces and the Russian Minister of Defence, Sergei Shoigu. Both are subordinate to the President of the Russian Federation, Vladimir Putin.

That concludes the matter of formal authority, which is not necessarily the same thing as de facto control over the deployment of the Buk TELAR. We will return to this point later. We will begin by focusing on various deployments of the 53rd AAMB in the summer of 2014. With the help of

transport orders found in electronic mailboxes of several individuals, including officers of the 53rd AAMB, we were able to gain insight into the movement of equipment and personnel from the Brigade’s base to the border region with Ukraine, at three points in time: from 23 June, 15 July and 19 July 2014. In late September 2014, equipment and personnel were transported back to Kursk. Buk-TELAR ‘3X2’ was part of the first convoy, which left on 23 June. The orders revealed that this convoy took two days to travel to its final destination at the Ukrainian border. Near that location, the Buk TELAR and its crew were picked up in the early hours of 17 July 2014. The next day they were handed over at that same location.



53rd AAMB Route 1st convoy 23-25 June 2014

There is a great deal of photo and video footage of this convoy of 23 June. The route described in the orders matches the route shown in this visual material. And the number plates listed in the orders also match the number plates on these images. These images also show six Buk TELARs, complete with vehicle numbers. One of them is Buk TELAR ‘3X2’. The other identifiable Buk vehicles each have a vehicle number beginning with ‘2’. The first digit of the vehicle number refers to the battalion. This means that Buk-TELAR ‘3X2’ came from the 3rd battalion, whereas the other Buk vehicles came from the 2nd battalion.

**Motor Co**

I hereby request you to allocate an escort vehicle operated by MAJ Entity 3409:

No.	Vehicle	License plate	Mark
1.	Kama2-49223	3389400025	WU
2.	Kama2-49223	3389400025	Pvt
3.	Kama2-49223	3389400025	Pvt
4.	Kama2-49223	3389400025	Pvt
5.	Kama2-49223	3389400025	Pvt
6.	Kama2-49223	3389400025	Pvt
7.	Kama2-49223	3389400025	Pvt
8.	Kama2-49223	3389400025	Pvt
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15.	Kama2-49223	3389400025	Pvt
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24.	Kama2-49223	3389400025	Pvt
25.	Kama2-49223	3389400025	Pvt
26.	Kama2-49223	3389400025	Pvt
27.	Kama2-49223	3389400025	Pvt
28.	Kama2-49223	3389400025	Pvt
29.	Kama2-49223	3389400025	Pvt
30.	Kama2-49223	3389400025	Pvt

**License plates**

25 046 14 602

Для обеспечения связи  
взвешивать, измерять, контролировать

No.	Vehicle	License plate	Mark
1.	Kama2-49223	3389400025	WU
2.	Kama2-49223	3389400025	Pvt
3.	Kama2-49223	3389400025	Pvt
4.	Kama2-49223	3389400025	Pvt
5.	Kama2-49223	3389400025	Pvt
6.	Kama2-49223	3389400025	Pvt
7.	Kama2-49223	3389400025	Pvt
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9.	Kama2-49223	3389400025	Pvt
10.	Kama2-49223	3389400025	Pvt
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12.	Kama2-49223	3389400025	Pvt
13.	Kama2-49223	3389400025	Pvt
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30.	Kama2-49223	3389400025	Pvt

**Raskhovets (RF) 24-06-2014**

**Raskhovets (RF) 24-06-2014**

License plates

The orders contain no information about the objective of the deployment near the Ukrainian border. A document from 2017 from the commander of the 53rd AAMB refers to ‘strategic exercises on unknown terrain’ in 2014.

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Transcript of press conference JIT MH17 on 8 February 2023

On 17 July 2014, the Buk TELAR that shot down MH17 was captured on film multiple times. This visual material reflects what was discussed in intercepted telephone conversations. Images of the TELAR helped shed light on the involvement of Girkin, Dubinskiy and Kharchenko. The last image of the Buk TELAR was captured on the morning of 18 July, in Luhansk.



Last recordings Buk TELAR

Since images of the TELAR could also shed light on its crew, the investigation also looked into how the TELAR was transported after being returned to Russia: by rail, by road or by air. No indications were found that would point to rail transport. The JIT does, however, have a satellite photo from 20 July taken in the vicinity of Millerovo which shows a single covered vehicle on a low loader. You see that image on the left. The shape and dimensions of this covered vehicle are consistent with the covered vehicles that were observed on a satellite image of the 53rd AAMB's base shortly before the departure of the 1st battalion. You see that image on the right.



Sattelite images

In addition, on 20 July a photo was posted to social media of a covered Buk TELAR on a truck. This truck was also part of the convoy in June that included TELAR '3X2'. It could not be determined if one of the images just shown includes TELAR '3X2'.



Covered Buk TELAR

The investigation into the TELAR's possible removal by air determined that on the morning of 18 July two Ilyushin Il-76s were on stand-by at the nearby military airfield in Rostov-on-Don. An Il-76 is capable of transporting a TELAR. A day later only one of these aircraft was observed there. It was not possible to determine what happened to the other one and whether it was used to dispose TELAR '3x2'. At various points on 18 July, starting at 06:08, an Il-76 was observed at the Kursk military airfield, always seemingly at the same spot.



Ilyushin 76

In any case the Ilyushin sitting at this airfield at 06:08 could not be the one from Rostov-on-Don that transported the Buk TELAR '3X2' to Kursk: the '3X2' crossed the border around 06.00 and thus could not have been flown to Kursk by 06:08. It could not be determined for certain if the TELAR '3X2' was transported by air.

In summary, the investigation was unable to establish what happened to the TELAR after it arrived in Russia.

This brings us to the crew. The orders concerning the first convoy, which included Buk TELAR '3X2', contain no information about the accompanying crew. Documents from the second convoy show that as of 15 July at least 193 military personnel belonging to the 53rd were deployed to the same border region. They must have arrived there before Buk TELAR '3X2' crossed the border on

17 July, and for that reason they were included in the investigation of the crew. These 193 individuals were mentioned by name. Most belonged to the 1st battalion, while a smaller number were part of the 2nd and 3rd battalions.

These include members of the staff, such as Commander Muchkaev. Although it is plausible that Muchkaev knew about his brigade's deployment of the Buk TELAR by virtue of his position, there are no concrete indications of this. Nor is there any telecom data. It is not possible to confirm Muchkaev's presence in the border region around the time of the downing of MH17. It was not possible to question him during the criminal proceedings because Russia would not allow it.

All military personnel of the 53rd AAMB for whom there were indications that they may have been in the border region when the Buk TELAR was deployed were investigated further. Of that number, 35 officers were considered capable, on the basis of their rank and position, of operating a Buk TELAR. Seven other soldiers were found to have worked as a Buk TELAR operator or as the driver of a Buk vehicle. These findings do not, however, rule out the possibility that there were other officers with the same skills, or operators or drivers, in the border region.

In the course of the investigation a number of current and former members of the 53rd AAMB were tracked down and examined. Those individuals also provided information without knowing that it would end up in the hands of the investigation team. This was the only reason that several of them stated that they had been in Ukraine in the summer of 2014 during their time with the 53rd AAMB. Investigators were unable to confirm this information through direct questioning. One of them said that he was very afraid and unwilling to take any more risks. He was unwilling or unable to say anything about the crew.

There are also chat records involving (former) members of the 53rd AAMB, which point to the presence of a number of military personnel of the 3rd battalion in the Russian-Ukrainian border region in July 2014. They reportedly left separately for a secret destination. These unnamed contract soldiers were under the command of an officer who was mentioned by rank and name. The investigation revealed the identity of this officer. At the time he was a member of the personal staff of the brigade commander Muchkaev. It could not be determined whether this officer was present in the border region on 17 July 2014. Notably, this officer appears in photos on social media after 17 July wearing two military decorations: one for the development of, and combat operations with, a Buk system, and another for extraordinary service with the Russian security service FSB.

Information provided by a witness points in another direction. This witness said to have heard from someone in the Russian army that four people attached to the 53rd AAMB were involved in the downing of the Boeing. These four comprised the crew of the Buk. The witness in question mentions two names. The examining magistrate investigated the witness and determined, on the basis of his or her position, that he or she would have been capable of obtaining this information.

The two names given match those of two officers of the 53rd AAMB. It has been established that at least one of them was deployed in the border region in the summer of 2014. Both were members of the 2nd company of the 2nd battalion.

In an information report by the SBU, one of the officers named by the witness was mentioned as a crew member who had gone drinking with the separatist Tsemakh after the downing of MH17. A witness confirmed this, but did not name the crew member in question. Tsemakh was examined by the JIT on multiple occasions. He disputes having had any contact with the crew, and denies any involvement in the downing of MH17. The investigation yielded insufficient indications pointing to Tsemakh's criminal involvement.

In summary, a total of three names of officers emerge who may have been involved in the downing of MH17. However, to date the investigation has not been able to find any further confirmation of this. The Russian authorities have refused to answer any questions about the crew, as they maintain that there was never any Russian Buk TELAR in eastern Ukraine.

Finally, on 17 July and 25 September 2022 names and photos circulated on Twitter concerning four members of the 2nd battalion who were said to have shot down MH17. The investigation team obtained the information that formed the basis of these tweets. This includes a 2015 personnel list for the 53rd AAMB, which was already known to the JIT, and passport information. On the basis of this information and the findings of its own investigation, the JIT concluded that there were no indications that these four individuals were involved in the downing of MH17.

We will now consider how the Buk TELAR was supplied to the DPR. The court has established that as of mid-May 2014 the Russian Federation and Ukraine were involved in an international armed conflict in eastern Ukraine because the Russian authorities had overall control over the fighting in the DPR. DPR leaders were in close contact with the Russian Presidential Executive Office, Kremlin advisers and the Russian intelligence services. Staff members of these government bodies also came up in the JIT's investigation into the decision-making process about the provision of the Buk TELAR to the DPR. The main source for this is telecom data involving both intercepted phone conversations from the case file and new conversations. A number of conversations are mentioned in the report, and we will play excerpts from them shortly.

We will discuss the findings of the investigation in chronological order, starting with the arrival of the Russians Girkin and Borodai in eastern Ukraine in the spring of 2014, in the immediate wake of the establishment of the 'Donetsk People's Republic' (the DPR). On 12 April Girkin crossed into Ukraine from Crimea and was appointed 'Minister of Defence'. He was followed a short time later by Borodai, who was given the role of 'Prime Minister' of the DPR. Both men had previously been involved in the annexation of Crimea, by their own account as advisers of the Russian Sergei Aksyonov, the so-called prime minister of Crimea. While in Ukraine Borodai and Girkin stayed in contact with Aksyonov.

In June 2014 there was heavy fighting between the Ukrainian army and troops of the DPR and other separatists of the Luhansk People's Republic (the LPR). During this fighting both the DPR and LPR requested heavier weaponry, including better anti-aircraft systems.

For example, Plotnitskiy, the so-called defense minister of the LPR, speaks in Russia in June 2014 with the military intelligence service GRU and asks for heavier air defense weapons to be provided.

Girkin, the minister of defense of the DPR, makes the same request. When his headquarters in Slavyansk, came under fire in early June 2014, Girkin told Aksyonov that they needed 'decent anti-aircraft systems with trained personnel'.

The investigation carried out shows that from the second half of July 2014 several Buk-TELARs have been delivered to the separatists, including the Buk-TELAR that shot down flight MH17.

The investigation was able to shed some light on Russian decision-making process regarding the delivery of heavier anti-aircraft systems to the separatists.

When Girkin requested for 'decent anti-aircraft systems with trained personnel', Aksyonov replied to Girkin that on Tuesday he was where he needed to be given the situation, that a joint coordination centre had been set up, and that the necessary documents for the support were already being drawn up. He said that he still needed to wait because 'they' were in different places and would be away for two days.

It is known from another conversation that Aksyonov was in Sochi on Tuesday 3 June. According to the Kremlin, Putin was there on that day as well. On 5 and 6 June, Putin was in France for the D-Day commemoration, together with various world leaders.



### D-Day Commemoration

In a conversation of 7 June, Aksyonov's assistant mentioned that the decision to provide support had been postponed by a week because there was only one person who could make that decision: not a general or Minister of Defence, but the person who was directly accountable to the people and who was currently at a summit in France. We will now play a part of this conversation.

Press conference - Joint I...



### Voice recording

'Sh...defence minister' would appear to refer to Sergei Shoigu, the Russian Minister of Defence.

The next day, Aksyonov's aide took part in a similar conversation, in which he said that his bosses needed another week because there was only one person who could make that decision and who was responsible, and he was in France. We will now play a part of that conversation.

Press conference - Joint I...



### Voice recording

In the second half of June 2014, Aksyonov and the deputy head of the GRU, Alexei Dyumin, requested a political decision on providing the 'people's Army' in Donbas with heavier anti-aircraft systems, such as an S-200 or Buk system. This happened at a meeting at the Presidential Executive Office in Moscow. The Presidential Executive Office is a state body that assists the Russian president; it played an active role in the conflict in eastern Ukraine in 2014. The request by Aksyonov and Dyumin was supported by Vladislav Surkov, an adviser to Putin, and Konstantin

Malofeev, an oligarch who was involved in the annexation of Crimea. A contributing factor in this regard is that separatists had previously shot down a large military transport aircraft. Following that incident, the Ukraine armed forces had started flying at higher altitudes. This was why the separatists needed air defences with a greater range.

At this meeting at the Presidential Executive Office a written resolution was adopted to submit the request for heavier anti-aircraft systems to Shoigu and President Putin. The request was granted. It is not known if a Buk system was specifically mentioned in this request.

The investigation showed that the aforementioned meeting at the Presidential Executive Office, in which the participants discussed providing heavier anti-aircraft systems to the DPR, must have taken place between 14 and 30 June 2014. In that period, i.e. from 14 to 19 June, Borodai was in Moscow, as was the separatist Fominov. During their time in Moscow, both Borodai and Fominov spoke in intercepted conversations about meetings and discussions, including a big meeting on 19 June, which revolved around support, believed to be of a military nature, and which was ultimately granted.

In a closed meeting with members of the Duma on 19 June, Shoigu reported that the armed forces were ready to carry out any task given by ‘the leadership of the country and the commander-in-chief’, in other words: by Putin. According to the Kremlin, that evening the Russian Security Council held a meeting on ‘the situation in southeastern Ukraine’. It is not known if the subject of a heavier anti-aircraft system, such as a Buk, was discussed. In any event, a short time later, heavier military materiel, including tanks, was delivered.

And on 23 June a large military convoy departed for the Ukrainian border, including the Buk TELAR which was used to shoot down MH17 on 17 July. To this day, it has not been established whether a decision had already been made before the departure of the convoy about supplying this Buk TELAR to the DPR, or whether this decision was not made until later.

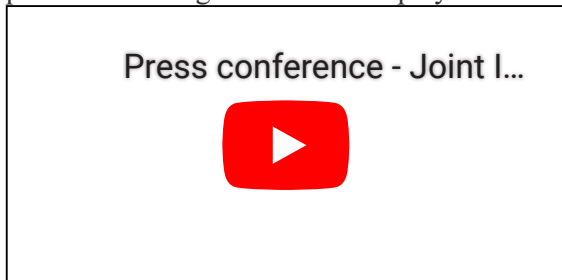
At that time, Surkov, a key adviser of Putin’s, worked at the Presidential Executive Office, where the meeting about air support was held. He is believed to have been put in charge of Donbas affairs in July 2014. According to Girkin, Surkov had the ‘tactical command’ and ‘managed’ ‘the situation in Ukraine in his capacity as adviser to Vladimir Vladimirovich [Putin]’. In an interview, Borodai said that Surkov was the most senior Russian official involved in the matter and that Surkov, as aide to the president, reported directly, and on a regular basis, to Putin. Borodai’s phone data revealed that he was in contact with Surkov nearly every day – and sometimes multiple times a day – except when he, Borodai, was in Moscow. In intercepted telephone conversations, Surkov coordinated a variety of issues with Borodai, such as the encirclement of Slavyansk, the establishment of an additional security service, payments and the intransigent attitude of a DPR commander. In addition, when Borodai sought to coordinate with Moscow about the delivery of refrigerated rail containers containing the bodies of the victims and the black boxes from MH17, his first point of contact was Surkov.

This brings us to the position of President Putin. As we have noted, intercepted conversations revealed that the decision about whether to provide military support lay with Putin. There is also specific information showing that a request to supply the separatists with heavier anti-aircraft systems was submitted to Putin and that the request was granted. Other sources as well point to the president’s personal involvement in the conflict in eastern Ukraine, mainly in a behind-the-scenes capacity. For example, although on 24 June 2014 Putin publicly asked the Russian Federation Council to rescind the resolution that gave him the authority to conduct a military intervention in Ukraine, it remained abundantly clear to the DPR that the Russian president was still involved in the conflict. There are also indications that Putin wished to be briefed in detail about the course of the conflict, for example the downing of a Ukrainian helicopter.

The Ukrainian politician Viktor Medvedchuk also passed on messages from the president with instructions that the DPR must respect a ceasefire. Medvedchuk also spoke with Borodai about an upcoming prisoner swap, in his own words ‘at the request of the president’.



Later, Medvedchuk was mentioned by Putin himself in a conversation with Plotnitskiy, at that time the so-called prime minister of the LPR. On 15 November 2017 Putin was personally briefed by Plotnitskiy about the 'military component' and asked him about Medvedchuk's 'initiative' for a prisoner exchange. We will now play the entire conversation.



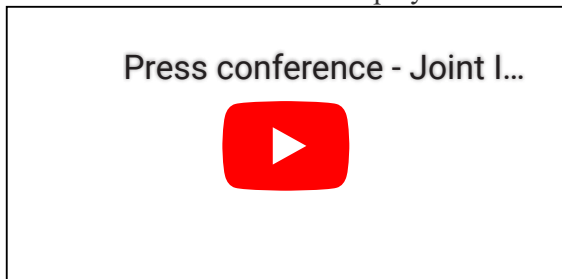
Voice recording

This conversation from 2017 is in keeping with the findings of late June 2014, which showed that Putin was personally involved in the conflict in eastern Ukraine. It is also in keeping with a witness statement to the effect that the same individual, Plotnitskiy, carried an encrypted phone containing direct numbers for President Putin. As the JIT repeatedly discovered, not everyone was equally disciplined when it came to security of communications.

That concludes the matter of supplying the Buk TELAR. The JIT previously also conducted an investigation into the parties responsible for the deployment of that Buk TELAR on 17 July 2014. Girkin, Dubinskiy and Kharchenko have already been convicted, but the investigation has looked at other individuals as well. One of them is the aforementioned Borodai.

Beginning on 6 July 2014, over a week after the arrival of Buk TELAR '3X2' at the border, changes were made to the military and political structure of the DPR. Russian generals were sent to eastern Ukraine for the purpose of forming a joint staff for coordinating the military operations of the DPR and LPR. It remains unclear how much actual influence they exerted in July 2014. Girkin has said that he did not receive any instructions from this staff.

In the run-up to the offensive south of Snizhne, Girkin regularly conferred with 'Moscow'. During this period, as well as in June and August, Borodai was in almost daily contact with someone he described to others as 'the commander of this operation' and 'the one who makes all the decisions'. This person has been identified by the investigation team as Andrei Burlaka, an FSB general who was first deputy to the head of the FSB Border Service. The investigation showed that in various cases Burlaka gave orders to Borodai and was directly involved, from the Russian Federation, in internal DPR affairs. Burlaka also gave direct instructions to subordinates of Girkin's, which Girkin for his part accepted. Burlaka also appeared to have information about the military deployment in eastern Ukraine. For example, on 16 July, Borodai called Burlaka and asked him if it was possible that 'our helicopters' were carrying out an attack in the vicinity of 'Maryinka'. At that point Burlaka asked Borodai to turn on the phone's encryption mode, as he would always do when the latter called him. We will now play that conversation.



Voice recording

From 14 July there was heavy fighting south of Snizhne between the Ukrainian troops and the DPR. The court has established that the Buk TELAR was deployed in the context of this fighting.

The planning and execution of this DPR offensive were in the hands of Girkin, Dubinskiy, Pulatov and Kharchenko, among others. Borodai was also present and was briefed on the DPR's military progress during the fighting. There are no indications that Borodai was personally overseeing combat operations.

When the offensive stalled and the DPR fighters came under fire, a request was made for a Buk system and that request was granted. When the Buk TELAR was brought into Donetsk on the morning of 17 July, Dubinskiy made arrangements for its deployment. At that moment Borodai and Girkin were also at DPR headquarters. The investigation team was unable to determine whether Borodai was aware at that time of the availability of this Buk TELAR. Borodai did, however, speak to Burlaka on the phone more than 20 times on 17 July. Because these calls took place on encrypted telephones, the substance of the conversations is unknown. No conversations involving Borodai or Burlaka about the downing of MH17, or the request for, delivery or removal of the Buk TELAR were intercepted. Nor is there any evidence that Borodai was in the vicinity of Girkin and Dubinskiy when they were dealing with the removal of the Buk.

Now we will talk about the opportunities for investigation and prosecution. The JIT's investigation has reached its limits. As things now stand, this leads to the following conclusions:

All relevant and available telecom data has now been analysed. The JIT has investigated everything it can without the cooperation of the Russian authorities and without jeopardising people's safety. Any further evidence must be sought in the Russian Federation. And for this the JIT is dependent on the cooperation of the Russian authorities or Russian (insider) witnesses. Such witnesses cannot speak freely and would expose themselves to major security risks if they were to talk to the JIT. To this day, the Russian authorities continue to deny – contrary to the established facts – any involvement in the conflict in eastern Ukraine on and around 17 July 2014. On multiple occasions the Russian Federation has provided the JIT with falsified evidence exonerating itself. At other times the authorities simply refused to provide any information. The Russian authorities have also publicly cast doubt on the court's judgment. Relations with the Russian Federation have deteriorated further since the Russian invasion of Ukraine on 24 February 2022.

The investigation's findings to date do not provide sufficient grounds for prosecution. There are either formal obstacles to a prosecution, or the necessary lawful and convincing evidence is lacking. We will explain that shortly.

First, let's consider the crew of the Buk TELAR and their superiors. These military superiors include the commander of the 53rd AAMB, the Minister of Defence and – as commander-in-chief – the Russian president.

Second-hand information was obtained about the possible involvement of three current or former officers of the 53rd AAMB. This information is ambiguous, and thus far it cannot be confirmed to an adequate extent. Since it has not yet been possible to establish the identity of the Buk TELAR crew members, it is not possible to establish why they fired a Buk missile at MH17. Nor do we know who gave them their orders and what those orders entailed. It remains unclear who knew what in the Russian military chain of command about the downing of flight MH17 and what degree of say they actually had regarding it. Prosecution of the crew and their superiors in the military chain of command is therefore impossible because the evidence that has been gathered is not strong enough to be lawful and convincing.

Furthermore, as members of the regular armed forces of the Russian Federation, the crew members and their superior officers may be able to claim combatant immunity. This is a rule of international law that stipulates that countries may not prosecute each other's military personnel. The immunity continues to apply even after the individual concerned has left the armed forces.

Combatants can be prosecuted for war crimes. However, without concrete information about the circumstances in which the decision was made to fire the Buk missile at MH17, it cannot be determined whether the downing of MH17 was a war crime.

And now let us turn to those responsible for supplying the Buk TELAR.

As the district court held, in the circumstances in question it may be assumed that ‘anyone who helped facilitate the deployment of this weapon’ had both intent and premeditation in respect of unlawfully causing the crash of flight MH17 and the death of everyone on board.

There are strong indications that a decision was made at presidential level, by president Putin, to supply the DPR with the Buk TELAR, or in any event, a heavier air defence system. Although we speak of strong indications, the high bar of complete and conclusive evidence is not reached. Furthermore, in addition to the possibility of combatant immunity, the president of the Russian Federation also enjoys, at the very least, immunity under international law in view of his position as head of state. Under Dutch law, heads of state cannot be prosecuted for any offence whatsoever, even war crimes. This immunity applies for as long as Putin is head of state.

The investigation into the decision-making about provision of the missile produced other names besides Putin, including Aksyonov, Surkov, Dyumin and Shoigu. In the case of Aksyonov, Surkov and Dyumin there are indications that they supported the request for a heavier air-defence system and arranged for it to be submitted to Shoigu and Putin. The question is whether, in doing so, they also have a criminal responsibility for the deployment of this weapon. In any event, they had no actual decision-making power about whether to provide a Buk TELAR. That authority lay at a higher level. In order to determine whether they were sufficiently helpful in facilitating the eventual deployment of the Buk TELAR that their actions constituted criminal aiding and abetting, further and more concrete evidence is needed. There is therefore insufficient evidence as yet to hold them criminally liable for the downing of MH17.

In the case of Shoigu, there is a lack of clarity about whether, as Minister of Defence, he had decision-making power when it came to supplying the Buk TELAR. The investigation mainly found indications that this was ultimately the president’s decision, and not Shoigu’s. This means that there is no concrete evidence for his criminal involvement in providing the weapon that shot down MH17.

Apart from the evidential problem both Dyumin, as deputy head of the GRU, and Shoigu, as Minister of Defence, may be able to claim combatant immunity.

Then there is Borodai: he held various consultations with Russian officials in Moscow about the provision of military equipment. Since it could not be clearly determined whether those consultations concerned the provision of a Buk system, he cannot be held responsible for its delivery.

This brings us to the parties involved in the actual deployment of the Buk TELAR. The investigation did not uncover any concrete instructions given by Russian generals or other Russian officials regarding the deployment of the Buk TELAR.

There were, however, indications of a direct, de facto chain of command between FSB general Burlaka and DPR leaders Borodai and Girkin. It is not clear whether Burlaka was involved in a criminal capacity in the deployment of the Buk TELAR. Since he used a secure line, the contents of his phone conversations are not known. Conversations held by other parties about Burlaka show that his orders to Borodai and to Girkin’s subordinates related to internal conflicts and dynamics among DPR commanders, as well as the provision of equipment. However, nothing was said about providing a heavier air defence system.

Borodai’s role primarily seemed to involve administration, logistics and military support. He made arrangements for support from Russia, but when it came to operational military commands, he would refer people to Girkin. Although he was present at the Girkin’s headquarters that morning and although he was in regular contact with Burlaka by phone on 17 July 2014, the investigation was unable to establish that Borodai and Burlaka had advance knowledge of the availability of the Buk TELAR. Nor could any involvement on his part in the removal of the weapon be established, following the downing on MH17. Therefore, in contrast to the conclusion of the district court in

Girkin's case, it is not possible at this time to provide lawful and convincing evidence that Borodai and Burlaka were able to decide on the deployment and use of the Buk TELAR and that they accepted that deployment and use. Nor is it possible to prove that they deliberately aided and abetted the downing of MH17 in another way.

This brings us to the conclusion of this presentation.

After more than eight-and-a-half years, the JIT has exhausted all scope for investigation. The investigation will therefore now be suspended. Despite the complex context, the JIT achieved a great deal. The findings of the investigation do not provide sufficient grounds for the prosecution of new individuals. This does not mean, however, that the JIT is closing the case. The phone line for witnesses and the MH17 website will remain active, so that any insider witnesses who might wish to tell their story in the future will be able to do so. With this in mind, the JIT agreement will also be renewed. New information or a change in circumstances may give reason to resume the investigation or institute new criminal proceedings.

The bar for establishing individual criminal liability is high. At present we cannot reach that bar for the various individuals discussed, but the picture that the investigation has given us of Russian involvement could play a key role in the state responsibility proceedings. We know that the answers to our questions can be found in Russia. As we have said many times before, solving these kinds of crimes takes patience and endurance. Just consider the Lockerbie case, in which a suspect was recently arrested – after 34 years. In that spirit the JIT remains dedicated to the MH17 investigation.

Thank you for your attention.

**Annex 391**

Joint Investigation Team, Presentation of first results of the MH17 criminal investigation,  
28 September 2016



## **JIT presentation of first results of the MH17 criminal investigation (28-09-2016)**

Today, the Joint Investigation Team (JIT) presents the first results of the criminal investigation into the downing of flight MH17 on 17 July 2014. In the JIT Australia, Belgium, Malaysia, the Netherlands and Ukraine are working together.

### **Extensive and complex investigation**

This is an extensive and complex investigation. To illustrate this, I herewith you some figures that may demonstrate the scope of the investigation:

For quite some time, between 100 and 200 investigators and other experts of the JIT have been working on the case and currently, on a daily basis almost 100 investigators, public prosecutors and other experts are still working on the case.

During the past two years, dozens of containers with thousands of wreckage parts were examined in detail, piece by piece. Of those parts, 1448 were processed in a databank as being relevant to the investigation.

Sixty requests for legal assistance were sent to more than twenty countries and we received reactions on many of them.

Twenty weapon systems were examined.

Five billion internet pages were recorded and assessed for their relevant content.

Half a million videos and photographs were examined in detail and saved, and more than two hundred witnesses were heard.

In addition, approximately 150.000 intercepted telephone calls were listened in on, summarised and assessed for their relevance and authenticity. After this, more than 3500 intercepted conversations were processed entirely, translated and analysed. All this was recorded in more than 6000 official reports.

Earlier, the [Dutch Safety Board \(OVV\)](#) presented their investigation results. And furthermore, many journalists carried out their own investigations, as did research collectives like Bellingcat. This resulted in different scenarios and theories being raised, both in the media and on the internet.

The criminal investigation focusses on truth finding and its ultimate goal is tracing and prosecuting the perpetrators. The big difference with a journalistic documentary or an internet-based investigation report is that in our case conclusions based on probability will not suffice. The most important in the JIT investigation is that we can substantiate our conclusions with legal and

convincing evidence. In doing so the bar is high: the evidence must stand before a court. We are confident that the evidence which we have collected removes any kind of doubt about the cause of the crash. Of course, ultimately it will be up to the court to render a final judgment.

In the meantime we have collected so much evidence that we – as announced earlier – can answer the question as to which weapon was used and, even more important, where this weapon was launched exactly. The investigation into those responsible is a matter for the long haul and will take more time.

Normally we exercise restraint when it comes to disclosing interim findings in ongoing investigations; we only present our investigation results in the court room. But this case has such a profound impact worldwide that we have looked at possibilities to present the results of the criminal investigation at an earlier stage. We cannot and do not want to tell you everything yet; in that case we would run the risk of playing into the perpetrators' hands. Also, we will not show all our evidence. We have made a selection that is meant to illustrate how we reached our conclusions.

First, we will discuss the different scenarios which have been investigated and how we reached our conclusions with respect to these scenarios.

After that, we will discuss the results from the investigation with regard to the weapon and the launch site.

At the end, we will briefly discuss the further investigation into the perpetrators.

The presentation will provide information about the progress in the investigation. We also want to explain that in the meantime we have gathered sufficient evidence to build a criminal case which will demonstrate the cause of the crash without any doubt.

## **The investigation into different scenarios**

The JIT has carried out the investigation as broadly as possible and has investigated different scenarios. Although early in the investigation one scenario seemed the most likely one, it was important to keep investigating the other possibilities carefully. After all, it had to be an unprejudiced and impartial investigation. In future court proceedings those other scenarios may possibly play a role as well, because they might be presented by the defendants and their lawyers as alternative possibilities. In that case the Prosecution will have to be able to demonstrate that they did not take place.

Two scenarios could be ruled out quickly, as already mentioned previously. This concerned the possibility of an accident caused by technical or human failure, and the possibility of a terrorist attack from inside the aircraft. We have investigated both scenarios and there were no indications for these scenarios. The OVV had already drawn this conclusion on 13 October of last year.

Then, two scenarios remained:

First, the possibility that flight MH17 had been shot down by another airplane equipped with a



weapon system. This is the air-to-air scenario.

In the investigation so far, we have come to the conclusion that we can also rule out the air-to-air scenario.

What follows is the explanation about how we reached that conclusion.

If flight MH17 would have been shot down by another airplane, this plane would have been shown on the radar images. There has been quite some discussion about the radar data. The JIT has acquired sufficient and crucial radar images. These images were made available to the JIT by both Ukraine and the Russian Federation. Recently, through intensive investigation, the JIT found another video file containing relevant primary radar data of the area which had been recorded by a mobile radar in Ukraine. At the time, this radar was used to test new software. Although it had a limited range, it still detected flight MH17 and this completes the image further.

As far as we are concerned, the discussion about the radar images can be concluded. Today we wish to emphasize that the material that we now have is more than sufficient to draw conclusions in the criminal investigation. For building up a solid criminal file, it will not be necessary to gather more evidentiary material.

In addition to the radar images that we have, witnesses have been heard, such as the air traffic controllers who were working at that time; the JIT has an audio file of the conversations between the Ukrainian air traffic controllers and the airplanes that passed through the Ukrainian airspace on 17 July 2014, including flight MH17.

All these data together provide a sufficiently complete picture of the air traffic in the direct vicinity of flight MH17 and based on this picture the JIT concludes that there was no other aircraft flying in the vicinity of flight MH17 that could have shot it down. This conclusion in itself can already rule out that scenario.

The Russian Federation mentioned last week that they have found 'new' primary radar images. Based on those images even the Russian Federation concludes that there was no second airplane that could have shot down MH17.

Moreover, there is much other evidence that contributes to the evidence of the final scenario, being: Flight MH17 was shot down by a ground based air defence system.

On the basis of a large amount of evidence we can conclude that this is indeed the scenario which took place.

The results of the criminal investigation with regard to the weapon used and the location from where this weapon was fired will be illustrated with the aid of three videos in which we show a selection of our evidentiary material. For a part real images will be shown, for another part there will be animated images, i.e. images created by us. In this respect, two remarks. In some of the intercepted telephone conversations, names of certain persons are mentioned. This does not mean that these persons are automatically suspects. The other remark concerns the spelling of place-

names in Eastern Ukraine. Some place-names are spelled differently, which is partly due to the differences in Ukrainian and Russian.

## Context

In the explanation of the situation in Eastern Ukraine in July 2014, the word ‘separatists’ is used regularly. The JIT believes it is important to explain that the term separatists refers to any person, regardless of his nationality or citizenship, who is fighting against the Ukrainian government troops in Eastern Ukraine.

In July 2014, heavy fighting was going on in the area southeast of Donetsk. The pro-Russian fighters were engaged in an offensive to force a passage to the border with the Russian Federation south of the conflict zone. During these fights, the Ukrainian army carried out many air strikes in order to stop this offensive. The pro-Russian fighters suffered greatly: there were many losses, both human and material. Intercepted telephone conversations show that during the days prior to 17 July, the pro-Russian fighters mentioned that they needed better air defence systems to defend themselves against these air strikes. In this respect, a BUK was discussed explicitly. Fact is that a BUK has a higher range than the air defence systems in use by the separatists at that moment, such as the Strela and Igla.

This can be illustrated with [several intercepted conversations](#) between two Russian speaking persons, who are fighting on the side of the pro-Russian fighters. These conversations are relevant to the investigation and took place in the evening of 16 July and the early morning of 17 July 2014.

The above shows that the pro-Russian fighters were in great need of a BUK air defence system *and* that it was actually delivered.

## Weapon

Based on the results of the criminal investigation it can be concluded that flight MH17 was shot down on 17 July 2014 by a missile of the 9M38 series, launched by a BUK TELAR. This is consistent with the conclusions drawn by the OVV of 13 October 2015. The BUK TELAR was brought in from the territory of the Russian Federation and subsequently also taken back to the Russian Federation.

In the animation it was explained [how the weapon works](#). This is important to know in the criminal investigation and also to determine the question of guilt.

## Forensic investigation

In the investigation we have made extensive use of forensic research. Partly thanks to this research, we have been able to establish that flight MH17 was shot down by a missile from the 9M38 series.

In the next animation it is explained how the [forensic investigation](#) has contributed to this

conclusion.

In addition to the forensic investigation, so-called [Arena tests](#) were performed. This means that a group of forensic experts from the JIT countries detonated a warhead and a complete missile in a prepared test environment. In this test environment aluminium panels, simulating an aircraft wall, were placed around the warhead and the missile. Surrounding the test area measuring equipment including high-speed cameras had been installed.

During these arena tests several measurements were carried out, such as the velocity of the fragments from the warhead after detonation. Also, the damage pattern became visible by the perforations of flying fragments from the warhead and the missile in aforementioned aluminium panels. The results of these tests were compared with other investigation data, including the different metal parts which were found during the forensic investigation. The main purpose of these tests was calculating the trajectory of the missile and comparing the nature of the damage with the traces found at the crash site.

## **The route and launch site**

The BUK TELAR that was used was brought into Eastern Ukraine from the territory of the Russian Federation. The investigation team has been able to make an accurate reconstruction of a large part of the route which was followed by the BUK TELAR and accompanying vehicles. Initially, we did this mainly based on intercepted telephone conversations and videos and photographs on the social media. Following the call for witnesses last year, several witnesses replied and were interviewed by the JIT. They also stated that they had seen the BUK TELAR driving by.

The JIT investigated several possible launch locations, including two locations in the vicinity of the town of Zaroschenke or Zaroshchenskoye. Among other locations, this area was indicated by the Russian Ministry of Defence as being the launch site. It was also mentioned that this area was allegedly controlled by Ukraine. However, the investigation showed that this was not the launch location. And besides this, it appeared that this area was not being controlled by Ukraine, but by pro-Russian fighters. To illustrate this there is the following [intercepted telephone conversation](#) between two pro-Russian fighters.

This conversation took place in June 2015 and is about the information that apparently was distributed at that time, saying that the Boeing (flight MH17) was allegedly shot down from the city of Zaroshchenskoye (or: Zaroschenke) by an air defence system. One of the participants in that conversation knows for sure that Zaroshchenske was not the launch site and that, at the time, Zaroshchenske was not controlled by the pro-Russian fighters. The JIT also has other evidence in support of these conclusions.

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conversation knows for sure that Zaroshchenske was not the launch site and that, at the time, Zaroshchenske was not controlled by the pro-Russian fighters. The JIT also has other evidence in support of these conclusions.

In order to establish the exact location of the launch site, the JIT conducted different kinds of investigations. These investigative activities were carried out in Ukraine, Belgium, Australia and the Netherlands and involved forensic, tactical and digital investigations. Among other activities, a team of specialists visited the disaster area in June 2015. Ground samples were taken at different locations that were regarded as possible launch sites. These samples were examined in detail by the Dutch Forensic Institute (NFI). Network measurements were also carried out on the spot in order to determine the locations, as well as the range of the telephone towers. Furthermore, all kinds of visual material was evaluated and checked for authenticity. Witnesses were interviewed as well, among others by a Dutch Investigating Judge.

During the past two years, the investigation team collected a large quantity of evidentiary material about the launch site. Our conclusion is that the location of the launch site is an agricultural field near Pervomaiskiy. It concerns a field of approximately 500 x 600 metres. This is the highest spot in the area within a radius of 5 kilometres. The farmland is surrounded by trees, except for the western side. Previously the OVV had already concluded that the missile must have been launched from an area of 320 square kilometres south east of Grabovo. The farmland near Pervomaiskiy is located in this area.

This conclusion is supported by the material which the investigation team recently obtained from the United States and the European Space Agency. I will explain this briefly.

## **US**

In response to a Dutch request for legal assistance, the US submitted a report in which they present their assessment of the information regarding the shooting down of flight MH17. This report can be used in court. The conclusion of the American authorities is that flight MH17 was shot down by an SA-11 surface-to-air missile, i.e. a BUK-missile, which was launched from a site about six kilometres south of the village of Snizhne in Eastern Ukraine. This is consistent with the distance to aforementioned launch site near Pervomaiskiy. The US also explain how they reached this conclusion. In addition, they mention that they are sure of the fact that the Ukrainian air defence systems could not have done it and that an air-to-air scenario is impossible.

The Dutch Military Intelligence Service (MIVD) and the (Dutch) National Public Prosecutor on Terrorism have been able to view the underlying state-secret (intelligence) material and based on that information and the explanation provided, they support the fact that this conclusion is drawn.

## **ESA**

The European Space Agency (ESA) has aided the investigation team extensively in the search for relevant images from satellites. This has shown to be of great value: Not only did ESA obtain images of all relevant civilian satellites, but they also have experts who have assessed these images.

The conclusions drawn by ESA confirm the conclusions of the investigation team with regard to the launch site.

In the following animation we will show a [selection from our investigation results](#).

## **Conclusions**

Based on the above the JIT concludes that flight MH17 was shot down on 17 July 2014 by a missile of the 9M38 series, launched by a BUK TELAR, from farmland in the vicinity of Pervomaiskiy (or: Pervomaiskiy). At that time, the area was controlled by pro-Russian fighters. Furthermore, the investigation also shows that the BUK TELAR was brought in from the territory of the Russian Federation and subsequently, after having shot down flight MH17, was taken back to the Russian Federation.

## **Those involved**

So much for our conclusions regarding what happened. Probably not everything of this, is new. But what matters today is that the criminal investigation has now advanced to the point where we can substantiate abovementioned conclusions with evidence. Of course, at the end of the day it is up to a court to render judgment.

What remains is the answer to the question: who were responsible for this? Which persons were involved in the delivery, security and removal of the BUK TELAR and/or the shooting down flight MH17? In this part of the investigation significant progress has been made during the past two years, but more investigation is needed. Now that we know for sure what happened to flight MH17, in the coming period the investigation can fully focus on the answers to these kinds of questions.

Although today we have not been able to provide investigation results regarding the perpetrators, we can say that in the meantime, we have identified approximately 100 persons who in one way or the other can be linked to the crash of flight MH17 or the transport of the BUK. We have been able to establish the identity of these 100 persons, whom we found through different sources such as intercepted telephone conversations and witness statements. This concerns people who have played an active role in getting hold of the BUK TELAR and organising the transport to the launch location. There are also persons who had a facilitating or supporting role. This group includes the people who escorted the transport of the BUK TELAR.

These persons are not automatically suspects. To assess whether persons who were involved acted culpably, and can therefore be regarded as suspects, it is important to get a better picture of the chain of command with regard to the use of the weapon. Who gave the orders for the delivery of the BUK TELAR? Who gave the order to shoot down MH17? Did the crew take their own decision or did they execute a command from higher up? What did the persons who were involved in this operation know? All these kinds of circumstances play a role when answering the question whether someone should be regarded as a witness or as a suspect.

It is important to the JIT to gain more insight into the role of the different parties involved, which is also the reason why today, we once more call witnesses to report to us. In particular we invite insider witnesses, who can tell us more about the role that different persons have played, to report to the JIT.

Ukrainian law provides for lower sentences, and in certain circumstances relief from criminal liability, for those who cooperate with the investigation. Information about how to report as a witness can be found on the [website of the JIT](#).

Furthermore, this afternoon we will post a number of intercepted telephone conversations on the website of the JIT, requesting information about certain participants in those conversations. Anyone who knows who these persons are, is requested to report this to the JIT.

Finally, the question as to how long will it take to conclude the criminal investigation cannot be answered yet. It depends on further developments in the investigation and the witnesses we can still hear. After today, this investigation will continue unabated.

In view thereof, the JIT agreement that was to expire next month, was extended. We will continue as a Joint Investigation Team to see this important investigation to a good end.

N.B. The animations have been included for illustrative purposes only. They are not intended to be an exact rendering of the results of the investigation. This is due, in part, to considerations regarding confidentiality of witness identities and investigative methods.

## **Annex 392**

Joint Investigation Team, Report, Findings of the JIT MH17 investigation into the crew members of the Buk TELAR and those responsible in the chain of command, 8 February 2023





# Report

Findings of the JIT MH17  
investigation into the crew  
members of the Buk TELAR and  
those responsible in the chain of  
command

February 2023

OPENBAAR MINISTERIE

**JIT MH17**  
Joint Investigation Team

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# 1 Introduction

On 17 July 2014 Malaysia Airlines flight MH17 crashed in eastern Ukraine, as a result of which all 298 passengers and crew were killed. The victims were nationals of the Netherlands, Malaysia, Australia, Indonesia, the United Kingdom, Belgium, Germany, the Philippines, Canada, New Zealand, Vietnam, Israel, Italy, Romania, the United States and South Africa. The countries that lost nationals in the crash joined together to conduct a joint investigation. This led to the establishment of the Joint Investigation Team (JIT), an international body made up of investigators from the Netherlands, Australia, Malaysia, Belgium and Ukraine.

Over the course of the investigation, the JIT published findings – firstly in 2016 and 2018, in regard to the circumstances of the crash; and secondly in 2019, in regard to the three Russians and one Ukrainian suspected of being responsible for the downing of flight MH17. In July 2014, these four suspects were military commanders of the so-called Donetsk People's Republic (DPR). On 19 June 2019 the Dutch Public Prosecution Service decided to prosecute these four individuals for the downing of flight MH17.

Dutch criminal proceedings against these four DPR fighters began on 9 March 2020. On that first day of the trial, the Public Prosecution Service explained why it had decided to prosecute these four commanders and no other members of the DPR. That assessment has not changed. On 17 November 2022, The Hague District Court found three of the four defendants – Igor Girkin, Sergei Dubinskiy and Leonid Kharchenko – guilty of causing flight MH17 to crash, resulting in the deaths of all 298 occupants, and of the murder of those occupants.<sup>1</sup> The court sentenced those three defendants to life imprisonment. The fourth defendant, Oleg Pulatov, was acquitted.<sup>2</sup> No appeal has been lodged against this judgment.

Besides examining the degree of responsibility borne by members of the DPR for the downing of flight MH17, the JIT also investigated the crew of the Buk TELAR (the missile launch vehicle used to hit MH17) and those responsible for supplying this weapon system. This investigation has been ongoing, and has now reached its limits: all investigative options have now been exhausted. The investigation will therefore be suspended. The investigation resulted in various findings, but they do not at this time provide any basis for new prosecutions. In the interests of the next of kin and the general public, the JIT and the Dutch Public Prosecution Service will make these findings public. In doing so, they are complying with national and international obligations to keep the next

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<sup>1</sup> Judgments of The Hague District Court, 17 November 2022, ECLI:NL:RBDHA:2022:12216/12217/12218.

<sup>2</sup> Judgment of The Hague District Court, 17 November 2022 ECLI:NL:RBDHA:2022:12219.

of kin<sup>3</sup> and the general public<sup>4</sup> informed. In addition, the JIT is aware that state responsibility proceedings are under way, and that this information could be relevant in that connection.

This report does not explain every detail of the investigation conducted by the JIT. There are various interests preventing such a step, such as the security and privacy of relevant individuals, potential further investigation and any prosecution that might occur in the future. However, the JIT is disclosing findings that could provide more insight into the factual circumstances in which flight MH17 was shot down, and the potential level of responsibility that various parties may bear for the crash.

No names are mentioned in this report unless they have previously been publicly disclosed in this context (for example in relation to the criminal proceedings, a previous witness appeal by the JIT or public-domain publications by third parties), or they concern individuals known to the public whose identities can be deduced from the context of the findings. In each case, the JIT has weighed up the rights of the next of kin and the general public to information and the interests of the individuals concerned. Everyone referred to in this report – regardless of whether or not they are mentioned by name – is innocent until the court finds, by final and unappealable judgment, that the reverse has been proven. Lastly, where most of the people mentioned are concerned (apart from Girkin, Dubinskiy, Kharchenko and Pulatov), it has not been possible for the JIT to get their side of the story. This is because these individuals could not be traced, or are located in the Russian Federation and the Russian authorities have provided no effective cooperation in respect of the investigation. In some cases, contact with the JIT would also expose an individual to security

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<sup>3</sup> In accordance with article 51aa, paragraph 1 of the Code of Criminal Procedure; article 51ac, paragraphs 1 and 2 (d, e and f) of the Code of Criminal Procedure; Victims' Rights Instructions, Chapter 4, Public Prosecution Service; Directive 2012/29/EU of 25 October 2012, consideration (26) ('When providing information, sufficient detail should be given to ensure that victims are treated in a respectful manner and to enable them to make informed decisions about their participation in proceedings. (...) This is equally relevant for information to enable a victim to decide whether to request a review of a decision not to prosecute') and (27) ('In exceptional cases, for example due to the high number of victims involved in a case, it should be possible to provide information through the press, through an official website of the competent authority or through a similar communication channel'; Article 2 of the European Convention on Human Rights (ECHR) (see e.g. ECtHR 29 January 2019, 36925/07 (*Güzelyurtlu and Others v. Cyprus and Turkey*), §219: '(...) the investigation must be accessible to the victim's family to the extent necessary to safeguard their legitimate interests'); Office of the United Nations High Commissioner for Human Rights, 'Promotion and Protection of Human Rights: Study on the right to the truth', E/CN.4/2006/91, paragraph 38 ('the material scope of the right to the truth has also expanded to include other elements. These may be summarized as the entitlement to seek and obtain information on: the causes leading to the person's victimization (...) and the identity of perpetrators');

<sup>4</sup> ECtHR 11 July 2014, 28761 (*Al Nashiri v. Poland*), § 495: 'Furthermore, where allegations of serious human rights violations are involved in the investigation, the right to the truth regarding the relevant circumstances of the case does not belong solely to the victim of the crime and his or her family but also to other victims of similar violations and the general public, who have the right to know what has happened'); Office of the United Nations High Commissioner for Human Rights, Promotion and Protection of Human Rights: Study on the right to the truth E/CN.4/2006/91, paragraph 58 ('The right to the truth also has a societal dimension: society has the right to know the truth about past events concerning the perpetration of heinous crimes, as well as the circumstances and the reasons for which aberrant crimes came to be committed, so that such events do not reoccur in the future.')

risks. In one or two cases, a relevant individual has already commented publicly on the findings of the JIT investigation. If so, that response is included in the report.

Below (in Chapter 2) the report will first reflect on the facts which were established by The Hague District Court by final and unappealable judgment on the basis of the JIT investigation, and which provide the point of departure for the present report. It will next discuss the findings that arose from the JIT's detailed investigation into the precise origin of the Buk TELAR used to down MH17 (Chapter 3), the Buk TELAR's crew and their superior officers (Chapter 4), the individuals responsible for supplying the Buk TELAR (Chapter 5) and other individuals involved in the Buk TELAR's deployment (Chapter 6). Lastly the report will set out why the JIT and the Dutch Public Prosecution Service see no more grounds for further investigation or prosecution (Chapter 7).

Although the investigation has now been suspended, the case file will not be permanently closed. Any new information will be assessed by the JIT, and altered circumstances may prompt the resumption of the investigation.

## 2 Judgment of The Hague District Court

In its judgment<sup>5</sup> of 17 November 2022, the court established various facts on the basis of the JIT's investigation and the criminal proceedings. These facts are important for the interpretation of the JIT's additional findings.

### 2.1 Involvement of Russian authorities in DPR armed conflict

The district court first established that, from mid-May 2014, the Russian authorities had such far-reaching involvement in the DPR conflict in eastern Ukraine that the Russian Federation exercised overall control over the DPR.

The court referred in this regard to the fact that several DPR leaders had close ties and maintained contacts with individuals in the Russian intelligence services, the Russian Presidential Executive Office and advisers from the Kremlin. What is more, various DPR leaders were themselves Russian and had a Russian military background. The court further established that in the course of their contacts with senior figures in the Russian Federation the DPR leaders frequently requested assistance, including military equipment, and that such assistance was provided. According to the court there are 'ample indications' that the Russian Federation adopted a coordinating role and issued instructions to the DPR. Lastly, the court referred to evidence of mutually coordinated military actions by the DPR and Russian Federation. In this connection the court cited reports by various organisations about Russian military personnel regularly crossing the border, and cross-border attacks and intercepted telephone conversations by DPR members, including Dubinskiy and Pulatov, about Russian shelling.

See the following considerations given in the judgment:

*The background of members of the DPR*

*Several of the leaders of the DPR at the time were Russian nationals, and a number of them also had a background in the Russian armed forces. For example, the accused Girkin, at the time Minister of Defence of the DPR, is a Russian national, served in the Russian intelligence agency (FSB) and took part in the wars in Chechnya, Transnistria and Bosnia. His deputy in the DPR and 'head of intelligence' in the DPR, the accused Dubinskiy, is also a Russian national, has a background in the Russian military intelligence agency (GRU) and took part in the wars in Afghanistan, North Ossetia and Chechnya. It is not always clear, however, in what capacity the leaders within the DPR were involved in the DPR. Although several of them indicate that they were retired (reservists) in the Russian Federation and came to Ukraine independently and voluntarily, it is not clear whether this is actually the case or whether they were sent there by the authorities of the Russian Federation. Based on intercepted*

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<sup>5</sup> The judgments in the cases against the four defendants are cited as a single judgment in this report because the same facts are established in them. For easy reference, this report consistently refers to the judgment in the case against Igor Girkin (ECLI:NL:RBDHA:2022:14037).

*conversations, at least some of them appear to have had a close connection with the Russian Federation. For example, there was communication between the leaders of the DPR and Surkov, who was then the closest adviser to the Russian President Vladimir Putin, regarding appointments to several ministerial posts within the DPR. In an intercepted conversation recorded on 16 May 2014, Borodai said that the government (of the DPR) was about to be announced, that Moscow had surprised him, and that he would be appointed Prime Minister, much to the disappointment of another individual who had arrived in eastern Ukraine from Moscow. Borodai was indeed appointed Prime Minister of the DPR shortly after this intercepted conversation took place. On 15 May 2014, a conversation was intercepted between Borodai and the Chairman of the Supreme Council of the DPR regarding the appointment of a named individual to the post of Minister of the Interior; during that conversation, it was said that the candidate in question "suits Moscow" and that the "Moscow Generals" agreed. In another conversation later that day in which the same Chairman of the Supreme Council took part, he also said that the list of government posts for "the hero city" should not be made longer and that one named individual would certainly not sit on the Security Council because he had not been approved by Moscow. Furthermore, the person who at that time was Minister of Culture of the DPR stated in a witness interview that the Deputy Prime Ministers of the DPR came from Moscow and had significant influence over the functioning of the DPR.*

*Around the period to which the charges relate, several of the leaders of the DPR maintained ties with individuals from Russian intelligence agencies, the President's office, and Kremlin advisers. Intercepted conversations regularly contain references to contacting "Moscow". One example is a conversation between Dubinskiy and Bezler on 4 July 2014, in which Dubinskiy says that Girkin has been in touch with Moscow, and that Moscow does not want Sloviansk to be surrendered. The court also refers to a conversation that Girkin had on 10 July 2014 in which he told Dubinskiy that he was constantly on the telephone trying to get in touch with Moscow to report on the situation. Contact was maintained with various high-ranking individuals in the Russian Federation, sometimes using special communication channels ("the Glass") and secure telephones supplied by the Russian Federation. For example, Borodai, the leader of the DPR, was in almost daily contact with Surkov between 20 June 2014 and August 2014. In an interview on 16 June 2014, Borodai referred to Surkov as "our man in the Kremlin".*

*It is the opinion of the court that these references to "Moscow" and "the hero city" cannot be interpreted in any way other than as references to the seat of government, and are therefore understood to refer to the authorities of the Russian Federation.*

*Support In their communications with senior figures within the Russian Federation, the leaders of the DPR regularly requested support such as the manpower, military equipment and requisite training. This support was indeed provided.*

*Statements made by representatives and reports by organisations such as NATO, the UN Security Council, the US State Department, the OSCE, and Human Rights Watch all mention the supplies and arms provided to the separatists from the Russian Federation. There are also references to convoys of military weapons which were said to have been brought across the border. This is consistent with what can be heard in intercepted conversations. For example, in one conversation intercepted on 12 June 2014, Dubinskiy says that it has become clear that Russia will provide support, including heavy weapons; in another conversation on 20 June 2014, Kharchenko tells Dubinskiy that the second convoy that came across the border is not what they were expecting; and on 15 July 2014, Girkin*



mentions expecting a shipment – a big thing that will be very good for “us” and which will need to be received at the border. Although intercepted conversations do not always reveal whether the weapons and supplies mentioned came from private providers or from the Russian government, the Minister of Culture of the DPR stated that Borodai forwarded requests for weapons from the Council of Ministers of the DPR to the GRU. Following approval by the GRU, the weapons were brought into Ukraine via the “Black Zero” (by which the court understands: illegal border crossing). The court also notes that NATO repeatedly called on the Russian Federation to stop providing support and weapons to the Ukrainian separatists.

Witness statements also mention funding for the DPR provided by the Russian Federation. For example, the person who at that time was Minister of Labour and Welfare of the DPR stated that the person who arranged the funding received it with the cooperation of the Russian President’s office and that the Russian Federation had been funding the DPR since at least the summer of 2014. Support coming from the Russian Federation is also mentioned in intercepted conversations. For example, in a conversation on 13 July 2014, one fighter for the DPR complained about the situation with kit and salaries, to which the response was that “they” are going to Rostov today for a shipment. The intercepted conversations do not generally mention the source of funding within the Russian Federation directly, other than to state that this was often routed via Rostov. The court concludes that this is a reference to the Russian city of Rostov.

Several witness statements mention military training programmes for DPR fighters which took place in the Russian Federation. This often involved training in Rostov (again, the Russian city). Intercepted conversations also include references to training programmes and a training camp. In one conversation that was intercepted on 2 July 2014, separatists talked about their urgent need for manpower and when the “men from the camp” will arrive, and on 3 July 2014, a fighter from the DPR said that the guys went “across the river” to train. Again, it is not always clear whether this training was provided privately or organised by or on behalf of the Russian authorities. However, one conversation by the person who at that time was Minister of Defence of the DPR, with which the DPR was cooperating, makes a clear reference to the role of the Russian GRU in this. In that conversation on 15 July 2014, the Minister was told about a training programme that was being provided for ten persons, to which the Minister replied that this should be done through the GRU. Some of the witness statements also reveal the involvement of Russian bodies in training programmes. For example, witness M58, who will be discussed later, stated that he was taken to the FSB and then to a camp in Rostov, Russia, where he received training. After that he was taken to the Donbas region.

#### *Coordination and instructions*

Of particular relevance to the question of whether there was overall control – regardless of the background of the members of the DPR and the Russian Federation’s support for the DPR – is whether the Russian Federation assumed a coordinating role and issued instructions to the DPR. It is the opinion of the court that the case file contains abundant evidence for this. As indicated previously, many intercepted conversations include reports to “Moscow” or people working for “Moscow” regarding the situation on the ground, such as setbacks and successes. A number of intercepted conversations also attest to planning on the part of the authorities of the Russian Federation. For example, in a conversation intercepted on 3 July 2014, Surkov informed Borodai that Antyufeev (court: who became Deputy Prime Minister for State Security of the DPR shortly thereafter) was on his way to Borodai and that “they” will be leaving for the south on Saturday so that they will be ready for combat. Later, on 11 July 2014, Surkov told Borodai that he had spoken to those in charge of “this whole military story”

*and that they had indicated that they were making preparations and they were going to accelerate everything. Additionally, on 10 July 2014, a leader of the DPR called to say that he had received an order in Moscow to form the first Cossack Regiment of Novorossiia.*

*Intercepted conversations also mention Moscow's role in specific operations. In a conversation regarding Sloviansk intercepted on 4 July 2014, a DPR commander says there has been communication with Moscow, but that Moscow does not want Sloviansk to be surrendered. The DPR's Minister of Defence, the accused Girkin, stated in an interview given in July 2014 that this order was not followed because no concrete support was forthcoming. In a telephone conversation on 18 July 2014, two members of the DPR discussed the encirclement of a Ukrainian brigade. One of the two interlocutors stated that he had been in contact with Moscow and that Moscow had indicated that the lives of the soldiers should be spared. In a similar vein, a series of telephone calls between Borodai and a Russian number made on 21 July 2014 is noteworthy. Borodai wanted to speak to the boss, but the boss was not available. Increasingly insistently, Borodai asked if the boss could call him back because he needed advice and instructions on how to handle certain aspects of the MH17 disaster, such as the refrigerated trucks and the black box. Borodai would also like to receive talking points for a press conference. Borodai noted at that point that he assumed that "our neighbours" would want to say something about this matter. It is the court's opinion that the fact that Borodai talked about "our neighbours" and asked about "the boss", even though he himself was the highest-ranking person within the DPR, confirms that the boss he was referring to was a representative of the authorities of the Russian Federation.*

#### *Direct participation of the Russian Federation*

*Reports and communications from various organisations mention shelling and artillery fire on Ukrainian territory, which is said to have been carried out from the Russian Federation. From the first half of July 2014 onwards, Russian soldiers would regularly move across the border and cross-border attacks would take place. One investigation by the International Partnership for Human Rights indicates that there was artillery fire on a Ukrainian encampment close to the border with the Russian Federation in early July 2014, and in an official notice issued on 16 November 2016 the Netherlands Military Intelligence and Security Service also states that, between 11 July 2014 and 17 July 2014, rocket artillery units located in Ukrainian territory close to the Russian border fired on unknown targets in Ukraine. According to the report, the vehicle tracks and traces of firing found showed that artillery installations entered Ukraine from Russian territory. Witnesses have also provided statements regarding Russian equipment manned by Russian military personnel, which crossed the border, fired shells and then returned. Intercepted conversations also confirm that such strikes took place. For example, in a conversation between two members of the DPR intercepted on 12 July 2014, the interlocutors mention that Russia had finally begun to open fire on the Ukrainian armed forces. In another conversation intercepted on 16 July 2014, two members of the DPR - namely the accused Dubinskiy and Pulatov - discuss the problems they were having because they were under fire. Pulatov indicated that Russia could let loose, to which Dubinskiy replied that he has indicated positions on the map that will be sent to Moscow. In a conversation on 17 July 2014, accused Dubinskiy said that Russia intended to fire on their positions from its side. These conversations are just a few examples of a number of similar intercepted conversations in the case file. All of this indicates not only some form of parallel direct involvement but also, and more importantly, coordinated military activities by the DPR and the Russian Federation.*

*To date, the Russian authorities have denied any involvement in the conflict in eastern Ukraine during*

*the period in question. However, with respect to the foregoing, the court finds that the case file certainly shows that funding, men, training, weapons and goods were all provided to the DPR by the Russian Federation. In addition, as of mid-May 2014 at the latest, the Russian Federation had a decisive influence on appointments to several senior positions within the DPR, including those of Prime Minister and Minister of Defence. This gave the Russian authorities considerable influence over the leadership of the DPR. The fact that the Russian Federation did indeed exercise influence is apparent from the fact that the Russian authorities were involved, at times directly, in coordinating and carrying out military activities even prior to the crash of flight MH17.*

*In view of the above, the court concludes that the Russian Federation exercised overall control over the DPR from mid-May 2014, at least until the crash of flight MH17. This means that the armed conflict, which was non-international in geographic terms, was internationalised and was therefore an international armed conflict.*

*The court therefore finds that on 17 July 2014, an international armed conflict between Ukraine and the DPR was taking place on Ukrainian territory, and that the DPR was under the overall control of the Russian Federation.<sup>6</sup>*

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<sup>6</sup> Judgment of The Hague District Court, 17 November 2022, ECLI:NL:RBDHA:2022:14037, 4.4.3.1.3.

## 2.2 Russian origin of the Buk TELAR

The court also established that the Buk TELAR that was used to shoot down flight MH17 came from the Russian Federation. The weapon was transported by DPR fighters in the night of 16-17 July 2014, and after MH17 had been shot down it was quickly taken back to the Russian Federation. On the morning of 18 July 2014 the Buk TELAR was handed over and taken to the Russian Federation at the Ukrainian-Russian border near the village of Severniy.

See for example the following considerations by the court:

Then around nine o'clock in the morning, a single Buk M is delivered to Donetsk by Bibliothekar, on a trailer. The Buk comes from the Russian Federation and, on Dubinskiy's orders, travels directly to Pulatov in the corridor, where it will solve the problems of bombardment by high-flying Sushkas. Kharchenko receives the instruction from Dubinskiy to escort the Buk, to position it in the vicinity of Pervomaiske and to guard it there with his men.

(...)

During the night and early morning of 18 July 2014, there is much telephone traffic about the removal of the Buk TELAR. The calls take place between the persons responsible for the removal, men of the DPR and the LPR, who are in contact with each other, and also with the two crew members present, but also at the level of the Ministers of Defence of the DPR and the LPR. In that process, a misunderstanding arises about the escorting of the Buk TELAR from the border between the DPR and the LPR, up to the agreed end point: the border with the Russian Federation at Severniy. Girkin becomes very angry at Dubinskiy, and instructs him to sort it out. Dubinskiy attempts to get this done via Kharchenko. However, the misunderstanding is not solved overnight, as the telephones prove unreachable. In the early morning it becomes clear that, under the escort of Bibliothekar, the Buk TELAR has been taken to the Russian border and has arrived there. Only when that becomes clear are Dubinskiy and Girkin at ease.

(...)

The court concludes from the foregoing that in the night of 16 to 17 July 2014, DPR fighters delivered a Buk TELAR from the Russian Federation. The need for anti-aircraft artillery of this kind had long been felt, and following heavy fighting on 16 July 2014, whereby the DPR suffered heavy losses without being able to effectively defend itself, the system was more than welcome. The Buk TELAR that was delivered in the night and early morning was therefore sent on, immediately following its receipt in the morning of 17 July 2014, to the front line on the corridor between Snizhne and the border with the Russian Federation to the south of Snizhne, and in the afternoon of 17 July 2014 was deployed in the area occupied by the DPR near Pervomaiskyi in their fight against the Ukrainian army. As a consequence of that deployment, not a Sushka, but flight MH17 was downed and the 298 occupants of that flight were killed. After it became clear that this disaster had been caused by the deployment of the Buk TELAR, the said weapon was rapidly returned to the Russian Federation, in the expectation of preventing an international outcry.<sup>7</sup>

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<sup>7</sup> Judgment of The Hague District Court, 17 November 2022, ECLI:NL:RBDHA:2022:12217, 6.2.4.4

## 2.3 Buk TELAR with crew

The district court established not only that the Buk TELAR had come from the Russian Federation, but also that it was accompanied by a full crew. As early as 8 June 2014, Girkin reported to the self-proclaimed prime minister of Crimea, Sergei Aksyonov, that the DPR needed air defence weapons with a greater range than MANPADS, as well as trained crews to operate them. On 16 July 2014, when the situation was becoming dire for the DPR, the requested weapon was provided: a Buk TELAR with crew. Pulatov called the telephone number of one of the crew members when the weapon was being transported to Ukraine and when it was being returned to Russia. Immediately after MH17 had been shot down, one crew member initially remained behind at the launch location, but ultimately the crew travelled back to the Russian Federation, together with the trailer-mounted Buk TELAR.

This is shown by the following facts as established by The Hague District Court:

The intercepted conversations and visual material, viewed also in the context of the aforementioned evidence, lead the court to conclude that after a period of ceasefire, fighting between the separatists and the Ukrainian army resumed in late June - early July 2014, and that the separatists were suffering from the bombing and shelling by the Ukrainian army. On 8 June 2014, by which time he had been active in eastern Ukraine, operating from Sloviansk, for about eight weeks, Girkin already reports this fact in a conversation with Aksenov, the Prime Minister of the Republic of Crimea who requested Girkin to become actively involved in the conflict in eastern Ukraine. Girkin mentions to Aksenov the need for military support from the Russian side, in order to achieve success in the conflict against Ukraine. This includes air defence weapons, including systems with a longer range than Manpads. Girkin wants the desired military equipment to be supplied accompanied by trained crew, because the DPR has no time for training. Aksenov is working on the request, and assistance and coordination from Russia appear to be forthcoming.

(...)

It is also clear from the intercepted conversations that the fighting is arduous; enemy positions cannot be broken through, and the Ukrainians are carrying out air strikes with Sushkas, and continuous artillery fire by the Ukrainians has led to many deaths and injuries on the side of the DPR. (...) The DPR fighters can do nothing against the Sushkas: although two Sushkas are downed by them that day with their Manpads, for the most part the Sushkas fly too high to strike them with the means available to the DPR. Especially because the Strela is also broken. The Strela is due to be removed for repair in the coming night (the night of 16-17 July 2014), Pulatov reports to Dubinskiy. For that reason, Pulatov has no need for tanks, but for decent anti-aircraft defence, he informs Dubinskiy. Dubinskiy then expresses the wish to DPR fighter Sanych to receive a Buk, which he could then send to the corridor that morning, otherwise the prospects do not look good. Dubinskiy tells Pulatov that if he receives delivery of a Buk M that night, then it will be sent directly to Pulatov and that the said Buk M is their only hope. In light of the difficult course of the conflict, caused by heavy artillery fire and air strikes, and Dubinskiy's and Pulatov's complaints about the situation, the wish to have a Buk M must be seen as an expression of the desire to have access to a larger and more powerful weapon in order to be able to defend themselves against the constant Ukrainian (air) attacks. A Buk M would be very suitable for that purpose.

(...)

While the Buk TELAR is en route from the Furshet to Pervomaiskyi, Pulatov makes three unsuccessful attempts to call a telephone number ending in -6335. In the court's opinion, it is sufficiently established that this is the number of a crew member of the Buk TELAR. This follows from the fact that at the moment Pulatov calls this number, the called telephone communicates with a transmission mast on Gagarina Street in Snizhne, and at that precise moment, according to intercepted conversations and the aforementioned video footage, a Buk TELAR is driving under its own power along Gagarina Street in Snizhne towards Pervomaiskyi. This fact, in combination with the fact that historical telecom traffic of that evening shows that - after Kharchenko has requested him to contact the crew of the Buk TELAR because a crew member has been left behind at the launch site - Pulatov made four calls to this number within more than ten minutes, convincingly demonstrates in the opinion of the court that this must have been the number on which a crew member of the Buk TELAR could be reached. All the more so since this number was only in use on 17 July 2014.

(...)

As already indicated above, immediately following the crash of MH17, attention was focused on securing the Buk TELAR, but that changes after several hours, and orders are given to remove the Buk TELAR. All these conversations take place after the conversations about which aeroplane was shot down by the Buk TELAR of the DPR fighters. Because he is too busy because of the crash of MH17, at half past eight Girkin instructs Dubinskiy to evacuate the Buk TELAR and to remove it to the border between the DPR and the LPR, where it will be picked up. The court deduces from this that before issuing this instruction, Girkin must have been in contact with the LPR, which is shown to be the case later that evening. Dubinskiy immediately makes a start on carrying out this instruction and notifies Kharchenko that the Buk TELAR must be taken to the region border and that a trailer will be provided for that purpose. When Kharchenko sets to work and wishes to pick up the Buk TELAR at the checkpoint, he hears from his subordinate that the Buk TELAR has already left for Snizhne under its own power. A short time later, it emerges that one of the crew members has been left behind at the checkpoint. Kharchenko instructs his subordinate to take the crew member to the Furshet and asks Pulatov to seek contact on this matter with the other crew members of the Buk TELAR. However, these attempts are unsuccessful.<sup>8</sup>

(...)

Witness S21, call sign 'Leshy', is one of the people whom Kharchenko tasked with the removal. Witness S21 provided a statement about the progress of the first part of the journey. He stated that the Buk TELAR had been driven into Snizhne on a trailer with a white cab and was to be taken from Snizhne to Krasnyj Luch, where escorting would be handed over to others. S21 states that the plan for handing over the escorting of the Buk TELAR then changed and he travelled with the Buk TELAR as far as Debaltseve, after which the crew continued travelling with the trailer itself towards Luhansk. They knew the way from there. This statement is corroborated both by the content of several intercepted

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<sup>8</sup> Judgment of The Hague District Court, 17 November 2022, ECLI:NL:RBDHA:2022:12217, 6.2.2.4.

conversations on S21's phone and by the transmission mast data, in which the route driven by S21 can be traced from Snizhne via Krasnyj Luch to Debaltseve. Although S21 did not comment on the further route towards the border with the Russian Federation, he did state that the crew wanted to follow the familiar route. The court considers that the route from Debaltseve via Luhansk corresponds to the route very likely to have been taken the day before on the outward journey. The following evidence confirms that this route was followed on the return journey. In a conversation between Bibliothekar and Dubinskiy, Bibliothekar said he had removed 'the box' and that it was now there, in that area. A minute later, Dubinskiy called Girkin and told him that Bibliothekar had personally taken it there. The court understands this to mean that the Buk TELAR had been taken across the border into the Russian Federation. Bibliothekar's telephone pinged several transmission masts on the route between Debaltseve and Luhansk that night, placing the telephone – and thus also the Buk TELAR – in Luhansk at 04:51, after which the telephone continued moving eastwards. The court has established that the Buk TELAR that was in Pervomaiskyi that night, at that time, was travelling in that direction through Luhansk and thus can be seen in this video. This Buk TELAR was captured in various kinds of visual material on the morning of 17 July 2014 as it made its way to Pervomaiskyi. A simple comparison of the number of missiles on the Buk TELAR shows that one missile was missing that night, after the disaster, a missile that had still been present that morning, before the disaster.<sup>9</sup>

## 2.4 Responsibility for deployment of Buk TELAR and launch of Buk missile

In its judgment the district court also referred to the broader responsibility for the deployment of the Buk TELAR and the downing of flight MH17.

In this regard the court established that the use of a Buk TELAR requires a well-trained crew and proper preparation, and that the launch of a Buk missile must follow a specific procedure. This means that a Buk missile cannot be fired by accident or on a whim. Furthermore, according to the district court, the downing of an aircraft flying at high altitude will inevitably result in the death of everyone onboard. According to the court, the crew had no justification whatsoever for shooting down aeroplanes or other aircraft in eastern Ukraine. Since the deployment of the Buk TELAR in this case was not intended to be a deterrent but was intended to actually shoot down aircraft, with all the consequences that would entail, the district court concluded that the crew of the Buk TELAR and anyone who contributed to the deployment of this weapon had deliberately (and with premeditation) caused an aircraft to crash and the deaths of everyone onboard.

In this connection the court held that the actions of the crew when firing the Buk missile at MH17 could not be established, nor could the identity of the individual who gave the order to fire. Furthermore, it could not be established whether the missile was deliberately fired at a civil aircraft, or whether it was launched in the belief that MH17 was a military aircraft. The court considers it completely implausible that a deliberate decision was made to shoot down a civil aircraft, and it is plausible that MH17 was shot down by mistake.

See the district court's following considerations in the judgment:

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<sup>9</sup> Judgment of The Hague District Court, 17 November 2022, ECLI:NL:RBDHA:2022:14037, 6.2.2.4

*Why was MH17 downed: intent, unlawfulness and premeditation*

The court notes - along with the prosecution and counsel for defendant Pulatov - that the actions of the crew of the Buk TELAR when launching the Buk missile at MH17 cannot be established on the basis of the case file. The case file also fails to identify who gave the instruction to launch a missile, and why that order was given.

The court has found that the Buk missile was fired from a farm field near Pervomaiskyi and that that area was under the control of the DPR at the time. The Buk TELAR was deployed in the DPR's fight against the Ukrainian armed forces, to bring down Ukrainian military aircraft. Indeed, DPR forces were suffering greatly from air strikes by Ukrainian military aircraft.

In what is known as the target acquisition process that precedes the firing of a weapon such as a Buk TELAR, a target is identified in order to achieve a certain effect. The target is then checked, and a decision is made whether or not to fire a missile. These steps and decisions are not only related to the technical functioning of a weapon system such as a Buk TELAR, but are also prescribed for participating in hostilities, according to international humanitarian law (the law of war). Consideration must also be given to whether the deployment of the weapon will or can result in damage to unintended objects or victims. This may lead to the decision to abandon or abort deployment of the weapon, for example, if it is recognised that the target is in fact a civil aircraft.

The case file contains no information about what occurred in the Buk TELAR just before the Buk missile was fired. Therefore, the court cannot determine whether a civil aircraft was deliberately shot at or whether the missile was fired in the assumption that MH17 was a military aircraft. However, the court can determine the following.

A Buk weapon system is primarily intended to be used to shoot down (enemy) aircraft. The death of enemy occupants may also be an intended purpose of shooting down the aircraft, but it need not be. Due to the enormous destructive power of the weapon and its effects, which effects the court itself observed during its inspection of the reconstruction, and the weapon's great altitude range, the likelihood of those on board the aircraft surviving the attack is nil, and anyone deploying a specialised, expensive weapon such as a Buk TELAR is aware of this. Operating a Buk TELAR requires a well-trained crew. Furthermore, the weapon cannot be casually deployed. Deployment demands the necessary preparation, including designation of and transport to a location where the weapon can be used. Making the system ready and the actual firing of a missile follow a set procedure, described previously. It is precisely this extensive preparation, consisting of many steps, that leads to the conclusion that the opportunity existed to think about and consider the intended act. The court finds it plausible that that opportunity was indeed used.

This means that the firing of a Buk missile is neither accidental nor does it happen on a whim. Instead, it is very deliberate and well-considered, according to a set method of operation (prescribed by technical requirements). Therefore, in the court's opinion, it can be said that there was intent and a certain deliberation concerning the firing of the missile at the target in question, and that the nature of the weapon and the purpose of its use mean that it is clear what the consequences of the intended firing would be, namely, the destruction and crashing of the aircraft and, in all probability, the death of all those on board.



Bringing down this aeroplane, which was flying at an altitude of ten kilometres, in this way, in the opinion of the court, automatically would lead to the death of all those on board. Legally speaking, this means that the intention of the crew of the Buk TELAR was to take the lives of those on board of this aircraft and that this was done with premeditation. There is no evidence of any indication to the contrary to which more weight should be given. Also, the intention of the crew was to cause this aircraft to crash by firing a Buk missile, although this was likely to endanger the lives of the occupants of said aircraft, as a result of which 298 people died. The crew was in no way justified in shooting down aircraft, meaning the unlawfulness of that action is a given.

Since the deployment of a Buk TELAR in this context was aimed at downing one or more aircraft with all that this entails, it must be assumed that the aforementioned intent and premeditation were present not only on the part of those who fired the missile, but also on the part of anyone who contributed to making the deployment of this weapon possible. As previously considered, there is no indication that those who played a role in enabling the deployment of this weapon assumed that the weapon would not actually be deployed. That they contributed to that deployment with the intention that it would bring down a military aircraft and not a civil aircraft does not change this, as will be explained below.

#### *Mistake scenario*

Before the court addresses the question of whether these charges can be proven with regard to the accused, the court will consider whether the possibility or even likelihood that it was thought that the aircraft that was shot down was a military aircraft, and that there was no intention to strike a civil aircraft (error in objecto/persona), is of any significance in assessing intent in this criminal case. First and foremost, the court considers it completely implausible that a civil aircraft was deliberately downed. Not only because it is impossible to see what purpose that would have served, but also because neither the case file nor the trial provide any indication of this. On the contrary, the statement of M58, who was present in the field, and the telephone reactions following the downing of MH17 rather show that those involved initially thought that they had succeeded in shooting down a Ukrainian military aircraft. A mistake being made is something the court does find plausible, especially in a situation where only a Buk TELAR operating independently is being used and no other aircraft are flying nearby with which the target can be compared. Therefore, the court will proceed on the assumption that it was believed a military aircraft was being downed.

In a situation where the wrong target is mistakenly impacted in the execution of a crime, case law of the Netherlands Supreme Court, among others, holds the physical perpetrator of the crime responsible without prejudice. The reasoning here is that in the crime of murder, the intent is to kill another person with premeditation, and if it turns out afterwards that not the intended person, but another person was killed, the definition of the offence is still met, namely that another person was intentionally killed. In the court's view, this also applies to intentionally and unlawfully causing an aircraft to crash. If in retrospect it turns out that a different type of aircraft than the intended type was shot down, the definition of the offence is still met. The fact of the matter is that, in the absence of combatant privilege, killing a soldier warrants punishment as much as killing a civilian, and shooting down a military aircraft warrants punishment as much as shooting down a civil aircraft. Further, if the intention was to shoot down an aeroplane that should not have been shot down and an aeroplane was shot down that should not have been shot down, then, at the very least, the substantial likelihood of killing people who also should not have been killed was accepted. In the eyes of the law, there is no difference between the two aircraft, nor the status of those on board. Therefore, the mistake does not negate the intent or premeditation.

(...)

In the court's opinion, it is incorrect to impose the requirement of conditional intent or a different degree of culpability in the case of a remote participant - unlike in the case of a physical perpetrator - when determining whether a mistake made by the physical perpetrator can be imputed to this remote participant. After all, it is equally true that these remote participants knowingly played a role in a crime. The fact that the execution of that crime mistakenly involved the wrong victim should not absolve the participant of responsibility any more than the physical perpetrator. In concrete terms, those who have played a criminally culpable role in the deployment of a Buk TELAR with the purpose of shooting down a military aircraft (a similarly proscribed act) are therefore responsible for the consequences of that unlawful deployment for that reason alone, even if the crew of the Buk TELAR mistakenly shot down a civil aircraft instead of a military aircraft in the execution of that crime.

(...)

Contributing to this is the fact that the evidence shows that this particular Buk TELAR was deployed in the fight that the DPR was waging against the Ukrainian military authorities, and indeed, this Buk TELAR was used to fire a missile from an area held by the separatists in combat to establish a corridor that was of great importance to those separatists (and their battle). Indeed, the corridor connected the part of the Donbas that the separatists already controlled to the Russian Federation, providing a direct and short supply route for equipment to the occupied Donbas area. In light of the DPR's objective of achieving greater independence from Ukraine, by force if necessary, whereby control and authority had already been taken (in part of) the Donbas, the Buk TELAR was an essential weapon to achieve that goal, given Ukraine's military air superiority in the conflict on the days around 17 July 2014, specifically in the area around Snizhne. Thus, all actions related to obtaining and deploying the said Buk TELAR contributed towards the realisation of the DPR's goal. As a result, it can be stated that the Buk TELAR, regardless of who concretely had authority and command over its deployment and regardless of the specific instructions given to its crew, was for the use and benefit of the DPR.<sup>10</sup>

In the course of the investigation conducted over the past eight-and-a-half years, the JIT has been unable to find sufficient information regarding these three points (deliberate attack versus mistake; the crew's actions when launching the missile; order to fire). This report will describe the findings of the JIT's investigation into the Buk TELAR, its crew, their superior officers and those responsible for supplying and deploying the Buk TELAR.

## 2.5 Denial and obstruction by the Russian Federation

Contrary to the established facts, the Russian authorities have to date denied any involvement in the conflict in eastern Ukraine in 2014. They also deny any involvement in the downing of flight MH17. In its judgment the district court established that on multiple occasions the Russian authorities presented falsified evidence in support of this denial:

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<sup>10</sup> Judgment of The Hague District Court, 17 November 2022, ECLI:NL:RBDHA:2022:14037, 6.2.5.3.

The authorities of the Russian Federation, to which Almaz-Antey is affiliated, have - as the court has found above - wrongly denied any involvement in the conflict in eastern Ukraine. In addition, they have denied any involvement in the MH17 disaster. In the context of that denial, the authorities of the Russian Federation have repeatedly presented evidence that sought to show that the Ukrainian authorities, rather than the authorities of the Russian Federation, were responsible for the MH17 disaster. On several occasions, however, this so-called evidence was found to have been falsified or there were evident traces of manipulation.<sup>11</sup>

This stance by the Russian authorities has also had an adverse effect on the investigation into the crew, their superior officers and those responsible for supplying the Buk TELAR to the DPR. It has not been possible to conduct any investigative activities in the Russian Federation, and questions about Russian involvement posed in the context of a request for legal assistance remain unanswered.

## 2.6 Conclusion

In summary, the district court established that:

- the Russian authorities had far-reaching involvement in the DPR conflict from mid May 2014;
- the Buk TELAR used to down flight MH17 came from the Russian Federation accompanied by a crew;
- anyone who contributed to the deployment of the Buk TELAR bears responsibility for the downing of flight MH17;
- the specific actions of the crew when firing the Buk missile, and the identity of the individual who gave the order to fire, are not known.
- it is completely implausible that a deliberate decision was made to shoot down a civil aircraft, and it is likely that MH17 was hit by mistake;
- contrary to the established facts, the Russian authorities have to date denied any involvement in the conflict in eastern Ukraine and on multiple occasions have presented falsified evidence.

These facts, as established by the district court, are relevant to the interpretation of the investigation findings discussed below.

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<sup>11</sup> Judgment of The Hague District Court, 17 November 2022, ECLI:NL:RBDHA:2022:14037, 6.3.2.5.

## 3 Origin of the Buk TELAR

The district court established, on the basis of various evidence gathered by the JIT, that the Buk TELAR used to shoot down MH17 had come from the Russian Federation. The JIT conducted a detailed investigation into the unit to which this Buk TELAR belonged.

### 3.1 Identification of the Buk TELAR

During the criminal proceedings the Public Prosecution Service extensively discussed the investigation into the unit to which the Buk TELAR belonged.<sup>12</sup> The identification of the Buk TELAR took place in several steps.

First, the video footage and photos taken of the Buk TELAR in Ukraine on 17 and 18 July 2014 were investigated. The court designated this material as authentic images of the Buk TELAR used to down MH17, and included those images in the evidence. These images can therefore also be used to identify the Buk TELAR. The visual material from Donetsk, Makeevka, Torez and Luhansk is of such a high quality that a total of 15 specific features of the TELAR are recognisable. On the basis of both the combination and location of these 15 features, it is possible to identify the Buk TELAR.

To determine the origin of the TELAR, the JIT went in search of other visual material of a TELAR with exactly the same combination of features. In the process, investigators located visual material of a Russian military Buk convoy that had moved from Kursk in the Russian Federation in a southerly direction along the Russian-Ukrainian border from 23 to 25 June 2014. The last images of the convoy, which comprised a complete Buk system<sup>13</sup> including six TELARs, were captured in Millerovo, in the Russian Federation. The visual material consists of 21 video files and nine social media posts containing one or more images. The convoy includes a Buk TELAR with a tactical vehicle number on the left-hand side beginning with 3, followed by a small white stripe and ending in 2. This vehicle is referred to hereafter as '3X2'. This Russian Buk TELAR '3X2' had 14 of the 15 specific features of the Buk TELAR used to down flight MH17. The 17-18 July 2014 images of the Buk TELAR used to down MH17 do not show a vehicle number on the left-hand side, only a diagonal stripe and a small white stripe. Investigation has revealed that when a vehicle is to be deployed in an operation, it is common practice to sand away or paint over the tactical vehicle number so that it cannot be identified. In both its form and location, the 15th specific feature of this Buk TELAR – the remnants of a tactical vehicle number on the left-hand side in the form of a diagonal stripe and a small white stripe – precisely matches the '2' and the abovementioned 'small white stripe' of the vehicle number of the Russian Buk TELAR '3X2'. Thus, the Buk TELAR which was used to shoot down MH17 and which is visible on the images captured in Ukraine on 17 and

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<sup>12</sup> Explanatory notes on the investigation into the main scenario (hearing of 8-10 June 2020) and the public prosecutor's closing speech (hearing of 20-22 December 2021).

<sup>13</sup> See section 4.2 for explanation of further information concerning the Buk system.

18 July 2014 matches all 15 specific features of the Buk TELAR '3X2' visible on the images filmed in the Russian Federation between 23 and 25 July 2014.

The third and final step was to investigate the uniqueness of this match in respect of the 15 specific features. To do so, investigators searched for Buk TELARs other than '3X2' with the same combination of specific features. First, they assembled a data set of around 1.3 million images of possible Ukrainian and Russian Buk systems. An automated search tool developed by the Netherlands Forensic Institute was used to search within these images. This automated search resulted in 463,584 images that potentially showed all or part of a TELAR. Each of these images was then examined by eye for the presence of a Buk TELAR. This manual search resulted in 2,481 images showing one or more Ukrainian and Russian Buk TELARS (or parts thereof). Each of these 2,481 images was examined to determine whether the aforementioned 15 specific features were present. The outcome of this examination was that no Buk TELARs with the same combination of features as the TELAR in the Ukrainian visual material from 17 and 18 July 2014 and the '3X2' in the Russian visual material from 23 to 25 July 2014 were found in these images.

### 3.2 Military unit

Investigators next tried to determine which unit this Russian Buk-TELAR '3X2' belonged to. To this end, they looked at the images from 23 to 25 June 2014 and social media posts. It was an eye-catching convoy which attracted considerable attention. Over the course of its journey, the convoy was captured in various photos and videos, which were later found online.

One video of the convoy, filmed on 24 June 2014, showed five number plates belonging to the Russian 53rd Anti-Aircraft Missile Brigade (AAMB). The 53rd AAMB works with Buk systems and its base is located in Marshala Zhukova, near Kursk. The brigade is sometimes also identified by its military postcode 32406. This convoy's route was reconstructed using geolocation of the images filmed between 23 and 25 June 2014. This showed that the convoy of 23 to 25 June 2014 had travelled from Kursk in a southerly direction along the Russian-Ukrainian border. The convoy was last visually documented in the Russian town of Millerovo in the Rostov region.

In addition to visual material, a large number of social media posts regarding this convoy were found online. These messages were posted by military personnel of the 53rd AAMB and their relatives, among others. The content of these messages show that the convoy in question was from the 53rd AAMB from Kursk and was travelling to the Rostov region.

On the basis of these findings, the JIT concluded that the Buk TELAR that downed flight MH17 had come from the 53rd AAMB from Kursk in the Russian Federation.

## 4 Crew of the Buk TELAR and commanders

In its judgment, the court not only noted that the Buk TELAR that shot down MH17 was from the Russian Federation, but also that it came to Ukraine with a crew. It also noted that, after the downing of MH17, the Buk TELAR returned with its crew to the Russian Federation. The JIT assumes that the crew and the Buk TELAR belonged to the same military unit.

The court also established that it was unknown who had given the relevant orders to the crew, what they entailed and why the crew fired a Buk missile at MH17 at that particular moment. The court agreed with the JIT's conclusion that the crew used the Ukrainian phone number ending in -6335.

In order to find the answer to the question of *why* flight MH17 was shot down and who can be held responsible, an investigation was conducted into the identities of the crew members and their superiors. After all, they should be able to answer that question. The following section first discusses the scope of the investigation. Then it highlights the findings of the investigation into the composition and organisation of the 53rd AAMB, the military command structure, the deployment of the 53rd AAMB at the Russian-Ukrainian border, the methods used to identify the Buk TELAR and the possible crew members of the Buk TELAR and their immediate commanders.

### 4.1 Scope of the investigation

A complicating factor in this investigation was the absence of any telecommunications with the crew. The phone number ending in -6335 was active in Ukraine only on 17 July 2014. This number was not tapped, and its user was not in contact with any numbers that *were* being tapped; only one call was made on 17 July 2014 involving this number. The content of this one call is unknown. So there are no conversations involving the crew that could shed light on their identities or the circumstances under which they fired the Buk missile. Nor are there any conversations in which the crew's identities or the reasons for firing the missile are discussed. Unlike the investigation into the DPR fighters responsible, in which intercepted phone conversations formed the bulk of the evidence, there was no relevant telecom data in the investigation into the crew, their assignment and their immediate commanders.

Other investigation methods and various sources were used – where necessary with authorisation from the examining magistrate – in order to acquire information from and about military personnel of the 53rd AAMB. For instance, the JIT gained access to the contents of a number of inboxes, two of which belong to officers of the 53rd Brigade. These inboxes contained transport orders and other documents that proved relevant to the investigation into the 53rd AAMB's activities in the summer of 2014. Specifically, the material concerned a number of long deployments in the Russian region bordering the Donbas in eastern Ukraine. The route taken by Buk TELAR '3X2' to that border region was instrumental in the investigation into the crew members and their commanders. That route could possibly be used to identify the individuals involved, as was done in the investigation into the DPR fighters. The same is true for the route taken by Buk TELAR '3X2' after

the downing of flight MH17, after it crossed the Russian border. The investigation into these routes is described in this report.

An extensive investigation of public sources also took place. This included the securing of satellite images. In addition, satellite images were made available by the Netherlands Defence Intelligence and Security Service (MIVD) and the European Space Agency (ESA). The range of military and other radar systems positioned in the Russian Federation was also investigated.

The JIT also issued several calls for witnesses, both online and in video messages and letters. Many witnesses were interviewed as part of the investigation into the crew, including members of the 53rd AAMB. In so far as they yielded relevant information, those interviews are discussed in this report.

In addition, the social media accounts of members and former members of the 53rd AAMB were monitored and travel movements were traced. This social media investigation verified the above-mentioned orders, among other things. On the basis of the investigation results, several military personnel were identified and it was established that several members of the 53rd AAMB, who were not mentioned by name in the orders, were deployed in the border region at the time of the downing of MH17.

In order to be able to interpret the findings, an investigation was conducted into the composition and organisation of the 53rd AAMB and the Russian military command structure.

## 4.2 Composition and organisation of the 53rd AAMB

The 53rd AAMB, which is part of the Russian army, is responsible for operational air defence in a particular area. In 2014 the 53rd AAMB consisted of a staff and communications company, a technical support company and three operational battalions. The full brigade comprises over 700 active personnel (conscripts, contract soldiers and officers).

The battalions carry out the air defence tasks. Each battalion has a full Buk system consisting of 11 Buk vehicles: a command vehicle (CP), a radar vehicle (TAR), three launch vehicles without radar (TELL) and six launch vehicles with radar (TELAR). Secured documents from March 2015 showed that each battalion had 123 positions for conscripts, contract soldiers and officers. A battalion is commanded by a battalion commander and his deputy and has its own battalion staff.

Each battalion is divided into three companies (referred to as batteries). Each company has two TELARs and one TELL and is commanded by two officers. The command vehicles (CP) and the radar vehicle (TAR) serve all three companies. The court's judgment proceeds from the assumption that one (autonomous) Buk TELAR was deployed.

As a rule, the crew of a Buk TELAR consists of four personnel: a commander, a first and second operator and a driver. The commander is in charge of the vehicle and communicates with the battalion or brigade command. He is the only person on board who is authorised to launch a missile. For this purpose he has a 'commander's key', which is needed to carry out a launch. The commander is an officer who has completed a five-year training programme in which he has

learned how to command all types of Buk vehicle. An operator is responsible for reading out the systems and adjusting them where necessary. His tasks can also be carried out by the commander. An operator is usually a contract soldier or a conscript. Operator training takes two months and focuses on a specific type of Buk vehicle. Drivers are also often contract soldiers or conscripts. In addition to driving the vehicle, they must also be able to maintain and repair it. The investigation did not yield any information about driver training.

### 4.3 Military command structure

In 2014, the commander of the 53rd AAMB was Colonel Sergei Muchkaev. Under Russian military law, the commander is the sole person responsible for the conduct of military operations, and he can be expected to know the current status of his unit.<sup>14</sup> The 53rd AAMB is responsible for air defence in the area under the responsibility of the 20th Guards Army in the Western Military District of the Russian armed forces. If a unit of the 53rd AAMB carries out operational tasks outside its own district, responsibility for those tasks lies with the leadership of the district in question. In the case of the deployment of Buk TELAR '3X2' in 2014, that means the leadership of the Southern Military District. The commander of this district is under the command of the Chief of the General Staff of the Russian armed forces and the Russian Minister of Defence, Sergei Shoigu. The Chief of the General Staff and the Minister of Defence, for their part, are subordinate to the President of the Russian Federation, Vladimir Putin. As commander-in-chief of the Russian armed forces, President Putin has ultimate military authority.<sup>15</sup>

Formal authority does not automatically lead to actual control over the deployment of the Buk TELAR. Chapter 5 discusses the investigation into the Russian decision to provide a Buk TELAR and crew to the DPR.

### 4.4 Deployment of the 53rd AAMB

It follows from the images and social media posts discussed earlier that the convoy with Buk TELAR '3x2' was a convoy of the second battalion of the 53rd AAMB, which drove from its military home base near Kursk to Millerovo between 23 and 25 June 2014.

Various documents were secured from the available in-boxes, including transport orders and related documents, addressed to Russian military personnel who in 2014 were working for regional military traffic units (the 47th and 56th VAI), but also documents that can be linked to the personnel and materiel department of the 53rd AAMB.

In the summer of 2014, the 47th and 56th VAI were involved in escorting various 53rd AAMB transports, including the convoy that travelled from 23 to 25 June 2014. It is clear from the available documents that the final destination of this convoy was Nizhnemityakin, a village

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<sup>14</sup> Articles 75 and 76 of the Presidential law of November 2007, No. 1495 (adjusted on 21-02-2019), established as general military legislation of the armed forces of the Russian Federation.

<sup>15</sup> <http://en.kremlin.ru/structure/president/authority/commander> (last consulted on 5 December 2022)



southwest of Millerovo. Nizhnemityakin is around 15 kilometres from the Ukrainian border and around 40 kilometres from the Ukrainian border crossing at Severniy. This is where the Buk TELAR and its crew were handed over by a DPR fighter with call sign Bibliothekar on the morning of 18 July 2014. Near that location, that same Bibliothekar collected the Buk TELAR and crew in the early morning of 17 July 2014, after it had been brought over the border from the Russian Federation.

#### **4.4.1 Movement of Buk TELAR '3X2' and other Buk vehicles to the border region**

On the basis of the above-mentioned Russian military orders and other sources, an investigation was conducted into this movement of Buk TELAR '3X2' from the brigade base in Kursk to the border region. The whereabouts of Buk TELAR '3x2' in the period from 25 June 2014 until the moment it crossed the Russian-Ukrainian border in the early morning of 17 July 2014 were investigated as well. An investigation was also carried out to find out what could have happened to this TELAR after it returned to the Russian Federation via the Ukrainian-Russian border crossing at Severniy on the morning of 18 July 2014. In addition the team investigated which members of personnel of the 53rd AAMB went to the border region in that period. All of this was done on the basis of the notion that having a solid grasp of the Buk TELAR's movements could shed light on the crew.

The JIT confirmed the authenticity of these orders and documents on the basis of their provenance and validated the contents by comparing them with other sources. These orders and documents concern, among other things, various deployments of the 53rd AAMB in the summer of 2014. The orders relate to the transport of materiel and personnel from the military home base in Marshala Zhukova (near Kursk) to the border region with Ukraine on three occasions: from 23 June 2014, from 15 July 2014 and from 19 July 2014. These documents also contain information about the return of personnel and materiel from Volchenskiy, south of Millerovo, and Glubokiyy to the home base in late September and early October 2014.

Buk TELAR '3X2' was part of the convoy of 23 June 2014. The orders show that on 23 June 2014, personnel and materiel of the 53rd AAMB, escorted by the 47th and 56th VAI, left the military base in Kursk and drove for two days to the final destination of Nizhnemityakin in the Rostov region.

The route described in the orders matches the route that can be deduced from the available images of this convoy. Those images show 11 combat vehicles which together form a Buk battalion: a command vehicle (CP), a radar vehicle (TAR), three launch vehicles without radar (TELL) and six launch vehicles with radar (TELAR). These Buk vehicles were transported by road on Kamaz tractor-trailer combinations, the visible number plates of which matched the registration numbers listed in the orders.

Vehicle numbers can be seen in the images on nine of the eleven Buk vehicles. One of them is Buk TELAR '3X2'. The other eight identifiable Buk vehicles each have a vehicle number beginning with '2'. The first digit of a vehicle number denotes the battalion to which the vehicle belongs. This means that Buk TELAR '3X2' was from the 3rd battalion, whereas the other Buk vehicles in this convoy were from the 2nd battalion. The second digit of the vehicle number denotes one of the three companies (or batteries) of the battalion in question, and the third digit (which for a TELAR is always a 1 or a 2) denotes one of the two TELARs of the company (or battery) in question. The vehicle numbers of the six Buk TELARs of the 2nd battalion are therefore 211, 212, 221, 222, 231 and 232. The first convoy, from 23 to 25 June 2014, indeed included five TELARs with vehicle

numbers 211, 212, 221, 231 and 232, but no TELAR with vehicle number 222. The sixth TELAR in this convoy is the '3X2', and it appeared to be in the convoy in place of the TELAR with vehicle number 222.

The orders contain no information about the objective of the deployment of Buk TELAR '3X2' and other materiel near the Ukrainian border. It is known, however, that as early as February 2014 Putin gave the order 'to conduct a sudden comprehensive check of the combat readiness of the troops/forces from Western Military District and Central Military District and some military branches' and that in March 2014 Minister of Defence Shoigu announced 'surprise exercises'. On 1 June 2014, the Russian Ministry of Defence also announced that from that day onwards more than 300 exercises would be conducted throughout the summer. Shoigu then reported on 19 June 2014, at a private meeting with several members of the Duma, that the armed forces were ready to fulfil any task given by 'the country leadership and supreme commander'. A document from the commander of the 53rd AAMB of November 2017 discusses the history of the brigade. For the year 2014 it mentions 'strategic exercises in unknown territory'.

In 2018, in a request for legal assistance, the Public Prosecution Service asked the Russian Federation where the Buk TELAR with vehicle number '3X2' was in the period between 23 June and 23 July 2014. This question remained unanswered. According to the Russian authorities there was no evidence pointing to the presence of any Russian Buk TELAR in eastern Ukraine, and therefore there was no reason to answer the question about the whereabouts of the TELAR bearing the number '3X2' between 23 June and 23 July 2014.

According to the orders, on 15 July 2014 a convoy consisting of 48 passenger and transport vehicles left for the same border region. These orders do not mention Buk vehicles. These orders and other documents do show, however, that from 15 July 2014 a total of 193 military personnel of the 53rd AAMB were deployed to a place south of Millerovo, presumably Volchenskiy.

In order to verify the orders, the investigation also looked at the orders relating to the convoy of 19 July 2014. These orders concern the transport of, among other things, 10 Buk vehicles to the border region. It follows from other documents and secured images that these were vehicles from the 1st battalion. A satellite photo of the home base of the 53rd AAMB of 18 July 2014 shows loaded tractor-trailer combinations lined up. Images from 19 and 20 July 2014 show 11 Kamaz tractor-trailer combinations, carrying 10 Buk vehicles and one armoured vehicle. The route that these vehicles took matches the route described in the orders. The vehicles described in the orders also match the images.

As mentioned above, the 53rd AAMB consists of three battalions. It follows from the combination of the orders and the secured images that the 1st and 2nd battalions were deployed in the summer of 2014. Nothing specific was found that would point to the movement of any other vehicles of the 3rd battalion to the border except '3X2'.<sup>16</sup> The conclusion that the 3rd battalion was not independently deployed follows from the investigation of public sources. In the summer of 2014, Russian students underwent training with the 53rd AAMB. The photos they posted on VK show

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<sup>16</sup> It should be noted that the convoy of 19 July 2014 included two covered Buk TARs. As the vehicle numbers of these TARs are not visible, it is not known to which battalion they belong.

vehicles of the 3rd battalion. Their posts mentioned that the photos were taken at the home base of the 53rd AAMB in the period from 22 June to 25 July 2014.

#### **4.4.2 Withdrawal of Buk vehicles of the 1st and 2nd battalions**

A memorandum was found with the orders, with information about the withdrawal of personnel and materiel of the 53rd AAMB, including the Buk vehicles. The memorandum is dated 23 September 2014 and signed by the acting commander of the 53rd AAMB. It refers to 'combat directive 399' of the command centre of the Western Military District. According to this directive of the Western Military District, the staff and the 1st and 2nd battalions of the 53rd AAMB were to be withdrawn to the brigade base near Kursk between 26 September and 1 October 2014. As regards the Buk vehicles, the order says that one command vehicle, one radar vehicle, two TELLs and four TELARs of the 1st battalion were to be removed and one command vehicle, one radar vehicle, three TELLs and five TELARs of the 2nd battalion.

The memorandum contains no information about the removal of the sixth TELAR of the 2nd battalion, which was transported to the deployment area in the convoy from 23 to 25 June 2014. Nor does it contain any information about the second radar vehicle and the fifth TELAR, which according to previous orders were transported to the deployment area in the convoy of 19 July 2014. According to the memorandum, all the Buk vehicles were to be transported by rail, and not – as on the way to the deployment area – by road. To this end they were ordered to rendezvous on 27 September 2014 at the 'field positions of the 1st battalion', two kilometres southeast of Volchenskiy. The memorandum also says that the 9M38 Buk missiles of the 1st and 2nd battalion would be dismantled on 24 and 25 September 2014.

The Buk vehicles that were to be removed were to rendezvous on 27 September 2014 near Volchenskiy. The JIT asked ESA about the availability of satellite images of the vicinity of Volchenskiy and the route from Volchenskiy to Kursk in the period from 27 September to 2 October 2014, as mentioned in the memorandum. There are no images of this route with sufficiently high resolution available for the period in question, with the exception of a satellite image of 29 September 2014. That image shows around 100 military vehicles lined up in rows near a railway line near Likovsky, around six kilometres southeast of Volchenskiy. No Buk TELARs can be identified in that satellite image.

A comparison of satellite pictures of the home base of the 53rd AAMB from 27 July and 2 October 2014 shows a substantial increase in the number of vehicles present on 2 October compared with 27 July 2014.

#### **4.4.3 Possible removal of TELAR '3X2' from 18 July 2014**

On the basis of the investigation it is plausible that the deployed Buk vehicles of the 1st and 2nd battalions returned to the home base of the 53rd AAMB in Kursk in late September 2014. However that does not necessarily mean that the Buk TELAR with which MH17 was shot down also returned to base at that time. It could also have been removed separately and at a different time. As mentioned earlier, the memorandum about the withdrawal of the 1st and 2nd battalions shows that one of the Buk TELARs of the 2nd battalion did not return to base.

As noted above, the transport of the Buk TELAR to the deployment area was instrumental to the investigation into the crew and their commanders; the same applies to its removal after the

downing of flight MH17. The JIT therefore investigated what happened after 18 July 2014 to the Buk TELAR that shot down MH17. It took into account the possibility that this weapon was brought back to the home base in Kursk shortly after the downing of MH17. It investigated the various ways in which this removal could have been carried out: by road, rail or air.

Due to the possibility that the removal took place by road, the JIT asked ESA about the availability of satellite images of the route between Severniy and Kursk from 18 July 2014 onwards. ESA's response was that it only had satellite images of Kursk air base. These images will be discussed later. For now it suffices to say that no Buk TELAR can be seen on them.

The Netherlands Defence Intelligence and Security Service (MIVD) provided a satellite photo from 20 July 2014 at 08:41, which shows a military site near Millerovo. A covered object can be seen on a low-loader. No other covered vehicles or low-loaders are visible on this satellite image. The external characteristics and dimensions of this covered object match those of covered vehicles on low-loaders that are visible in the satellite image of the home base of the 53rd AAMB of 18 July 2014 that was discussed previously. In addition, on 20 July 2014 a photo was posted on VK showing a covered military vehicle on a low-loader with a Kamaz truck. It is not known where or when this photo was taken. The outlines of the covered vehicle match those of a covered Buk TELAR in a video of 20 July 2014 showing the convoy delivering Buk vehicles of the 1st battalion. The registration number of the Kamaz truck on the VK photo does not appear in the video of the convoy of the 1st battalion, nor is it on the list of registration numbers in the transport orders for this convoy. A Kamaz truck with the same registration number as the one in the VK photo does appear in visual material from 23 June 2014 of the convoy of the 2nd battalion which delivered Buk TELAR '3X2'. On that occasion this truck was transporting an uncovered Buk TELAR; the photo from 20 July 2014 was therefore not taken during this previous convoy. The JIT has not been able to find any further information about this VK photo and satellite photo of a covered vehicle on a low-loader.

Witnesses were interviewed about the possible removal of the TELAR that downed MH17. One of them was S31. Witness S31 stated that, shortly after the downing of MH17, he spoke with a DPR fighter who was involved in the local air defence in Snizhne: Vladimir Tsemakh. This witness heard from Tsemakh that after the downing he had looked after a depressed crew member of the Buk and given him liquor. According to Tsemakh this crew member was later picked up by a vehicle, and left for Russia. The Buk was loaded on to a truck and taken away in the direction of Rostov. Tsemakh was interviewed about this by the JIT, and he disputed witness S31's version of events.

There is a marshalling yard a few hundred metres south of the location where the aforementioned covered vehicle was sitting on a low-loader on 20 July 2014. A railway line runs past the military base of the 53rd AAMB in Marshala Zhukhova, with a branch that leads to the military site. The JIT investigated whether Buk TELAR '3X2' returned to base by rail in the period after the downing, but found no evidence for this.

Lastly, the JIT considered the possibility that the Buk TELAR that downed MH17 was removed by plane. It is clear from telecom data that this Buk TELAR must have crossed the Ukrainian-Russian border on 18 July 2014 at around 06:00. According to the MIVD, on 18 July 2014 at 04:21 there were two Ilyushin Il-76 transport aircraft, which are capable of transporting a Buk TELAR, at the nearest air base, at Rostov-on-Don. On 19 July 2014 at 16:10 only one of those two aircraft was

still at this air base. That means that the other aircraft left the air base in the meantime. According to satellite images from ESA and Google Earth and information from the MIVD, on 18 July 2014 at 06:08, 10:27, 11:44, around midday and at 14:31 there was an Ilyushin Il-76 at a military air base in the vicinity of the home base of the 53rd AAMB at Kursk. The aircraft appears to be in the same spot at each time. ESA did not observe any similar aircraft at this air base in the period from 2010 to 2014 (inclusive). Assuming the Buk TELAR returned to the Russian Federation on 18 July 2014 at around 06:00, it could certainly not have been delivered to the air base at Kursk at 06:08. The flight distance from this air base to the air base at Rostov-on-Don is estimated at 600 kilometres. To date, the JIT has not been able to find any further information about the possible removal of the Buk TELAR by air.

After the video recorded in Luhansk in the early morning of 18 July 2014, the investigation found no further visual material that recognisably showed the Buk TELAR that downed MH17.

#### 4.4.4 Summary

Starting on 23 June 2014, Buk TELAR '3X2' travelled for two days in a convoy of the 2nd battalion of the 53rd AAMB to the region bordering the Donbas. Six Buk TELARs were transported in that convoy, one of which has been identified as the Buk TELAR that downed MH17: TELAR '3X2'. The JIT investigated what happened to Buk TELAR '3X2' after the downing of flight MH17.

It is clear from telecom data that it returned to the Russian Federation via the Severniy border crossing at around 06:00 on 18 July 2014. According to witness S31 the TELAR was transported to Rostov by truck. The JIT tried to trace its subsequent movements in the Russian Federation, investigating whether it was transported by road, rail or air.

No evidence was found of transport by rail. The JIT did, however, secure a satellite photo of 20 July 2014 of the Millerovo area, showing one covered vehicle on a low-loader, the shape and dimensions of which match the covered vehicles observed on 18 July 2014 in a satellite image of the home base of the 53rd AAMB. On 20 July 2014, an image was posted on social media of one covered Buk TELAR on a Kamaz truck. That same truck was part of the convoy of the 2nd battalion that departed on 23 June 2014 and which included TELAR '3X2'. It could not be established whether the covered vehicle in the satellite image was the same vehicle as the covered TELAR in the VK photo, nor whether it was TELAR '3X2'.

An investigation into the possibility of removal by air yielded the following results. When TELAR '3X2' crossed the Russian border on the morning of 18 July 2014, there were two Il-76s at the nearest military air base at Rostov-on-Don, which are capable of transporting a TELAR. The next day only one of these Il-76s was observed at this air base. It could not be established where the other Il-76 went. On 18 July 2014, at several points in time from 06:08 onwards, an Il-76 was observed at the military air base at Kursk. This Il-76 appeared to be in the same spot every time. ESA had not observed this before in satellite images of this location in the period from 2010 to 2014 (inclusive). The Il-76 that was present at this air base at 06:08 can in any case not have been an Il-76 from the air base at Rostov-on-Don that had transported Buk TELAR '3x2' to Kursk, as TELAR '3X2' crossed the border at Severniy at around 06:00 and can therefore not have been taken to Kursk by plane at 06:08.

The Russian authorities have refused to answer the question of where Buk TELAR '3X2' was in the period from 23 June to 23 July 2014. The memo concerning the withdrawal of the Buk vehicles of the 1st and 2nd battalions from 27 September 2014 onwards shows that one of the Buk TELARs of the 2nd battalion did not return to base. Whether this was TELAR '3X2' has so far not been established.

#### 4.5 The Buk TELAR's target identification systems

As part of the investigation into the question of why MH17 was downed, the JIT looked at the target identification options available to the crew of a Buk TELAR. Targets can be identified by linking up with an external radar system or by using either the TELAR's own radar, a military identification system that uses a transponder (Identification Friend or Foe (IFF) system) or the TELAR's camera. The Buk TELAR's IFF system can only identify military allies (friendly aircraft). Enemy aircraft and civilian aircraft are not recognised as 'friends', and the system thus designates them as 'foes'. In addition, on a cloudy day like the afternoon of 17 July 2014, the TELAR's camera cannot be used. In such cases, the crew can use the TELAR's own radar to identify or further identify a target. The radar can be used to establish the target's speed, altitude, heading and manoeuvrability. If several objects are detected and compared, the (relative) size of the target can also be established. Using the radar makes the Buk TELAR vulnerable, as it allows the TELAR to be detected too. For that reason, in enemy territory the TELAR's own radar is generally used as little as possible. Besides the TELAR's own radar, external radar data can also be used. The investigation showed that several (military) radar systems in the Russian Federation covered the airspace where MH17 was flying. Investigative activities also showed that from May 2014 onwards current Russian radar information was being shared with the 'people's army' in eastern Ukraine. The investigation could not establish whether this was also done on 17 July 2014 and whether that radar information – or other information relating to the target – reached the crew of Buk TELAR '3X2'.

The investigation therefore did not provide clarity as to what target information the crew of Buk TELAR '3X2' had on 17 July 2014 when they fired the Buk missile. Nor did the investigation provide clarity regarding any possible assignment the crew was sent to Ukraine to carry out. At the very least, this information would be known to the crew and their commanders.

#### 4.6 Crew members and commanders of the 53rd AAMB

The orders concerning the convoy that left the home base of the 53rd AAMB on 23 June 2014, which included Buk TELAR '3X2', do not contain any information about (the identities of) possible crew members who travelled with '3X2' between 23 and 25 June 2014. Orders and other documents have been secured, however, that show that from 15 July 2014 at least 193 military personnel of the 53rd AAMB were deployed to a place south of Millerovo, presumably Volchenskiy. That is the region to which the 2nd battalion travelled earlier. Given the contents of these orders and documents, these military personnel must have arrived in the border region before Buk TELAR '3X2' and its crew crossed the Russian-Ukrainian border in the early morning of 17 July 2014. They too were therefore included in the investigation into the crew.

These documents mention the 193 military personnel by name. On the basis of an investigation of other available documents and public sources, including social media, several of these military personnel can be linked to the 1st battalion and a small number to the 2nd and 3rd battalions.

#### **4.6.1 Brigade commander Muchkaev**

These deployed military personnel include several staff members, including the aforementioned commander of the brigade, Muchkaev.

In the criminal trial against Pulatov the court ordered that Muchkaev be interviewed as a witness. In response to a request by the examining magistrate, the Russian authorities indicated on 3 December 2021 that this interview could not take place, because they said the questions to be put to Muchkaev concerned 'military matters, to which a duty of confidentiality applies in accordance with Russian law' and an interview could 'compromise the state secrets of the Russian Federation'. It was possible in the course of the investigation, however, to interview Muchkaev's grandfather, who lived in Latvia until his death. He stated that he had heard from his daughter that his grandson Muchkaev was not involved in the downing of MH17. An investigation into the MH17 disaster was said to have been conducted in the Russian Federation and that investigation was said to have exonerated his grandson. The grandfather also stated that he had not seen his grandson for years and that they seldom spoke. According to him he never spoke about MH17 with his grandson.

Although it is plausible, in view of his role and responsibility, that Muchkaev was aware of the deployment of a Buk TELAR of his brigade on Ukrainian territory, the investigation found no specific evidence of this. There is no telecom data from which this could be deduced. Nor was it possible to confirm Muchkaev's presence in the border region at the time of the downing of flight MH17.

#### **4.6.2 Wider circle of possible crew members**

All military personnel of the 53rd AAMB for whom there were indications that they may have been in the border region when the Buk TELAR was deployed were investigated further. This includes both military personnel who travelled with the convoy of 23 June 2014 to that border region and military personnel who left the base in Kursk on 15 July 2014. Thirty-five officers among them could be expected, in view of their ranks and positions, to be capable of operating a Buk TELAR. However, these findings do not rule out the possibility that there were more officers present in the border region with the same skills. It was established that seven other military personnel for whom there were indications that they were in the border region worked as an operator in a Buk TELAR or as the driver of a Buk vehicle. This also does not rule out the possibility that there were other operators or drivers present.

A number of members of the 53rd AAMB were tracked down and interviewed as part of the investigation. The investigation team obtained a large number of chat messages. The participants in these chats include former members of the Russian 53rd Anti-Aircraft Missile Brigade (AAMB). In one of these chats a former member of the 53rd AAMB said, in response to questions about other people who were on deployment with him near the border with Ukraine in the summer of 2014, that everyone had to sign a confidentiality declaration. He denied having been in Ukraine during that deployment.

In another chat, individual A discussed their chat contact with another former member of the 53rd AAMB. The investigation team has been in contact with this former member of the 53rd AAMB and interviewed him as witness G8010. During this chat, individual A says that G8010 wrote to A that he had been in Ukraine three times and that in the summer of 2014 the 2nd battery of the 2nd battalion was based near Yelan in Rostov province.<sup>17</sup> The 3rd battery was based around five kilometres from Patronovka and the 1st battery possibly near Voikova, Duby or Mityakinskaya. Individual A sent part of his/her chat conversations with G8010 along. In one of the chats, G8010 says he has no information about the 'Volvo' or other moments related to 'the case'. It can be deduced from the context that 'the case' refers to the MH17 investigation. Various media previously reported on the delivery of the Buk TELAR on a trailer pulled by a white Volvo truck.

Witness G8010 confirmed to the investigation team that he was part of the 53rd AAMB in the summer of 2014. He told the investigation team that he was part of the convoy that left the base in Kursk on 23 June 2014. According to G8010, the final destination of this convoy was not revealed to contract soldiers or conscripts, but they ended up based in woods that were surrounded by agricultural fields. There were no houses or villages in the vicinity. G8010 spoke about his duties, but stated that he knew nothing about the specific mission. According to him such information was not shared by the officers. This interview ended abruptly, because the connection was lost due to a technical problem. After that point, the investigation team was no longer able to contact G8010.

In addition, the investigation team received information from another soldier of the 53rd AAMB: witness S45. By means of covert investigative activities, the investigation team established that S45 said that he was in Ukraine for six months, deep in the forests of the Donbas. According to S45 the 53rd AAMB's presence in Ukraine was a secret because there was no official armed conflict between Russia and Ukraine. For that reason it was also forbidden to be in contact with Ukrainians. The locations where S45 was based were always remote and scattered along the border. It was established that S45 stated that 'the incident with the Boeing' took place while he was in Ukraine. He was aware of rumours that his unit was responsible for it, but he did not believe that MH17 was downed by a Buk. The people who work with these systems know exactly how a Buk-M1 works and he thought a mistake would be unlikely. According to S45, people pointed to his unit in relation to the Boeing because they were the closest to the crash site. The distance was sufficient to be able to down an aircraft, in part because there was radar and a command post present. S45 said he knew nothing about the downing of the Boeing; he saw only a field, trees and combat materiel. While he was in Ukraine, several combat vehicles were brought from Russia to Ukraine and his unit also downed planes and a helicopter, but he said that he personally had not seen any shooting.

During police interviews, S45 told a different version of events. In those interviews he stated that in the summer of 2014 he had taken part in a deployment from the base in Kursk. He changed location during this deployment. He said the deployment had lasted several weeks and he did not know anymore exactly where he had been. The journey took at least 24 hours and rumour had it that Rostov was their destination. The base consisted of tents and a shower. There were no towns in the vicinity; there were fields everywhere and narrow wooded areas between the fields. When

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<sup>17</sup> 'Battery' means the same as 'company' here. A battalion consists of three companies. Each company has two Buk TELARs and one Buk-TELL.



MH17 was downed, S45 was deployed in a field, but he did not see a launch. By his own account S45 was not in Ukraine. He did not even see any combat aircraft or helicopters being downed during the field exercises. The combat vehicles of his battery<sup>18</sup> were not moved. Officers would sometimes leave, but not for long. In the police interview, S45 was unable to confirm the information that had been received from him during covert investigative activities. Nor was he able to answer the question of who the crew members were. He said he might have known, but he was unable to remember a lot of names. He stated that he was very scared and that he could no longer take any risks.

#### 4.6.3 Members of the 3rd battalion under the command of an officer

Through witness S28, the investigation team came into contact with another member of the 53rd AAMB: M1. Witness S28 stated that he made contact with military personnel of the 53rd AAMB via the social media platform VKontakte (VK), using the name 'Anastasia'. S28 was in contact via online chats with one of them, M1, for about a month. At the time, M1 no longer worked for the 53rd AAMB. Investigation has shown that in the summer of 2014 the chat contacts mentioned by S28 were indeed conscripts in the 2nd battalion of the 53rd AAMB and that they were part of the convoy from 23 to 25 June 2014 that also included Buk TELAR '3X2'. Witness S28 made screenshots of parts of the chats and provided them to the JIT. His computer was seized by the Russian authorities.

In the chats provided by S28, M1 wrote that he served together with another soldier, referred to here as M2, in the 2nd battalion and that together with M2 he drove past Millerovo and Kamensk and spent three months in the woods near Kuybyshevo. On the way towards Rostov, three contract soldiers travelled with them who went in a different direction after Millerovo. These contract soldiers were under the command of an officer, whose name and rank were mentioned by M1. When asked where those contract soldiers went, M1 answered that that was a big secret and that he could say nothing about it or he would get his head chopped off. He said he could give a clue though, and then quoted a song in which a soldier is ordered to go west. When S28 (still under the name 'Anastasia') responded by asking whether he meant blue-yellow and then sent a picture of the Ukrainian flag, M1 responded that 'Anastasia' was not only beautiful but also clever.

According to S28, M1 told him that he had left Kursk with his colleagues around 23 June 2014. Contract soldiers and one Buk vehicle also travelled with them. After Kuybyshevo they split up and spread out to move to the border. The Buk were divided among several locations. M1 also told S28 about a large exercise area between Millerovo and Kamensk-Shakhtinskiy. He said the materiel would be parked there until it was due to go to the Ukrainian border. M1 and his colleagues stayed there for several days, after which they were sent into the woods on the border with Ukraine. It was a considerable distance from populated areas, but close to Kuybyshevo. S28 also stated that M1 told him that two Buk systems had to be sent back to barracks after only two weeks because they had technical problems and could not be repaired in the field.

Witness M1 confirmed to the investigation team that in 2014 he was a soldier in the 53rd AAMB and that he had been using the account with which S28 chatted for 10 years. However, M1 denied

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<sup>18</sup> 'Battery' means the same as 'company' here. A battalion consists of three companies. Each company has two Buk TELARs and one Buk-TELL.

having chatted with 'Anastasia', claimed that the chats were fake and refused to answer further questions.

An investigation into the officer whose name and rank M1 mentioned (to S28) and who he said was in command of the Buk crew led to his identification. On 17 July 2014 this officer was a member of the personal staff of brigade commander Muchkaev. It could not be established whether this officer was in the border region on 17 July 2014. In photos on social media after 17 July 2014 this officer is wearing two decorations: one for the development of and combat operations with a Buk system and the other for extraordinary service with the Russian security service FSB. Given his staff position in the 53rd AAMB, this officer would not, as a rule, be eligible for a medal for combat action with a Buk unless he had actually taken part in that action. FSB decorations are not usually awarded to military personnel, and they are awarded on fixed dates. Since this officer entered service, this decoration has been awarded only once: on 21 July 2014, i.e. four days after the downing of flight MH17.

According to M1's chat messages that were provided by S28, this officer was in command of crew members of the 3rd battalion.

#### **4.6.4 Officers of the 2nd battalion**

Information obtained from witness S42 points in a different direction. This witness stated that they had heard from someone in the Russian army that four people serving in the 53rd AAMB were involved in the downing of the Boeing. These four people together formed the crew of the Buk. After the downing of MH17, the crew returned to the 53rd AAMB's camp in Kamensk-Shaktinskiy. S42 was able to name two of the four crew members. The examining magistrate established that investigation of various sources had confirmed that S42 had been in a position to obtain the information that they provided.

The investigation also revealed that the names given by S42 matched those of two officers of the 53rd AAMB. On the basis of investigation of social media it was established that one of these officers was actually deployed to the border region in the summer of 2014. Both officers were members of the 2nd company of the 2nd battalion.

An information report by the SBU identifies one of the officers named by S42 as the person with whom Tsemakh had been drinking after MH17 was shot down. According to the aforementioned witness S31, he heard from Tsemakh that after the downing he had looked after a depressed crew member of the Buk and given him liquor. Tsemakh disputes the claim he was in contact with one or more crew members and denies any involvement in the downing of MH17. The investigation yielded insufficient indication of criminal involvement on his part.

So far the investigation has found no further confirmation of the information that S42 and S28 received from third parties concerning possible involvement of the three officers named by them in the downing of MH17. Witness S45 was unable or unwilling to name any crew members. Calls for witnesses issued by the JIT in 2018 and 2019 and a media and letter campaign in 2021, aimed personally at the residents of Kursk and members of the 53rd AAMB, yielded no new information about the identities of the crew members. Nor did investigation of public and non-public sources lead to further confirmation of the statements of S42 or S28.

#### **4.6.5 Request for legal assistance sent to the Russian Federation**

Lastly, in a request for legal assistance in 2018 the Public Prosecution Service asked the Russian Federation to identify the crew members of the Buk TELAR with vehicle number '3X2' in the period from 23 June to 23 July 2014. The Russian authorities were unwilling to answer this question either, as according to them there was no evidence for the presence of any Russian Buk TELAR in eastern Ukraine.

#### **4.6.6 Tweet about crew**

The JIT took note of messages posted on Twitter on 17 July and 25 September 2022 which included photos and the names of four members of the 2nd battalion who allegedly shot down MH17.<sup>19</sup> The investigation acquired the information that formed the basis for these posts. It included a personnel list (with which the investigation team was familiar) of the 53rd AAMB from 2015 and passport details of members of the 53rd AAMB. On the basis of this information and the results of its own investigation, the JIT concluded that nothing could be found that pointed to involvement on the part of these four persons in the downing of MH17.

#### **4.6.7 Summary**

In summary, in the course of the investigation 42 military personnel of the 53rd AAMB were identified who were deployed in the border region at the time of the downing of flight MH17 and who, in view of their ranks and positions, could be expected to be capable of operating or driving a Buk TELAR. The investigation yielded concrete indications of involvement on the part of three specific officers in the downing of flight MH17. Two of them are mentioned as crew coming from the 2nd battalion, a third person as accompanist of crew coming from the 3rd battalion.

The crew cannot be identified unequivocally and beyond doubt on the basis of the current investigation results. Furthermore, the results do not rule out the possibility that military personnel other than the three named officers were part of the crew.

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<sup>19</sup> See the Twitter account @daniel\_romein.

## 5 Delivery of the Buk TELAR

In its judgment the court held that as of the second half of May 2014 the Russian authorities were deeply involved in the DPR's conflict, during which the Buk TELAR was deployed and flight MH17 was shot down. In that connection the court referred to the close ties between DPR leaders and individuals in the Russian Presidential Executive Office, advisers to the Kremlin, and the Russian intelligence services. Staff of these Russian government bodies also turned up in the JIT's investigation into who was responsible for supplying the Buk TELAR to the DPR. This chapter describes the findings of that investigation. The provision of the Buk TELAR is a separate matter from its actual deployment (as established by the court) by Girkin, Dubinskiy and Kharchenko. The findings of the investigation into other parties who may bear joint responsibility for that deployment is discussed in the next chapter.

The main source of information for the investigation into the delivery of the Buk TELAR is telecom data, including intercepted phone conversations that were previously included in the case file. In its judgment the court explained how it came to the conclusion that these intercepted conversations were authentic.<sup>20</sup> The same arguments apply to the intercepted conversations that were not included in the case file and are first mentioned in this report.

For ease of reading, the investigation findings will be discussed in chronological order: from the arrival of the Russians Girkin and Borodai in eastern Ukraine in the spring of 2014 to discussions inside the Russian Federation about arms deliveries to the DPR and the transportation of the Buk TELAR to the Russian-Ukrainian border in late June 2014.

### 5.1 April-May 2014: relationship between Aksyonov and DPR leaders

On 7 April 2014 an armed group occupied the offices of the regional government in the city of Donetsk in eastern Ukraine, proclaiming the establishment of the Donetsk People's Republic (DPR). Five days later, on 12 April, a group occupied the city of Slavyansk. That same day Girkin crossed over [into Ukraine] from Crimea. From that point on he was in command of the DPR fighters, first as 'commander of the Donbas People's Militia' and later as 'Minister of Defence' and 'commander-in-chief of the so-called Donetsk People's Republic'. Not long after that, Borodai followed him from Crimea to eastern Ukraine, where he assumed the role of 'prime minister' of the DPR.

Before arriving in eastern Ukraine, the two men, Girkin and Borodai, were involved in the annexation of Crimea by the Russian Federation. By their own admission, there were there as advisers of the Russian Sergei Aksyonov.<sup>21</sup> As of late February 2014, he was the self-styled premier of Crimea. According to the president of the Russian Federation, Vladimir Putin, Russia made the decision to annex Crimea in the night of 22 February and the early hours of 23 February 2014. Putin was personally involved in operational decisions related to Russia units. For example,

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<sup>20</sup> Judgment of The Hague District Court, 17 November 2022, ECLI:NL:RBDHA:2022:12217, 5.6.

<sup>21</sup> <https://ria.ru/20190619/1555717877> (last accessed on 8 December 2022).

he ordered Minister of Defence Sergei Shoigu to deploy an intelligence division and elite troops. On 18 March Putin concluded an 'agreement' with Aksyonov (and two other leaders) on the 'accession' of the 'Republic of Crimea' to the Russian Federation. Within three days this agreement was ratified by Russia and the annexation was enshrined in law. On 14 April Aksyonov was appointed by Putin as leader of Crimea.

In the months following their arrival in eastern Ukraine, Borodai and Girkin remained in contact with Aksyonov. For example, on 13 April 2014, the day of his arrival in Slavyansk, Girkin received a call from Borodai in Moscow at 15:09:07. Borodai passed the phone to Konstantin Malofeev, a Russian oligarch who was also involved in the annexation of the Crimea. Girkin said that they had managed to repel a Ukrainian attack. Malofeev then asked if he had already reported this to Aksyonov. When Girkin said that he had not been able to reach him yet, Malofeev replied that he had a meeting with Aksyonov in Moscow the next day and that Girkin needed to contact him before then.

## 5.2 June 2014: Separatists request Russian air-defence systems

In June 2014 there was heavy fighting between the Ukrainian army and troops of the DPR and LPR. During this fighting both the DPR and LPR requested heavier weaponry, including better anti-aircraft systems. The investigation carried out shows that from the second half of July 2014 several Buk-TELARs have been delivered to the separatists, including the Buk-TELAR that shot down flight MH17.<sup>22</sup>

One witness stated that in May and June 2014 meetings were held in the Russian cities of Rostov and Kamensk-Shakhtinsky at which Plotnitskiy (at that time the 'Minister of Defence' of the LPR) and an as-yet unidentified GRU general were present. At a meeting in June, Plotnitskiy said that the portable air-defence systems (PZRKs) were no longer effective because aircraft were flying at higher altitude and heavier materiel was needed to shoot them down. After this discussion, the GRU general said that he would personally explain the situation to the Russian Minister of Defence, Sergei Shoigu, shortly. The GRU general also said that they could already supply light weapons, and were indeed doing so, but that heavier weapons could only be supplied once the separatists had captured weapons of that kind too. That way, Russia would be able to deny having supplied any weapons.

In early June, the DPR made a similar request for heavier anti-aircraft systems. At that time Slavyansk, where Girkin had his headquarters, was under fire. On 8 June (at 11:30:47) Girkin called Aksyonov's deputy. Girkin said that the Ukrainian 'enemy' was numerically superior and that they needed Russian support. He said they needed 'decent anti-aircraft systems manned by trained personnel' and asked the deputy to pass this request on to Aksyonov, the first in command ('Pervyi'):

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<sup>22</sup> For example, it can be deduced from intercepted conversations that a Buk-TELAR was delivered to the LPR in the night of 13 to 14 July, that this system was leaking oil and caught fire and an attempt was made to remove this vehicle.

- (...)
- B: *[Inaudible]* Sergey brought me [...], told me you wanted to get hold of me to share some information.
- C: Now I wouldn't call that "sharing information"... In fact, this information is widely - known, and it reads that, err... that if no large-scale support arrives in the nearest time, the, err... they will smother/strangle (...). What we need is truly large-scale support, what [...] is already not sufficient. Err... Giving [...] by dribs and drabs - as they do it now - can't make any difference anymore. We are outnumbered by the enemy. Me, I've been *around* long enough and I can still hold ground here some time, but if they keep it at this pace and launch an offensive against other towns and cities where people are unprepared and have no combat experience, they're going to crush them flat in no time.
- And then they will crush flat me, of course. If the issue of Russian support - air cover, or at least artillery support - is not dealt with, then we will not be able to hold ground here in the East, no way. ... First, back when this support was needed in large numbers, as much as possible, they didn't provide it; and what they are giving now is what we needed a month back.
- B: Uh-huh.
- C: Now all we get is only enough to barely get by, nothing more. We will not be able to turn the tide in any significant way, and they will be squeezing us on all fronts.
- B: I see.
- C: Hello?
- B: Yes, yes, I'm following you, I'm following.
- C: We need anti-tank artillery, we need tanks, we need decent anti-aircraft defense - because we can't last on MANPADS alone any more - all manned with trained personnel, of course, seeing as we have, and will have, no time to train them. That's it... For example, four tanks are simply sitting on positions short of Semionovka and firing on (...) positions from a distance safe for the rear. They've kept it this way for three days now. But I have no single anti-tank canon to counter them. Just now they were pounding the center of the city/town with howitzers, fired 30 rounds, some exploded nearby, just 150 meters short of my headquarters. But I cannot reach them because they're too far, in terms of range. That's it. And that's the case everywhere. The entire Ukrainian army... [...]
- B: Yes, yes, I get that. Yes, yes.
- C: Now that's the message to get across. Sooner or later they will have to make a decision anyway, but by then a considerable part of the militia will be destroyed and the front line will be pushed away to somewhere behind Donetsk, to the east.
- C: Now that's the story.
- B: OK...
- C: I'd ask you to get this across to Pervyi.
- B: Yes, I get that. OK. Will do.
- (...)

### 5.3 First half of June 2014: Russian discussions about supplying the DPR with weapons

A little more than 15 minutes later (on 8 June at 11:46:33), Aksyonov himself called Girkin back. Aksyonov said that he was aware of the situation and that he had informed others. He was

awaiting a response and had another meeting that evening to discuss the required support. He told Girkin that he would be in touch after the meeting. Aksyonov also said that a 'joint coordination centre' had been set up for this situation, and that the necessary documents were already being drawn up:

(...)

- D: Hey there, Igorioha. Good job, you're in your usual self, as I see. Now, in a nutshell, here's the story: on Tuesday I went to, err... to where I was supposed to go in the light of this situation... If it weren't for all those visits yesterday and today which, err, prevented [...] from *coordinating action / briefing in relation to the picture*... At 22 or so tonight I'll get in touch with... well, with those who are, err... who have already made this decision. Just now...
- C: Uh-huh.
- D: ...just now I got a visit from those who had *worked* here - you surely know all of them in the line of this situation...
- C: Well, yes, yes.
- D: Now all of them have already *received the entire picture*. I mean, all who sort of been to both buildings back then, err... Well you remember...
- C: I see what you mean.
- D: Yes, everyone has received the *picture*. I mean, we... I will need you to [...] over the same *channel/line* at 22-22:30 today, me and you will need to talk over the same *channel/line*. I will then *coordinate/brief* you openly, and... There's already a person and a joint coordination center in place that are dealing with this situation... I mean those who *are/have been* coordinating this *picture* - I just don't want to *give* surnames openly over the phone.
- C: I understand. OK, I'll be available at that time. But, in general, do you understand what the situation is like and that [...*inaudible*]?
- D: I do understand what the situation is like, Igor. Listen up, that's right what I told them on Tuesday, that if we don't take certain steps... I mean, I was, err, where I was sort of supposed to be in the light of this situation, and the message I brought along was that if no concrete steps are taken, then we're going to sort of lose all these *commodity markets* which we're sort of speaking about in terms of this *picture*.
- C: OK then, they just [...*inaudible*]...
- D: That's what I was saying: we're about to lose these *commodity markets*. Well, me and you, we understand what that means.
- C: Yes, yes.
- D: And I sort of made it clear for [...], and right in my presence the guy rang up another pal who is responsible for the conduct of [...], then I had a talk with him about it one's again on Wednesday, and then with Kostia on Thursday, and today I'm still waiting - it's just because all of them are gone for two days, were in different places, and that's why, err, that's why they asked to sort of [...] for these two days because of this *picture*. Anyway, the documents necessary for the support are already being prepared... I will also be [...] about *all this stuff* tonight, I will be *coordinating/briefing* Kostia, err, Kostia's man, err, in relation to all this cookery. And at 22-22:30 today I will *coordinate/brief you on* all points of contact necessary for the entry.
- C: OK, I'll be waiting for you call.
- (...)

On 19 June 2019 the JIT released this conversation as part of an appeal for witnesses. In response, Aksyonov told RIA Novosti that he 'supported and would always support' the separatists and that other than that he had not 'dusted off any missiles or readied them for launch'.<sup>23</sup>

In summary: in this conversation of 8 June 2014 Aksyonov informed Girkin that the previous Tuesday (i.e. 3 June) he had already gone where he needed to go given the situation, that on that Tuesday he said that 'concrete steps' urgently had to be taken and that the documents for the requested support had already been drawn up, but that he still had to wait because 'they' were in different places and would be away for two days.

Another phone conversation involving one of Aksyonov's aides showed that on Tuesday 3 June 2014 Aksyonov was in Sochi for a brief visit. According to news releases from the Kremlin, Putin was also in Sochi that day, and in the days that followed, the president travelled on to Astrakhan (4 June) and then to France (5-6 June), for the joint D-Day commemoration with various world leaders.<sup>24</sup>

In another phone conversation involving the same aide, on 7 June 2014 (18:11:23), this individual explained the Russian decision-making process with regard to military support. The aide said he got 'a beating' because he had said that they were thinking too slowly. He went on to say that the decision to provide support had been postponed by a week, because there was only one person who could make that decision: not a general or the Minister of Defence, but the person who was directly accountable to the people and who was currently at a summit in France:

(...)

- A: There is such ... there is such a situation: I got a beating today because err ... I said 'you are thinking too slowly'. I say: "Kozitsyn took 1 out of 3 border posts there, and people need to be armed so that they can keep this post. Well, this is the border, everything is open".
- B: Uh-huh.
- A: I got such a beating, you won't believe it. It turns out, you know.... you ... let me tell you briefly so that you understand.
- B: Okay.
- A: It turns out there, that the information I gave you ... I spoke with err... three people, remember, the last one? In the Council of Ministers?
- B: Yes, yes, yes.
- A: Those people flew to Moscow, received ... asked for a pause for a week, so that ... this is Pervyi/Number One who makes a personal decision. The Number One.
- B: Uh-huh, I get it.
- A: They beat the fuck out of me today. They said that there is no general, no minister, no sh ... defense minister. This is all about... this is about... Well, how to say? As they said, wait... Number One is the person who answers to the people personally, you know? He makes a decision. And since there is now this summit in France ...

<sup>23</sup> <https://ria.ru/20190619/1555717877.html?in=t> ((last accessed on 8 December 2022).

<sup>24</sup> See [www.kremlin.ru/events/president/news/45821](http://www.kremlin.ru/events/president/news/45821), [www.kremlin.ru/events/president/news/45825](http://www.kremlin.ru/events/president/news/45825), [www.kremlin.ru/events/president/news/45832](http://www.kremlin.ru/events/president/news/45832), [www.kremlin.ru/events/president/news/45827](http://www.kremlin.ru/events/president/news/45827) (last accessed on 23 June 2021).



- B: Uh-huh, uh-huh.
- A: He ... he has to give the go-ahead for all of this. Can you imagine what the level is?  
(...)

'Sh...defense minister' would seem to be a reference to Shoigu, the Russian Minister of Defence. A day later, on 8 June at 21:24:18 (i.e. after Aksyonov's conversation with Girkin about the deferred decision on the request for military support), Aksyonov's aide had a similar conversation in which he said that his superiors had flown up and back to deliver their report, but that they still needed an additional week because there was only one person who could make that decision, and he was in France:

- (...)
- A: You know, there is still such a problem that our err ... bosses, they absolutely do not see any connection at all. They just got on the plane, then left, then reported, then back. It takes a lot of time.
- B: Well yes, it is ...
- A: They told me that the decision was positive. Well, they asked for another week, so that ... because the First is in err ... well, France. He's the only one, he's the only one who makes the decision, nobody else.  
(...)
- A: I ... I hinted there: let's hurry up, because really such a chance cannot be lost, because the border is still under control, we need to help there. They beat the fuck out of me, they yelled at me: you don't understand, that ... you ... you just don't ... Don't you understand that only the First gives instructions? Before he gets it, it's time. Who the hell are you? As I understand it, there is only one person responsible, only Number One, you know? That's all. It is done as he says.
- B: I see. Nobody decides anything except him, damn.  
(...)

#### 5.4 14-30 June 2014: Russian meeting to discuss the provision of anti-aircraft systems

Investigators gained some degree of insight into the Russian decision-making process regarding the delivery of heavier anti-aircraft systems to the separatists. The investigation yielded specific information pointing to the following scenario.

In June 2014 Aksyonov and the deputy head of the GRU, Alexei Dyumin, requested a political decision on providing the 'People's Army' in Donbas with a heavier anti-aircraft system, such as an S-200 or Buk system. This happened at a meeting at the Presidential Executive Office in Moscow.

The Presidential Executive Office is a Russian state agency that supports the president and which is responsible for drafting and implementing legislation. In 2014 the Presidential Executive Office played an active role in the conflict in eastern Ukraine. This is apparent from a number of sources, including emails from that period from Vladislav Surkov, who was at that time a member of the Executive Office and a key adviser to Putin, and Aleksei Chesnakov, a former member of the

Executive office and in 2014 the director of a political consultancy that worked with this body.<sup>25</sup> Surkov is also known as the architect of the Minsk agreements of September 2014 and February 2015.<sup>26</sup> In a 2016 photo taken at the Ukraine talks in Berlin, Surkov can be seen sitting between President Putin and German chancellor Angela Merkel.<sup>27</sup>

So it was at this meeting in June 2014 at the Presidential Executive Office that Aksyonov and Dyumin requested a political decision on the delivery of a heavier anti-aircraft system, such as an S-200 or a Buk system, to the 'People's Army' in Donbas. This request was supported by Malofeev and Surkov. Representatives of the FSB, the GRU and the defence ministry are also present during the meeting.

This meeting resulted in a written resolution to submit the request to supply heavier anti-aircraft systems to the 'People's Army' to Minister of Defence Shoigu and President Putin. Surkov and Aksyonov were the driving force behind this request. It is unknown if the request explicitly referred to a Buk.

One of the arguments underlying the request for heavier anti-aircraft systems was that the separatists had previously shot down a large military transport aircraft, an Ilyushin-76, with IGLAs (MANPADS) and that the Ukrainian armed forces were now prepared for this eventuality and had started flying at higher altitudes. This meant that there was now a need for air defences with a greater range. It is important to note in this regard that the Ukrainian armed forces were also using such a system, meaning that it could appear as if the DPR had captured it from them. The defence ministry was reluctant to provide anti-aircraft systems to the separatists because this could entail risks to its own (Russian) aircraft. Nevertheless, in the end the request was granted.

According to the investigation the meeting at the Presidential Executive Office took place some time in June 2014. Other sources show that the aforementioned Ilyushin-76 was shot down with a MANPADS on 14 June 2014. All 49 Ukrainian military personnel on board were killed.<sup>28</sup> It can therefore be concluded that the meeting must have taken place sometime between 14 and 30 June 2014.

## 5.5 Surkov's position

According to the aforementioned investigation findings, in June 2014 Surkov and Aksyonov were working to help get heavier anti-aircraft systems to the separatists in eastern Ukraine. The request to that effect was submitted to Minister Shoigu and President Putin. The request was granted.

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<sup>25</sup> [https://static.rusi.org/201907\\_op\\_surkov\\_leaks\\_web\\_final.pdf](https://static.rusi.org/201907_op_surkov_leaks_web_final.pdf) (last accessed on 5 December 2022); <https://cpkr.ru/content/about-us> (last accessed on 5 December 2022).

<sup>26</sup> Mikhail Zygar, *All the Kremlin's Men* (2016), p. 291.

<sup>27</sup> <https://www.theguardian.com/world/2016/oct/26/kremlin-puppet-masters-leaked-emails-vladislav-surkov-east-ukraine> (last accessed on 5 December 2022).

<sup>28</sup> See also the Ukrainian judgment of 15 March 2021, which can be consulted at <https://reyestr.court.gov.ua/Review/95638731>.

Surkov was Putin's adviser and worked at the Presidential Executive Office. According to Russia specialist Anna Matveeva, Surkov was given control of Donbas affairs in July 2014, taking over from Aksyonov, Malofeev and others.<sup>29</sup> According to Girkin, Surkov had 'tactical command' and 'managed' 'the situation in Ukraine in his capacity as adviser to Vladimir Vladimirovich [Putin]'.<sup>30</sup> In an interview on 28 November 2014, Borodai said that Surkov was the most senior Russian official to deal with this issue and that Surkov, as the president's aide, regularly reported to Putin about it directly.<sup>31</sup> In a phone conversation that took place on 25 June 2014 (11:30:38) with the aforementioned Chesnakov,<sup>32</sup> Borodai said that the 'head of the government administration' had called him twice that day. Borodai's telephone data shows that he had been phoned twice that morning by the number used by Surkov. The other party to the conversation with Borodai – Chesnakov – was at that time the independent adviser to the Presidential Executive Office and closely involved in the conflict in eastern Ukraine.<sup>33</sup> Borodai's telephone data shows that as far back as 11 June 2014 (22:52), Borodai was in contact with Surkov's number almost every day, and sometimes multiple times a day, with the exception of the periods that Borodai was in Moscow. During an interview in June 2021, Surkov said that his own contribution to the situation in eastern Ukraine was 'significant', and in fact 'many times more significant (...) than many people could imagine. Both for the Russian state and for Ukraine.'<sup>34</sup>

In Surkov's inbox an email was found from 13 May 2014, in which Malofeev proposed several candidates for positions in the DPR government. A number of them had been screened by Malofeev and his associates ('us'). The JIT compared the content of these emails with other emails and confirmed their authenticity. For example, during this period, participants in various intercepted phone conversations spoke about lists of names for the DPR's 'government' and 'security council'. The then 'Minister of Culture' of the DPR told the JIT that Russia exercised full control over DPR affairs. According to this DPR minister the 'deputy prime ministers' of the DPR received their instructions from Moscow. At the Kremlin in late 2017 Surkov awarded decorations to Russian mercenaries from the Wagner Group, a paramilitary organisation, for downing a Ukrainian helicopter and two Ukrainian combat aircraft on 12 and 16 July 2014. This emerged from statements given by two members of the Wagner Group as part of a covert operation by the SBU, the Ukrainian security service. The same two individuals also provided documents, showing their nomination for the decorations. In intercepted phone conversations Surkov coordinated various matters with Borodai, such as the encirclement of Slavyansk, the establishment of an additional security service, payments, and the intransigent attitude of DPR commander Igor Bezler. When Borodai sought to coordinate with Moscow about the delivery of refrigerated rail containers containing the bodies of the victims and the black boxes from MH17, his first point of contact was Surkov. If Borodai was unable to reach him, he would call Chesnakov again to ask him to have 'the boss' (i.e. Surkov) call him back as soon as possible.

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<sup>29</sup> A. Matveeva, *Through Times of Trouble: Conflict in Southeastern Ukraine explained from within* (2019), p. 277.

<sup>30</sup> <https://www.youtube.com/watch?v=a0mIzX5TssA> (last accessed on 5 December 2022).

<sup>31</sup> <https://www.youtube.com/watch?v=ug0w6PH2Hyc> (last accessed on 5 December 2022).

<sup>32</sup> See section 5.4.

<sup>33</sup> <https://chesnakov.ru/about/> (last accessed on 5 December 2022); <http://cokr.ru/about> (last accessed on 5 December 2022).

<sup>34</sup> <https://youtu.be/gYuqBK83l3o> (last accessed on 14 June 2021).

## 5.6 14-30 June 2014: Russian talks about arms deliveries

The aforementioned meeting at the Presidential Executive Office in which the participants discussed the provision of heavier anti-aircraft systems must, as previously noted, have taken place between 14 and 30 June 2014. The Buk TELAR used to shoot down MH17 was part of a convoy that departed from Kursk on 23 June 2014 and arrived at the Russian-Ukrainian border on 25 June.

The investigation into the Russian decision-making process in the period between 14 and 30 June 2014 revealed that in the night of 12 to 13 June 2014, Borodai travelled from Snizhne in eastern Ukraine to the Russian city of Rostov, and that he was in Moscow from 14 to 19 June. In a telephone conversation on 14 June 2014 (15:08:19), Borodai said that he was near Staraya Square in Moscow, where the Presidential Executive Office is located.

During this visit in June 2014 there was no telephone contact with Surkov, Chesnakov and other Russian users of the same consecutive series of encrypted-phone numbers, which Borodai ordinarily called with great regularity. On the second day of his visit to Moscow, Borodai spoke on the phone with a separatist (15 June 2014, 16:41:34) telling him that he would be back soon, with 'gifts' ('So I will come with gifts'). On 17 June (16:55:18) Borodai spoke on the phone with another separatist and told him: 'Moreover, I met some of our mutual friends. (...) We had a good talk.' Borodai (B) said the same thing on 18 June (20:52:32) to a certain 'Luna' (A) whose telephone was transmitting to telephone masts in Snizhne at that moment. Borodai told Luna that he was waiting and that he hoped to see him again soon. He would bring 'the salary' and said that there were many 'parcels and gifts' for everyone. According to Borodai the trip had been a success:

- (...)
- B: Look. I'll bring you the salary. It's just that it will be partially in dollars, partially in rubles. (...) Or do you need it in dollars?
- A: No, no, better in our, native (...). I need to pay (...) out to people. (...)
- B: (...) I get it. I understood. Okay, I hope to see you very soon. (...) I'm just waiting, so to speak.
- A: (...) The main thing is that big brothers ...(...) so that our big brothers don't forget about us. (...) I will call you back tomorrow, err ... if there are any parcels.
- B: Err ... I actually sit on it - on this parcel, as they say. (...) There will be parcels. I have a huge amount of parcels and gifts for everyone here, damn it.
- A: (...) It was nice to hear you. (...) The trip was effective. That's important.
- B: Yes, yes. Quite effective.
- (...)

Borodai's stay in Moscow was confirmed by the OSCE in reports of 18 and 19 June 2014.<sup>35</sup>

During the same period another separatist, Aleksei Fominov, was in Moscow. On 18 June Fominov called from Moscow to an unknown fellow fighter, who indicated that they needed uniforms. Fominov responded that he would be back the following day and would bring uniforms with him.

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<sup>35</sup> OCSE report of 18 June 2014, <https://www.osce.org/ukraine-smm/119945> (last accessed on 5 December 2022).

Fominov also asked if they had any 'heavy stuff'. When that proved not to be the case, Fominov said that he had just set off and would try to get the 'green light' for that (18 June 2014, 12:47:00). In the evening (18 June 2014, 22:09:40) Fominov reported that he had just been to his fifth meeting and that he wasn't getting anywhere with the 'hardware issue'. Another meeting was scheduled to the next day (i.e. 19 June), 'a big one':

- (...)
- A: (...) Have just been at the fifth meeting! Just stepped outside. A fellow dropped in to have a word. It was the fifth bloody meeting and it looks like ... {sighing} The fucking hardware issue gets nowhere. I'm tired as fuck. To make matters worse, they clash with each other (...). Basically, there is a proposal... There will be a meeting tomorrow.
- B: I see.
- A: A big one.
- (...)

The next morning Fominov reported that the people in Moscow had a lot of questions for him, 'in particular, the people who are above everyone' (19 June 2014, 10:44:34). In a call later that day (17:27:42) Fominov (A) said that he was on his way to the man who was sending 'stuff'. A fellow fighter (B) told him how difficult the situation on the front was and said that they need anything they could get:

- (...)
- A: I'm on my way to see the man who promised us [...] so many times. The one who's sending [stuff] to Igor. (...) When I get there, I'll try to explain it. [That] if they don't come up with anything by the end of today—{unintelligible}, whatever it takes them—then they and {unintelligible} people can say goodbye to the factory. I'm right on my way to see them. See? It seems like they don't get it.
- B: Do your best. We need everything we can get. (...) [When you see] the comrades from the other side, spread a map in front of them and show them what length of the frontline is being held by us and by him. (...) There're as many as 46 tanks, 6 fucking SAUs and 31 motherfucking BTRs near us already.
- A: (...) Fuck, fuck, fuck... But just you wait, I was just talking to, um... I'm in the meeting with all those people who make decisions on {unintelligible} (...).
- (...)

Later that evening (19 June 2014, 23:05:31), Fominov (B) called the DPR commander Bezler (A) and asked if there was still heavy fighting going on. Bezler said that this was the case.<sup>36</sup> Fominov

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<sup>36</sup> During the first hearing in the criminal trial (9 March 2020), the Public Prosecution Service spoke about an intercepted telephone conversation that Bezler took part in on 17 July 2014, in which the other party to the call announced that a 'bird' would be coming his way. In that connection the Public Prosecution Service remarked that an extensive investigation had been conducted into both this conversation and Bezler as an individual. That investigation was not able to confirm that this conversation had actually contributed to the downing of flight MH17. Moreover, the investigation showed that there was so little time between this conversation and the launch of the Buk missile that it was doubtful that the conversation could have contributed to the downing of the aircraft.

asked him to hold their position for another two or three days because 'some very good decisions' had been made:

- (...)
- A: (...) Will you be able to hold the ground?
- B: I don't know. We have to. (...)
- A: Some very good decisions have been made about everyone/everything. (...) I mean, some really good decisions. Well, at least a day or two or three?
- B: We'll do our best.
- (...)

In summary: Borodai and Fominov were both in Moscow until 19 June and spoke on the phone about meetings and discussions that had occurred about (apparent) military support, with an ultimately positive result. On 19 June 2014, at a private meeting with several members of the Duma, Shoigu reported that the armed forces were ready to carry out any task issued by 'the country leadership and supreme commander'. According to the Kremlin, a meeting of the Russian Security Council was held on the evening of 19 June 2014 on 'the situation in southeastern Ukraine'.<sup>37</sup>

It is unclear exactly what sort of material the 'parcels and gifts' and 'hardware' referred to by Borodai and Fominov consisted of, but it can be inferred from other intercepted conversations that deliveries of heavier military equipment, including tanks, started shortly after their visit to Moscow. It is unknown if the topic of heavier anti-aircraft systems, such as a Buk, came up.

One witness did state that large amounts of military equipment arrived after the arrival of a GRU general on 20 or 21 June 2014. This equipment crossed the Russian border into Ukraine at Orekhovka (near Severniy). The GRU general, who was referred to as 'Andrei Ivanovich' and was identified by the JIT as Oleg Ivanovich Ivannikov, was there as an adviser to Plotnitskiy, but also chaired the meetings conducted with LPR commanders. Ivannikov also commanded the private military force Wagner, which entered Ukraine at the same time as him.

A few days later, on 23 June 2014, a Buk convoy departed for the Ukrainian border. The convoy included the Buk TELAR that was transported across the border in the night of 16 to 17 July 2014 and was used to shoot down MH17. It has yet to be determined whether it had been decided to deliver this Buk TELAR to the DPR prior to the convoy's departure, or whether this decision was only made later, after the deployment of the 53rd AAMB to the border.

## 5.7 Putin's position

In the aforementioned intercepted conversations from early June 2014, participants stated that the decision to provide more far-reaching military support to the DPR and LPR lay with Putin. In addition, specific information was found that a request to provide separatists with heavier anti-aircraft systems had been submitted to Putin. Other sources as well point to the Russian

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<sup>37</sup> <https://en.kremlin.ru/events/president/news/45943> (last accessed on 23 November 2020).

president's personal involvement in the conflict in eastern Ukraine, mainly in a behind-the-scenes capacity.

For example, although on 24 June 2014 Putin publicly asked the Russian Federation Council to rescind the resolution that gave him the authority to conduct a military intervention in Ukraine,<sup>38</sup> it remained clear to the DPR that the Russian president was still involved in the conflict. In a conversation that took place the following day, 25 June 2014 (23:20:46), a fellow fighter asked Borodai if it was true that 'Uncle Vova' was refusing to help: he had seen that in the news. Borodai replied that this was not true, and that these were just normal 'diplomatic manoeuvres'. Borodai then said to the other party: 'You're here for a reason, and I'm here for a reason.' 'Vova' is a diminutive of 'Vladimir', Putin's first name.

In addition, there are indications that Putin wished to be briefed in detail about the course of the conflict and the military results achieved by the DPR and LPR. For example, intercepted phone conversations show that on 25 June 2014 Borodai was questioned from Moscow about the downing of a Ukrainian helicopter, which he was unaware of at the time. First, Borodai received a call about this (on 25 June 2014, 07:49:17) by a member of the Russian Federation Council. Borodai said that he knew nothing about the downing of a helicopter, though he did say that 'the air poses a big problem for us, since, naturally, we've got no aviation of our own'. The member of the Federation Council thanked Borodai and said that he now had a general idea of what he wanted to talk about in his speech. According to the Kremlin website, on 26 June 2014, a day after this conversation between Borodai and a member of the Federation Council, Putin had a meeting with the Security Council (which the speaker of the Federation Council is a permanent member of) devoted to the situation in Ukraine.<sup>39</sup> In the early afternoon, after the telephone conversation with the member of the Federation Council, Borodai was called again (25 June 2014, 12:38:53), this time by Viktor Medvedchuk, a Russian-born former Ukrainian politician and representative of the DPR and LPR in peace talks. Medvedchuk told Borodai:

'Sasha, they're asking – for the, um, report to V.V./VV report – what our account [of events] is in relation to the helicopter.'

Borodai responded by saying that he did not know and asked if the matter could wait. Medvedchuk wanted to have the information for 'V.V.' as soon as possible. In a later conversation it became clear who was being referred to by 'V.V.'. That same evening, at 21:59:22, Medvedchuk and Borodai talked about the ongoing talks with Ukraine. Medvedchuk then said he needed to go to Moscow for a meeting with 'the leader'. According to him, 'the chief himself', namely 'V.V.', picked Rostov as the location for the meeting. The next day Medvedchuk met with this 'V.V.' This can only be Russian president Vladimir Vladimirovich Putin, who – as is customary in Russia – is also referred to in other conversations by his first name and patronymic or his initials. By his own account, Medvedchuk needed to report to this 'V.V.' in June 2014 about an air defence-related incident: the downing of a Ukrainian helicopter.

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<sup>38</sup> [www.en.kremlin.ru/events/president/news/46057](http://www.en.kremlin.ru/events/president/news/46057) (last accessed on 16 September 2019).

<sup>39</sup> <https://en.kremlin.ru/events/president/news/46082> (last accessed 23 November 2020).

In conversations on 27 June 2014 (23:29:20 and 23:38:00), Medvedchuk told Borodai that he had just been called by 'our president', who had indicated that Girkin and Pavel Gubarev (the self-proclaimed governor of the DPR) had been saying that they did not intend to honour the ceasefire. According to Borodai, Girkin had said that he was respecting the ceasefire but would not allow himself to be provoked. Medvedchuk said that Girkin would have to publicly support the ceasefire, and Borodai promised that Girkin would do so. In addition, Medvedchuk spoke to Borodai about an upcoming prisoner exchange. He then said that Borodai would get their 'lists' and that Borodai would have to try to give them 'counter lists'. In that connection Medvedchuk specifically asked about a Ukrainian 'female pilot' by the name of 'Nadezhda Savchenko'. Public sources indicate that this woman had been taken prisoner by the DPR a short time before. Apparently 'the OSCE' would have to be contacted the next day about her and the 'lists'. According to Medvedchuk, this was 'at the president's request'.

Medvedchuk was later mentioned by Putin himself in a conversation with the so-called prime minister of the LPR, Igor Plotnitskiy, on 15 November 2017 (20:42:49). In this conversation Putin (B3) was personally informed by Plotnitskiy (A) about the 'military component' and asked him about Medvedchuk's 'initiative' for a prisoner exchange:

A: Hello?  
 B1: Igor Venediktovich?  
 A: Yes.  
 B1: Hello. You are speaking to Moscow, on the special phone line<sup>40</sup>. Vladimir Vladimirovich<sup>41</sup> would like to talk to you. (...)  
 A: Thank you. Ok.  
 B1: Did I understand it correctly? Am I connected with the telephone of mr. Plotnitskiy?  
 A: That is correct. Yes.  
 B1: One moment, I'll connect you.  
 A: That's fine.  
 B2: Hello?  
 A: Hello  
 B2: Igor Venediktovich, hello. You are speaking with Mamakin [phonetic transcription], the secretary to Vladimir Vladimirovich. One moment please and I'll connect you.  
 A: Yes, please, that's fine.  
 B3: Hello?  
 A: Yes, good evening.  
 B3: Igor Venediktovich, good day.  
 A: Yes.  
 B3: Good afternoon, hello.  
 A: Yes, hello, Mr President.  
 B3: How are you doing?  
 A: Thank you, Vladimir Vladimirovich. I'm fine.  
 B3: So things are going okay then. And what are your thoughts on this... 'military component'?

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<sup>40</sup> Special telephone line, the so-called 'spetscommutator' is the Kremlin telephone line.

<sup>41</sup> Vladimir Vladimirovich Putin, president of the Russian Federation.



- A: I think the 'military component' is at a pretty good level on our side. Though there are certain weak points... [interruption – sentence not completed]
- B3: Have things intensified?
- A: At times it's heavier, but that's due to the occasional movement of various military units, or to shifting out units with fresh troops, but there hasn't been anything too intense yet, thank God.
- B3: And what about the socioeconomic situation?
- A: We have a fairly good handle on the socioeconomic situation, and we are levelling up in all kinds of ways. But obviously living conditions leave something to be desired, and we have questions about and suggestions for improving living conditions, but we haven't always been able to resolve these issues.
- B3: Well, I've already said it to Aleksandr Vladimirovich, and maybe we can... I can ask colleagues who are helpful to you in various areas to draw up a supplemental report with regard to the situation there. And then we can meet to discuss this, all right?
- A: Thank you, Vladimir Vladimirovich. Maybe it would be possible to discuss this face to face?
- B3: That's what I said. That we can discuss this later on in a face-to-face meeting.
- A: Thank you, Vladimir Vladimirovich.
- B3: Igor Venediktovich, I also wanted to address Medvedchuk's initiative regarding a prisoner exchange. You've probably heard about that.
- A: Yes of course. Yes of course Vladimir Vladimirovich.
- B3: What's your opinion about it?
- A: I'm completely in favour, since Ukraine has been blocking the normal prisoner exchange for a year. Our inhabitants form an overwhelming majority there. Here the ratio is around 1 to 10. And they of course suffer within the four walls. That's not only a matter of speech, they truly suffer. I have seen how they are being held. It is incomparable to how their people are being held in our territory. So this initiative is a relief for us, if we can get our people out of their territory.
- B3: Igor Venediktovich, in that case we still need to work out a few additional details. I'll ask my people to assist you where necessary in both word and deed.
- A: Thank you!
- B3: Thank you very much. That's it and I wish you the best.
- A: Thank you. Bye.
- B3: Bye.

This conversation from 2017 is in keeping with the aforementioned findings of late June 2014, which showed that Putin was personally involved in the conflict in eastern Ukraine. It is also in keeping with a witness statement to the effect that the same individual, Plotnitskiy, carried an encrypted phone containing direct numbers for President Putin, Shoigu and Surkov. As the JIT repeatedly discovered, not everyone was equally disciplined when it came to security of communications.

## 5.8 Summary

In an intercepted conversation in early June 2014, Aksyonov, the Russian leader of Crimea, spoke about a 'joint coordination centre' for Russian military support for the conflict in eastern Ukraine. In addition, it is clear from various intercepted conversations that during this period that decisions

were being made at presidential level about such military support. According to an aide of Aksyonov's, it was not the defence minister but the president himself who made these decisions. Other intercepted conversations also show that Putin was personally involved in the conflict in eastern Ukraine.

On 8 June 2014 Girkin asked Aksyonov for broader military support, including 'decent anti-aircraft systems manned by trained personnel'. According to Aksyonov the necessary documents had already been drawn up at that time.

At some point in the second half of June, Aksyonov and Dyumin, the deputy head of the GRU, submitted a request for heavier anti-aircraft systems at a meeting at the Russian Presidential Executive Office. This request was supported by Malofeev, an oligarch, and Surkov, a member of the Presidential Executive Office and adviser to Putin. This meeting was also attended by representatives of the FSB and the Ministry of Defence. The meeting resulted in the submission of the request for heavier anti-aircraft systems to Minister of Defence Shoigu and President Putin. This request was granted.

During this same period, from 14 to 19 June 2014, Borodai was in Moscow, on the same city square where the Presidential Executive Office is located. By his own account, Borodai was there, arranging 'parcels and gifts' for his fellow DPR fighters. Besides Borodai there was also another separatist in Moscow who took part in phone conversations about meetings and discussions regarding military support. It is unknown if heavier anti-aircraft systems, such as Buks, were mentioned in these discussions. Intercepted phone conversations show that shortly after their visit to Moscow, other heavier military materiel was delivered to the DPR, including artillery.

A short time later, on 23 June 2014, the Buk TELAR '3X2' departed for the Russian-Ukrainian border from its home base in Kursk, as part of the second Buk battalion of the 53rd AAMB.

## 6 Other parties involved in the deployment of the Buk TELAR

As well as investigating the Buk TELAR's crew, their direct superiors and those responsible for supplying the Buk TELAR, the JIT also investigated the parties responsible for the deployment, on 17 July 2014, of that Buk TELAR, which was used to shoot down flight MH17. Girkin, Dubinskiy and Kharchenko have already been convicted of deploying this weapon by the district court. The investigation was broader, however, and also encompassed other individuals who may have been jointly responsible for the Buk TELAR's deployment on 17 July 2014.

Once again, telecom data was the key source of evidence in this regard, and use was made of intercepted phone conversations previously included in the prosecution file and authenticated by the district court. The same arguments regarding the recordings' authenticity apply to the intercepted phone conversations that had not yet been included in the file and which are discussed for the first time in this report.

In the interests of clarity the investigation findings will be discussed in chronological order, from the arrival of the Buk TELAR at the Russian-Ukrainian border until shortly after the downing of flight MH17 on 17 July 2014.

### 6.1 Late June to early July 2014: Russia exerts more influence over DPR

As the Buk TELAR convoy travelled from Kursk to the border between 23 and 25 June 2014, the conflict in eastern Ukraine had come to a temporary halt. On 20 June, Ukraine announced a week-long ceasefire. When the ceasefire expired, fighting resumed on the DPR's northwestern and southern fronts. In July this fighting intensified further.

In this period the Russian Federation began exerting more influence over the DPR. Changes were made to the military structure in eastern Ukraine. This is made clear, for example, by an intercepted conversation between two DPR commanders from 1 July 2014 (22:08:05)

(...)

B: As the Commandant of Makeyevka, I'd very much like to know that. I want to know what we're moving towards.

A: We're moving towards unity of command. What happens next is a bunch of men with a mandate from Shoigu will arrive and kick the local warlords the fuck out of the units

B: - Uh-huh.

A: ...and then people from Moscow will take charge. (...)

B: (...) I need to know one thing: who shall I fucking report to when it happens?

A: You will report to the Minister of Defense. (...) Minister of Defense of the DPR. (...) our Minister of Defense is Strelkov, and our Commander-in-Chief-like any other President or Prime Minister - is Borodai. (...) Strelkov can give you orders, of course - and he'll certainly do so, as the war minister. No one else can give you orders. Well, Borodai, as the Prime Minister, can give your orders directly. In that case, you will have to comply.

(...)

In an intercepted conversation on 4 July 2014 (22:07:21) Dubinskiy confirmed these planned changes to the DPR's structure. In that conversation he explained that Alexander Borodai was in Moscow to discuss this situation. In another conversation that day, Dubinskiy said that once Borodai returned they would have more information 'on the commanders, on the political structure.'

Borodai was indeed in Moscow during the first week of July 2014. On 6 July 2014, by his own account, he was in the vicinity of the Kremlin in Moscow, where he was dealing with 'other matters on a larger scale'. The individuals Borodai spoke to there can be deduced from various intercepted phone calls from the previous week. In a conversation on 30 June 2014 (20:25:28), for example, Borodai can be heard in the background saying that their funds are running out and that sooner or later he will have to go to Moscow for a few days. He indicates that he has a meeting scheduled: 'With our [inaudible] portrait; with Vladimir Vladimirovich.' This is President Putin's first name and patronymic. The words 'our portrait' seem to refer to Putin's portrait, which hangs in every Russian government building. Three days later, on 3 July 2014 (20:28:19), Borodai called Vladislav Surkov. In this conversation, Borodai says that he has been summoned unexpectedly and will hopefully be able to present a report in person. In intercepted conversations the next day, Dubinskiy says that Borodai is in Moscow in connection with changes to the political and military leadership within the DPR.

Borodai's visit fits within a recurring pattern of trips to the Russian Federation by him and other DPR leaders. During this visit, Borodai had no phone contact with Surkov, Chesnakov or other Russian users of a series of consecutive encrypted phone numbers,<sup>42</sup> while at other times Borodai was in regular phone contact with them.

During this trip, Borodai designated Girkin as the day-to-day leader of the DPR in his absence. For example, in phone conversations on 6 July 2014 (14:55:54 and 21:05:15) Borodai referred someone to Girkin to resolve a certain problem, since he himself was not 'in the region'. However, Girkin's resolution of such problems did not always run smoothly. The next day, on 7 July 2014 (10:31:19), another DPR fighter complained to Borodai that Girkin had ordered him to release a prisoner. Borodai explains that his and Girkin's hands are tied. The decision to release this man was not Girkin's. 'Unfortunately [this came] from Moscow.' Borodai then says that he and Girkin are 'one and the same': they have the same leader.

While Borodai was in Moscow, a number of Russian generals arrived in eastern Ukraine. One of them was known to the separatists as Delfin and was identified by the JIT.<sup>43</sup> From a conversation

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<sup>42</sup> This is a series of Russian phone numbers with the same initial nine digits (792653185XX). Only the last two digits are different.

<sup>43</sup> During the first hearing of the criminal proceedings (9 March 2020) the Public Prosecution Service discussed the possible involvement of Delfin and another Russian officer with the call sign Orion. The Public Prosecution Service explained that in 2016 the JIT suspected, on the basis of several intercepted phone conversations, that these individuals had played a role in the downing of flight MH17, but that further investigation had revealed no evidence of

on 9 July 2014 it emerged that Delfin had been appointed head of the general staff of the so-called South East Army, which was based in Krasnodon, Ukraine. It appears that the aim was that this body would serve as the joint staff for the 'armed forces' of the DPR and LPR, and the activities of both groups would be coordinated from within it. In addition, it seems that a joint 'Army of Novorossiya' was to be formed under the leadership of a Russian general named Travkin. This individual was also identified by the JIT. Until 2010 he was a major general in the Russian military intelligence service (GRU). In a conversation on 10 July at 10:20:01, the previously mentioned Fominov indicated that in Moscow he was instructed to form the first 'Cossack Regiment of Novorossiya'. He had received the approval of the 'commander' (here he is probably referring to Travkin). In another conversation (on 17 July 2014 at 12:29:51) Travkin is referred to as 'commander-in-chief'. Another commander who arrived in eastern Ukraine in early July 2014 and worked in the newly established general staff was Elbrus. This individual was identified by the JIT. According to Alexander Khodakovskiy, DPR commander of the Vostok Battalion, Elbrus was from 'Vympel' a special unit of the FSB.

In December 2014 Girkin spoke about his relationship with the general staff in July 2014.

'I was in regular contact with the staff, which became operational in mid-July, consisted of several retired generals and colonels, and was intended to serve as an umbrella organisation that would unify the Republics' various commanders. Still, my contacts with the staff were of no use to me, as I received no instructions from them. What I did was inform the general staff every day about the situation in the areas at the front where the units under my command were fighting.'<sup>44</sup>

And regarding the question of whether this general staff had any influence or useful purpose, Girkin responded as follows:

'I don't know. What I can say is that I think the situation was terrible for them. These people were used to a constant flow of normal supplies, facilities, understanding, but they had none of that, and the way I see it, they just got lost in the situation. That situation required people with leadership skills, and these people were just staff functionaries who weren't capable of leading anyone, compelling them, subjecting them to authority.'<sup>45</sup>

Borodai's telecom data shows that on the night of 9 to 10 July 2014, he was back in eastern Ukraine. Various phone conversations revealed that after his return certain changes were indeed made to the DPR command structure. On 10 July 2014 at 01:00:48, for example, Borodai said that he had returned with around 10 'apparent' civilians in his wake, who were accompanied by a security escort. In the same conversation, Borodai also said that there would be changes to their 'government', as new members had arrived. They would quickly alleviate the miserable situation there (in eastern Ukraine). After arriving in Donetsk, Borodai urgently wanted to speak with Girkin.

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relevant involvement in the downing of the aircraft. This situation has not changed since 9 March 2020. Further study of the findings of the investigation has only cast more doubt on previous indications.

<https://theins.ru/politika/83281> (last accessed on 5 December 2022).

<sup>45</sup> <https://theins.ru/politika/83281> (last accessed on 5 December 2022)

On 10 July 2014, Girkin and Borodai gave a joint press conference in which Borodai introduced Girkin as 'commander of the armed forces of the DPR, Minister of Defence of the DPR and head of the Security Council of the Donetsk People's Republic.' Borodai also said he was happy that he and Girkin were part of this new constellation. In response to a question about what he had done in Moscow, and whom he had spoken to there, Borodai gave the following answer:

'Personally I feel I achieved sufficient success in the consultations. As for who I spoke to – of course, I won't say, because that falls under military secrets. But nevertheless, I believe the consultations were successful, and I'm counting on the support of the Russian Federation in the very short term. The Russian people are already giving us enormous support, with both volunteers and humanitarian aid, and I think this support will only increase.'<sup>46</sup>

Next, Borodai said that he could not discuss the precise details of this support, but he noted that 'the consultations led to good results'. During the press conference Girkin explained the establishment of the general staff as follows:

'In short, at the moment a general staff is being set up for the armed forces of the DPR and the LPR. The headquarters of the general staff has already been determined. The formation of this organisation is practically complete. The joint administration of Novorossia will be established soon. That is all I can say at this time.'<sup>47</sup>

## 6.2 6 to 14 July 2014: planning DPR offensive

During the press conference Girkin also described where the front line was located on 10 July 2014: running alongside Shakhtarsk, Torez and Snizhne. According to Girkin, the heaviest fighting on the southern front line was concentrated near Saur-Mogila and Stepanovka, where prolonged artillery fire from both sides was ongoing.

In early July 2014 the DPR began preparing an offensive to the south of Snizhne. Following a meeting of the staff led by Girkin, on 6 and 7 July 2014 Pulatov conducted reconnaissance activities from south of Snizhne to the Russian border.<sup>48</sup> During the press conference Girkin said that the heaviest fighting was concentrated in this area.

On 10 July Girkin was frequently on the phone with 'Moscow'. In a conversation at 14:18:37, for example, an assistant of Girkin can be heard telling Dubinskiy that Girkin is currently on the phone with Moscow and that it is important. Later that day, at 17:22:16, Girkin himself tells Dubinskiy that he is constantly on the phone, trying to get hold of Moscow. By his own account he wants to report on the situation. Borodai subsequently phones the commander of Snizhne. He tells him he will be coming by with Girkin tomorrow and assures the commander he will receive military equipment, arms and money. Borodai says he has it all.

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<sup>46</sup> [https://www.youtube.com/watch?v=1-Z\\_dJRhfB8](https://www.youtube.com/watch?v=1-Z_dJRhfB8) (last accessed on 5 December 2022).

<sup>47</sup> [https://www.youtube.com/watch?v=1-Z\\_dJRhfB8](https://www.youtube.com/watch?v=1-Z_dJRhfB8) (last accessed on 5 December 2022).

<sup>48</sup> Judgment of The Hague District Court, 17 November 2022, ECLI:NL:RBDHA:2022:12217.

Later that evening a briefing took place between Girkin and all the commanders. Borodai was present, and Dubinskiy was also urged to come to the meeting. At 23:37:32 Dubinskiy asked a subordinate to urgently fetch a map of Snizhne and the area to the south and southeast of the city. According to Dubinskiy these were 'operation instructions'.

### 6.3 14 to 16 July 2014: start of DPR offensive

From 14 July there was heavy fighting between Ukrainian troops and the DPR in the area south of Snizhne. On 14 July Dmitrovka was bombarded by the Ukrainian air force. In the night of 14 to 15 July the separatists attacked checkpoints near Stepanovka, and the next day this village was captured. Preparations were also made to attack Marinovka. In the evening of the 14th, for example, Girkin called the commander of Snizhne and told him that Marinovka would have to be taken the next morning and that the commander's troops would have to support this effort. Ultimately, Marinovka was not attacked until the day after, on the morning of 16 July 2014. The previous night (15 to 16 July) a meeting took place. The attendees included Girkin, Borodai, the commander of Snizhne and the commander of the Oplot Battalion. The fact that something was afoot was made clear by subsequent intercepted phone conversations. Borodai, for example, called a subordinate to ensure the availability of sufficient ambulances to extract casualties, and doctors to treat them. In the early hours of the morning (02:22:34) the Oplot Battalion commander told Girkin's assistant that the offensive would begin in a few hours.

In the early morning of 16 July 2014 Marinovka, a village four kilometres from the Russian border, was attacked by the DPR. The attack was launched from newly captured Stepanovka and Saur-Moglia, the hill that had been captured earlier. The troops commanded by Kharchenko and Pulatov played a key role in this attack.<sup>49</sup> Girkin and Borodai were also at the front that day. A video filmed on the morning of 16 July shows Girkin and Borodai being interviewed in the vicinity of Marinovka. In the interview Girkin talks about dead and wounded fighters on the DPR side. In addition, an intercepted phone conversation with the Oplot Battalion commander on the same day (08:17:08) shows Girkin and Borodai received a detailed briefing on the battalion's progress in the fighting. Girkin then tells the commander that Marinovka has been captured and that they are now trying to advance further. Later, in the afternoon (15:45:30) Borodai confirms that Girkin's troops have made territorial gains that day: '(...) Stepanovka and – what's its name – Maryinka are currently occupied by Strelkov's units'.<sup>50</sup> The investigation showed that Borodai meant Marinovka when he referred to 'Maryinka', and that he got this place name wrong on other occasions too.

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<sup>49</sup> Judgment of The Hague District Court, 17 November 2022, ECLI:NL:RBDHA:2022:12217, consideration 6.2.4.4

<sup>50</sup> See also intercepted conversation (09:25:29) in which Borodai tells Zakharchenko: '*Run around and wave your hats, eh? Well that's not a good idea, naturally. Stay put for now, we'll figure out something... other than running around and waving your hats. (...) So the bottom-line is, three out of four tanks you had in Maryinka are now out of action.*'

## 6.4 Burlaka's position

During an intercepted phone conversation on 16 July 2014 at 08:17:08, the Oplot Battalion commander told Borodai and Girkin that a helicopter had just flown overhead. It was flying on a zig-zagging course to the east, in the direction of Luhansk. Next Borodai called a person known as 'Vladimir Ivanovich' and asked him whether it was possible that 'our helicopters' were carrying out an attack on 'Maryinka'. 'Vladimir Ivanovich' reacted to this comment as he always did when Borodai called him: he asked Borodai to switch on the phone's encryption mode. The phone's scrambler was then switched on, making it impossible to listen in to the rest of the conversation.

The person whom Borodai addressed as Vladimir Ivanovich was identified by the investigation team as Andrei Burlaka, an FSB general who was first deputy to the head of the FSB Border Service. The investigative collective Bellingcat had previously reached the same conclusion,<sup>51</sup> following a JIT witness appeal in November 2019 in which information about 'Vladimir Ivanovich' was released.<sup>52</sup> From June to mid-August 2014, Borodai was in almost daily contact with Burlaka. Borodai described him to others as 'the commander of this operation' and 'the one who makes all the decisions'. Burlaka used an encrypted phone whose number was from the same series as those used by Borodai, Surkov and Chesnakov.<sup>53</sup>

The investigation revealed that on several occasions Burlaka gave Borodai instructions and directly intervened from the Russian Federation with regard to internal DPR matters. Burlaka's actions on 1 July 2014 are an example of this. Recorded conversations on that date show that a conflict arose that day between Borodai and Bezler, prompted by the storming of the interior ministry building in Donetsk by troops under Bezler's command. Borodai called Burlaka and Surkov in connection with this conflict. Since the discussion took place on encrypted phone lines, the substance of their discussions is not known, but Borodai told others that he was instructed by Burlaka to ensure, by force of arms, that Bezler did not seize the interior ministry building. He was also instructed to 'destroy' him. The conflict was ultimately resolved after Burlaka spoke to one of Bezler's subordinates.

Burlaka appears to have had some say over not only Borodai's position, but Girkin's as well. On 11 July 2014 at 20:15:41, for example, a DPR fighter told Burlaka that Girkin had placed his group under the command of another separatist and asked Burlaka whether he should obey Girkin's instructions. Burlaka answered in the affirmative. In another case, Burlaka interfered with Girkin's equipment supplies. On 31 July 2014 at 00:56:38, Girkin was told that a convoy of 'seven boxes' had been supplied, but that Burlaka had instructed that two of them must be supplied to another party. Affronted, Girkin responded that Burlaka should be giving such instructions to Girkin himself and not issuing commands to his people directly.

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<sup>51</sup> <https://www.bellingcat.com/news/2020/04/28/Burlaka/> (last accessed on 5 December 2022).

<sup>52</sup> <https://www.politie.nl/en/information/witness-appeal-crash-mh17-nov-19.html> (last accessed on 5 December 2022).

<sup>53</sup> This is a series of Russian phone numbers with the same initial nine digits (792653185XX). Only the last two digits are different.



Furthermore, telecom data shows that in the course of 16 July 2014 various separatist leaders and leaders of the Krasnodon general staff held meetings with Burlaka, a 'higher-ranking boss' 'who flew over from Moscow'. These meetings took place at a location on the Russian side of the Russian-Ukrainian border. The investigation produced no information about what was discussed at these meetings.

## 6.5 Borodai's position

As the so-called prime minister of the DPR, Borodai was in close contact with Burlaka and Surkov during this period. The contacts between Burlaka and Surkov concerned developments in the theatre of operations, the delivery of military equipment, and administrative matters, such as the establishment of an extra security service and the intransigent attitude of DPR commander Bezler. Surkov also concerned himself with the composition of Borodai's government. In an intercepted conversation on 25 June 2014 (23:20:46) about Putin ('Uncle Vova'), Borodai said that he was in eastern Ukraine for a reason. Borodai was thus a key link in the chain between the DPR and Moscow. Various intercepted phone conversations show that Borodai was receiving instructions from Burlaka. In one conversation, on 3 July 2014 at 13:26:36, a Russian fighter described Borodai's position as follows:

'Nah, look, he says things he's told to say, do you know what I mean? (...) He says things that are dictated from Moscow. He's an appointee, you see?'

In intercepted conversations Borodai is sometimes described as commander-in-chief. For example, in a phone conversation on 4 August 2014 (23:53:53), a little over two weeks after the downing of MH17, Dubinskiy reported that he had been promoted to major general three days earlier on the orders of 'Commander-in-Chief' Borodai, who in turn was confirming the order of 'VVP'. 'VVP' is a common abbreviation of Vladimir Vladimirovich Putin. Girkin is also described as commander-in-chief of the DPR. Girkin gave himself this title in the witness statement he gave to the Russian authorities on 6 February 2015. During a joint press conference on 10 July 2014, Borodai presented Girkin as 'commander of the armed forces of the DPR, Minister of Defence of the DPR and head of the Security Council of the Donetsk People's Republic'. It is not always clear how such titles relate to one another within the DPR.

In intercepted phone conversations, Borodai does not come across as the commander-in-chief. When it comes to the DPR's actual military operations, and particularly the planning and execution of the offensive to the south of Snizhne, nothing was found indicating that Borodai was the person in command on the ground. Phone intercepts do show that he was kept informed about military results, but not that he directed combat activities himself, as Girkin did. Borodai did not appear to know the name of Marinovka, where the DPR, under Girkin's command, launched its southern offensive ('(...) Stepanovka and – what's its name – Maryinka are currently occupied by Strelkov's units'). In addition, during the offensive of 16 July 2014 (08:17:08) Borodai passed the phone to Girkin when the Oplot Battalion commander reported on the resistance his troops were encountering. Girkin responded that the commander should press on. When the same commander phoned Borodai over an hour later (09:25:29) to report that several of his tanks had been disabled and asked what the plan was, or whether new orders were coming, Borodai responded that they would think of something, and then handed the phone to Girkin.

## 6.6 16 to 17 July 2014: deployment of the Buk TELAR

After the capture of Marinovka, the DPR offensive ground to a halt. The DPR could not break through the Ukrainian positions and had to contend with Ukrainian air strikes and constant artillery fire, which resulted in many dead and wounded on the DPR side. As the district court established in its judgment, in the night of 16 to 17 July 2014 Pulatov reported to Dubinskiy that he needed not tanks, but decent anti-aircraft defence. After this, Dubinskiy spoke to a comrade and expressed his desire to obtain a Buk that he could send to the front that morning, because otherwise the prospects did not look good. Dubinskiy told Pulatov that if they did manage to get hold of a 'Buk M', it would immediately be sent to Pulatov, and that this Buk was their only hope.<sup>54</sup>

On the morning of 17 July 2014 Girkin received a report that they had suffered a total defeat on a plateau. At 08:27:03 Girkin passed this report from the front on to Borodai and asked him whether he had a fully charged phone he could use to report over an encrypted line. When Borodai answered that he did indeed have a fully charged phone available, Girkin asked him to send it to him, and said he would wait to receive it. Half an hour later (at 08:59:28), one of the phones used by Borodai called Burlaka's number. This conversation could not be intercepted because it took place over an encrypted line, but the conversation lasted 296 seconds.

At around 09.00 that morning, a Buk TELAR was delivered in Donetsk. At that time, Dubinskiy was with Girkin at DPR headquarters in Donetsk. Kharchenko joined them, and Dubinskiy instructed him to escort the Buk TELAR further, position it in the vicinity of Pervomaiske, and have his men guard it there.

That morning, Borodai's phone was transmitting to the same phone mast as those of Girkin, Dubinskiy and Kharchenko: the mast at Schorsa Street in Donetsk. The DPR headquarters building is located within range of this phone mast. Furthermore, it appears that Borodai did indeed visit Girkin to bring him a fully charged encrypted phone, as discussed in the earlier phone call at 08:27:03. At 08:58:02 one of Girkin's subordinates was summoned to Girkin's office. In an intercepted conversation at 09:33:12 the same subordinate informed another separatist that Borodai was with him at that time. This indicates that Girkin and Borodai were that morning at the same location as that where Dubinskiy was instructed to deploy the Buk TELAR that had been received.

According to the district court, it is impossible to satisfactorily establish, however plausible it may be, that at this moment (or at any other time prior to the downing of flight MH17) Girkin was aware of the availability of a Buk TELAR.<sup>55</sup> The same must apply here to Borodai.

In the same period that Dubinskiy was at headquarters arranging orders for Bibliothekar, Pulatov and later Kharchenko to ensure that the Buk TELAR reached its intended destination,<sup>56</sup> Borodai was in phone contact with Burlaka. They had two conversations: one at 09:24:11 lasting 95 seconds, and another at 09:35:06, lasting 322 seconds. On the same day, 17 July 2014, Borodai had phone

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<sup>54</sup> Judgment of The Hague District Court, 17 November 2022, ECLI:NL:RBDHA:2022:12217, 6.2.4.4

<sup>55</sup> Judgment of The Hague District Court, 17 November 2022, ECLI:NL:RBDHA:2022:12217, 6.2.5.3

<sup>56</sup> Judgment of The Hague District Court, 17 November 2022, ECLI:NL:RBDHA:2022:12217, 6.2.4.4

contact with Burlaka on more than 20 occasions. The substance of these conversations is not known because they were conducted using encrypted phones. It is therefore not clear whether these conversations involved the further deployment of the Buk TELAR.

Recorded phone conversations conducted by Borodai on 17 July 2014 concerned matters other than the deployment of the Buk TELAR. For example, at 13:11:06 he spoke with Medvedchuk about a planned meeting via video link with the OSCE, which neither of them would be participating in. In this call, Borodai and Medvedchuk jokingly note that they have both received the same 'directive' not to attend the meeting. Less than half an hour later (at 13:36:50), Borodai is called by a DPR fighter who complains that things are taking too long, that they have more than enough manpower, and that some of the weapons have been taken. He 'doesn't get it at all', and wonders what is going on. Borodai responds that he must follow Girkin's orders.

## 6.7 17 July 2014: after the downing of flight MH17

After the downing of flight MH17, no phone conversations conducted by Borodai or Burlaka concerning the deployment or removal of a Buk or the downing of the aircraft were intercepted either. However, Borodai's intercepted conversations include discussions of the impact and aftermath of the disaster. On 17 July 2014 at 23:43:37, Borodai (A) called the commander of the Oplot Battalion (B). This conversation shows that Borodai has just been at the crash site and is currently en route to DPR headquarters in Donetsk.

- (...)
- A: Where are you? Where are you now?
- B: I'm waiting for the minister. I'll bring him with me and come to you.
- A: To me? Where? There? I've already left there.
- B: In that case, first I'll take the minister there, and after that I'll come to you. (...) Because the Minister of Health damn well needs to be present at the Boeing crash location.
- A: You need to come to me, but first I need to swing by the esbushka.<sup>57</sup>
- (...)

During this conversation shortly before midnight on 17 July 2014, Borodai's phone was transmitting to phone masts in Makeeva, near Donetsk. From 00:03:27 on 18 July 2014, his phone was transmitting to a mast on Schorsa Street in Donetsk, near DPR headquarters. At 00:10:19 Borodai (A) received a phone call from Chesnakov (B), who worked with Surkov. In this call, Borodai informs Chesnakov that he has just returned from the crash site. Chesnakov asks him about communications on the establishment of an investigation headquarters and contacts with international organisations and the victims' next of kin :

- (...)
- B: Sorry to call so late. I was told you were up.
- A: Yes, of course I'm up. I've just come back. From the beautiful places.

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<sup>57</sup> 'Esbushka' of 'eSBeUshka' is the nickname of the SBU building that was occupied by the DPR and was being used as the DPR's headquarters.

- B: I've got two questions to ask. Number one: they say it works out very well there in terms of information; I mean you say right things.
- A: Well, we can find more...
- B: Yeah.
- A: ... on top of everything else.
- B: Yeah. Look, there's a request. Is it possible to spread the information immediately about the decision for you to establish a headquarters for the investigation...
- A: OK.
- B: ... so that you engage with all international organizations, and relatives of those killed, and others.
- A: Yes. Yes.  
(...)

Shortly thereafter, in a phone call at 00:32:32, Dubinskiy told a comrade that Borodai was currently with Girkin. It is not clear what Borodai and Girkin discussed at that time. Around this time, Dubinskiy's phone was transmitting to phone masts in the same vicinity as the DPR's headquarters. Between 00:18:56 and 02:03:16 Borodai's phone was no longer active. His whereabouts in this time period are therefore unknown. From 02:03:16 his phone was transmitting to a mast at a different location. The DPR's headquarters building is located outside the range of this mast.

No indication was found that Borodai was involved in the removal of the Buk TELAR that shot down MH17. Girkin initially instructed Dubinskiy to remove the Buk TELAR at 20:30:52 on 17 July 2014. Dubinskiy passed on this instruction to Kharchenko. At 23:32:34 Kharchenko told Dubinskiy that the Buk convoy had left Snizhne. At this point Borodai was not yet at DPR headquarters. It was only later that night, starting at 01:47:32, that Girkin and Dubinskiy got involved again in the removal of the Buk TELAR. During the ongoing removal operation, Borodai's phone was no longer active or was at a different location to Girkin and Dubinskiy.

The next and last-known conversations conducted by Borodai about MH17 took place on 21 July 2014. At that time, the affected countries and several international organisations were trying to gain access to the disaster area in order to repatriate the victims' remains and conduct an investigation. On the morning of 21 July 2014 Borodai called Surkov eight times but was unable to reach him. Next Borodai (A) called Chesnakov (B) at 12:45:43 and said that he wished to speak to 'the boss' about the departure of the refrigerated rail container ('reefer') containing victims' remains, the transfer of the black boxes, and points of contact for his upcoming press conference:

- (...)
- A: (...) three Dutch experts arrived today, and I hope that twelve more Malaysian experts will arrive any time soon. (...) And then there're some Red Cross representatives. All of them are eager to get work done, so we'll take all of them to the scene and to the reefer, but after that they all want us to send that reefer en route to Kharkov. (...)...and it is my understanding that [our] colleagues, if you will, also support it—am I right? I mean, [we] support [the decision] to send that reefer to Kharkov, but not until an official handover ceremony has taken place and a corresponding document has been signed—(...)...saying that we have handed over so-and-so many bodies of the victims and so-and-so many other things. (...) Is this the correct standpoint?

- B: To me, it is.
- A: Well, I'd like to have a consultation—(...)...and to discuss it directly with the boss. (...) And as soon as possible. But I absolutely can't get him on the phone, I get cut off all the time. Maybe he can try? (...) Now, about the [black] boxes that I have in my possession: I will hand them over to no one else but ICAO representatives, do I get it right? (...) And those will have to come here to get them.
- B: Uh-huh.
- But to be honest, I'd like a consultation to clear this out completely. (...) May I ask [that he] calls me back at the earliest opportunity, because I've got to be at another press conference any time soon. (...) [I need] to know my talking points (...) For I assume our neighbors will be saying something [on the matter].
- (...)

After this, Borodai tried calling Surkov twice, again without success. At 17:32:10, Borodai told Chesnakov that he urgently needed to speak to 'the boss', because he really needed to know to whom he should hand over the black boxes and the victims' remains.

Later in the evening of 21 July 2014, at around 23:00, Borodai gave a press conference at which he announced that the train containing victims' bodies would be travelling to Kharkiv and handed over the black boxes from flight MH17 to Malaysian investigators.<sup>58</sup>

## 6.8 Summary

From 6 July 2014, over a week after the arrival of the Buk TELAR '3X2' at the Russian-Ukrainian border, changes were made to the DPR's military and political structure. Russian generals travelled to Ukraine to form a joint general staff that would coordinate the military operations of the DPR and LPR. Their degree of actual influence in July 2014 remains unclear. Girkin said that he received no instructions from this general staff. There are however indications that Borodai received instructions from the FSB general Burlaka. As of June 2014 he and Borodai were in daily contact. Burlaka also gave instructions directly to Girkin's subordinates, a situation which Girkin accepted. Burlaka's instructions to Borodai and to Girkin's subordinates related to internal conflicts and dynamics between DPR commanders, and to the provision of equipment. The investigation uncovered no concrete instructions from Russian generals or other Russian officials concerning the deployment of the Buk TELAR.

The Buk TELAR was deployed as part of the armed conflict taking place to the south of Snizhne. The planning and execution of this DPR offensive was the responsibility of Girkin, Dubinskiy, Pulatov and Kharchenko (among others). Borodai was also present, and was kept informed about the military results in the course of the fighting. There are no indications that Borodai himself directed any combat activities. He was not familiar with the place name Marinovka, where on 16 July 2014 Girkin was leading the DPR offensive. When asked operational questions he passed the

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<sup>58</sup> See e.g. *The Guardian's* liveblog of 21 July 2014: <https://amp.theguardian.com/world/2014/jul/21/mh17-disaster-ukraine-obama-live-updates> (last accessed on 5 December 2022).

telephone to Girkin. And when a DPR fighter asked him on the afternoon of 17 July 2014 what was going on, Borodai replied that he must follow Girkin's orders.

When the offensive stalled and the DPR fighters came under fire, a Buk system was requested and received. Once the Buk TELAR had arrived in Donetsk, Dubinskiy arranged its deployment. At that time, Borodai and Girkin were in the same DPR headquarters building. As the district court held in Girkin's case, it is not possible to establish whether Borodai was aware at that time of the Buk TELAR's availability. While Dubinskiy was making phone calls from headquarters about the deployment of the Buk TELAR, Borodai spoke to Burlaka on the phone twice. Over the course of the entire day (17 July) Borodai had more than 20 phone conversations with Burlaka. Since those calls took place on encrypted phones, the substance of these conversations is not known. There are no intercepted phone conversations involving Borodai or Burlaka about the downing of flight MH17 or about the request for, or the supply and removal of, the Buk TELAR. Nor is there any evidence that Borodai was in the vicinity of Girkin and Dubinskiy when they were dealing with the removal of the Buk. There are however intercepted conversations which show that he concerned himself with the impact and aftermath of the downing of flight MH17. On 17 July 2014, for example, he was present at the crash site, and he tried to contact Surkov about the transfer of victims' remains and the aircraft's black boxes.

## 7 Options with regard to investigation and prosecution

The JIT investigation regarding the crew of the Buk TELAR used to down flight MH17, their superior officers, the parties responsible for supplying the weapon system and other parties involved in the weapon's deployment on 17 July 2014 has now reached its limits. As things now stand, the JIT and the Dutch Public Prosecution Service have reached the following conclusions.

### 7.1 Investigative options

All the available telecom data of relevant individuals has now been analysed. The JIT has investigated this case as thoroughly as it reasonably can without the cooperation of the Russian authorities. In this connection, the investigation team has had to take account of the major security risks facing its sources.

Any new evidence in the investigation must be sought in the Russian Federation. In order to obtain new evidence the JIT would have to rely on the cooperation of the Russian authorities or Russian (insider) witnesses. Under the current Russian regime the latter are not able to speak freely, and would expose themselves to major security risks if they were to talk to the JIT. To this day, the Russian authorities continue to deny – contrary to the established facts – any involvement in the conflict in eastern Ukraine on and around 17 July 2014. Since that date, the Russian Federation has on multiple occasions presented – and provided to the JIT – falsified evidence exonerating itself. At other times, the Russian authorities have refused to provide information. For example, they refused to answer questions posed by the Public Prosecution Service in 2018 about the whereabouts of the Buk TELAR '3X2' in the period from 23 June to 23 July 2014 and the identity of its crew members. They also refused to allow the 2021 request of the examining magistrate to examine the commander of the 53rd AAMB. Since the start of the JIT investigation the Russian authorities have publicly cast doubt on its findings. They did the same with the district court's judgment of 17 November 2022.<sup>59</sup> Relations with the Russian Federation have deteriorated further since the Russian invasion of Ukraine on 24 February 2022. There is now no prospect of receiving the kind of open-minded cooperation necessary to continue the investigation.

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<sup>59</sup> <https://www.interfax.ru/russie/873011>, 17 November 2022: (translated from Russian) 'Moscow called the decision of the Hague court in the MH17 case politically motivated. The Russian Foreign Ministry does not consider the verdict of the court in The Hague, which sentenced Russians Igor Girkin and Sergey Dubinskiy and Ukrainian Leonid Kharchenko to life imprisonment in absentia in the criminal "case MH17", impartial. "We deeply regret that the District Court of The Hague has disregarded the principles of impartial justice in favor of the current political situation, thus causing a serious reputational blow to the entire judicial system of the Netherlands," the Ministry said in a statement. (...) According to the Foreign Ministry, "both the course and the results of the proceedings indicate that it was based on a political order to reinforce the version promoted by The Hague and its associates in the Joint Investigation Team about Russia's involvement in the tragedy." (...)'. See also: <https://www.reuters.com/world/europe/russia-says-it-will-examine-dutch-courts-position-mh17-2022-11-17/>; <https://tass.com/pressreview/1538645>.

## 7.2 Prosecution options

The investigation's findings to date do not provide sufficient grounds for prosecution. There are either formal obstacles to a prosecution, or the necessary lawful and convincing evidence is lacking.

### 7.2.1 Buk TELAR crew members and their superior officers

The investigation into the crew of the Buk TELAR used to down MH17 produced second-hand information about the possible involvement of three former officers of the 53rd AAMB. This information is ambiguous, and thus far it cannot be confirmed to an adequate extent. Since it has not yet been possible to establish the identity of the Buk TELAR crew members, it is not possible to prove via this line of enquiry why they fired a Buk missile at MH17. It is equally impossible to establish whom they received which orders from. Nor could this information be found by other means. It therefore remains unclear what the crew's superior officers in the Russian military chain of command knew about the downing of flight MH17 on 17 July 2014 or what degree of say they actually had regarding it. These superior officers included the commander of the 53rd AAMB, the Russian Minister of Defence and – as commander-in-chief – the Russian President.

Furthermore, as members of the regular armed forces of the Russian Federation, the crew members and their superior officers may be able to claim combatant immunity. Such immunity applies to violence committed as a combatant, and it continues to apply after the individual concerned has left the armed forces. It is open to question whether a claim of combatant immunity in this case would have any chance of succeeding. After all, to this day the Russian Federation continues to deny that the Russian armed forces were involved in the armed conflict in eastern Ukraine in July 2014, or in the downing of flight MH17. Unlike in the case of the four DPR fighters who were prosecuted previously, limits to Dutch jurisdiction under international law may be a barrier to the prosecution of the crew members and their superior officers.

Whether combatant status can also be claimed by a defence minister and a president in the role of commander-in-chief is a matter of academic debate. The answer may depend in part on the circumstances of the case. In the present case, it may be relevant that, on 17 July 2014, Minister of Defence Sergei Shoigu held the military rank of general, and that President Putin, as commander-in-chief, was personally involved behind the scenes in the conflict in eastern Ukraine.

Even if the Buk TELAR crew and their superior officers were entitled to claim combatant immunity, such a claim would not stand in the way of a war crimes prosecution. Combatants and non-combatants alike can be prosecuted for war crimes. However, without concrete information about the circumstances in which the decision was made to fire the Buk missile at MH17, it is not easy to determine whether the downing of MH17 was a war crime. The district court held that it is completely implausible that a civilian aircraft was deliberately shot down and that it is plausible that MH17 was shot down by mistake. As a consequence there appears to be limited scope for instituting criminal proceedings in respect of a war crime.



### 7.2.2 Parties responsible for supplying the Buk TELAR

As the district court held, in the circumstances in question it may be assumed that 'anyone who helped facilitate the deployment of this weapon' had both intent and premeditation in respect of unlawfully causing the crash of flight MH17 and the death of everyone on board.<sup>60</sup>

The investigation produced strong indications that a decision on providing the Buk TELAR – or in any event a heavier air defence system with a higher range – to the DPR was taken at presidential level. Although the investigation produced strong indications, the high bar of complete and conclusive evidence is not reached.

Furthermore, whether or not he is entitled to claim combatant immunity, the president of the Russian Federation, as head of state, is in any event immune under international law from prosecution. Under Dutch law, a head of state cannot be prosecuted for any offence whatsoever, even a war crime (article 8d of the Criminal Code and section 16 of the International Crimes Act). This immunity applies for as long as Putin remains head of state.

In addition to Putin, several other individuals have emerged who were involved in making the decision to supply the separatists in eastern Ukraine with the Buk TELAR. These individuals include Sergei Aksyonov, Vladislav Surkov, Alexei Dyumin and Sergei Shoigu.

There are indications that Aksyonov, Surkov and Dyumin supported the DPR's request for a heavier air defence system and (along with other individuals) decided to present the request to Shoigu and Putin. The question is whether, in doing so, they also have a criminal responsibility for the deployment of this weapon. In any event, they had no actual decision-making power about whether to provide a Buk TELAR. That authority lay at a higher level. Therefore, were they sufficiently helpful in facilitating the eventual deployment of the Buk TELAR that their actions constituted criminal aiding and abetting? For such a charge, further and more concrete evidence is needed concerning their own part – and that of others – in the decision-making process related to the possible provision of the Buk TELAR. There is therefore insufficient evidence as yet to hold them criminally liable for the downing of MH17. What is more, Dyumin, as deputy head of Russia's military intelligence service (GRU), may be entitled to claim combatant immunity.

The same goes for Shoigu, as noted above. In addition it is open to question whether Shoigu – alongside Putin – had actual decision-making power when it came to supplying the Buk TELAR. After all, the investigation produced indications that this was ultimately the president's decision, and not – as noted in an intercepted phone conversation – that of a general or defence minister named 'Sh...'. Was he therefore sufficiently helpful in facilitating the eventual deployment of the Buk TELAR that his actions could be described as criminal aiding and abetting? Regarding Shoigu, too, more – and more concrete – evidence is needed concerning his own part in the decision-making process regarding the supply of the Buk TELAR.

Lastly, Alexander Borodai and Aleksei Fominov held consultations with Russian officials in Moscow about the provision of military equipment. Since it could not be clearly determined whether those

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<sup>60</sup> Judgment of The Hague District Court, 17 November 2022, ECLI:NL:RBDHA:2022:12217, 6.3.2.4.

consultations concerned the supply of a Buk system, these individuals cannot be held responsible for its delivery.

### **7.2.3 Parties jointly responsible for deployment of Buk TELAR**

Finally, the investigation included other individuals who could – in addition to Girkin, Dubinskiy and Kharchenko – be held criminally liable for the deployment of the Buk TELAR in eastern Ukraine. The investigation did not uncover any concrete instructions given by Russian generals or other Russian officials regarding the deployment of the Buk TELAR.

There were however indications of a direct, de facto chain of command between FSB general Andrei Burlaka and DPR fighters Borodai and Girkin. Within this chain of command, Burlaka gave orders to Borodai and to subordinates of Girkin, orders which Girkin in turn accepted. It is not clear whether Burlaka, acting in his command role, was involved in a criminal capacity in the deployment of the Buk TELAR. Since he used a secure line, the contents of his phone conversations are not known. Conversations held by other parties about Burlaka show that his orders to Borodai and to Girkin's subordinates related to internal conflicts and dynamics among DPR commanders, as well as the provision of equipment. Nothing was said about providing a heavier air defence system.

Substantive conversations held by Borodai, the so-called prime minister of the DPR, have been located, however. These show that his role primarily involved administration, logistics and military support. When it came to operational military orders, Borodai would refer people to Girkin. In Moscow Borodai held consultations about providing military equipment, but it is not known whether this included a heavier air defence system.

On the basis of the information obtained, it is not possible to establish that Borodai and Burlaka had advance knowledge of the Buk TELAR's availability. Nor are there any concrete indications – unlike in Girkin's case – that Borodai and Burlaka directed combat activities themselves, requested a heavier air defence system themselves, and later worked to get rid of the Buk TELAR once it had been used.

Therefore, in contrast to the conclusion of the district court in Girkin's case, it is not possible at this time to provide lawful and convincing evidence that Borodai and Burlaka were able to decide on the deployment and use of the Buk TELAR and that they accepted that deployment and use. Nor is it possible to prove that they deliberately aided and abetted the downing of MH17 in another way.

## **7.3 Conclusion**

After working for over eight-and-a-half years, the JIT sees no further scope for investigation. The investigation will therefore be suspended. The investigation produced various findings, but these do not provide any grounds for prosecuting new individuals. Although the investigation is being suspended, the JIT is not closing the case. New information or a change in circumstances may give reason to resume the investigation or institute new criminal proceedings.

**Annex 393**

Flight Safety Foundation, Factual inquiry into the airspace closure above and around eastern  
Ukraine in relation to the downing of Flight MH17, January 2021

(excerpt)





# Factual inquiry into the airspace closure above and around eastern Ukraine in relation to the downing of Flight MH17

**Flight Safety Foundation**

JANUARY 2021

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## About Flight Safety Foundation

Flight Safety Foundation is an independent, nonprofit, international organization exclusively chartered to provide impartial research, education, advocacy, and communications in the field of aviation safety. Founded in 1947, the Foundation brings together aviation professionals from all sectors to help solve safety problems facing the industry. With membership throughout the world, the Foundation brings an international perspective to aviation issues for its members, the media and the traveling public.

The Foundation is in a unique position to identify global safety issues, set priorities and serve as a catalyst to address these concerns through data collection and information sharing, training, safety standards, best practices and toolkits. The Foundation strives to bridge proprietary, cultural and political differences in the common cause of advancing global aviation.

Many of the safety issues the Foundation has addressed over the decades have evolved as air travel has grown and technology and training have improved. The stellar safety record of the aviation industry speaks to the progress that has been made.

One of the issues that the Foundation has focused on involves the risk to airliners that fly over conflict zones. Threats to commercial aviation due to hostile activity in conflict regions around the world are a continuing

concern. In 2020, there were two such occurrences. On 8 January 2020, Ukraine International Airlines Flight 752 was shot down shortly after takeoff from Tehran Imam Khomeini International Airport, resulting in 176 fatalities. On 4 May 2020, an East African Express Airways aircraft was shot down on approach to Berdale airport in Somalia, resulting in six fatalities.

The Foundation has long been involved in working to mitigate civil aviation conflict zone risk. In August 2014, just weeks after the downing of Malaysia Airlines Flight MH17 over eastern Ukraine, the Foundation's chairman was chosen to lead the International Civil Aviation Organization's (ICAO) Task Force on Risks to Civil Aviation Arising from Conflict Zones. The ICAO Task Force produced important recommendations to mitigate the risks to civil aviation which were incorporated into ICAO's *Risk Assessment Manual for Civil Aircraft Operations Over and Near Conflict Zones*.

The Foundation continues its global campaign on heightened awareness of, and action on, conflict zone risk to civil aviation. Within the context of a still-prominent risk, this report attempts to advance the understanding of risk assessment of attacks from the ground on civil aircraft and on the state processes for integrated airspace security risk assessment.

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## Executive Summary

### Purpose

Flight Safety Foundation (the Foundation) conducted an inquiry into the circumstances that led to a partial closure of the airspace above and adjacent to eastern Ukraine in the three-month period prior to the 17 July 2014 shoot-down of Malaysia Airlines Flight MH17.

The intent of the inquiry was to analyse airspace closure decisions made by authorities in both Ukraine and the Russian Federation, and to understand the processes used in making those decisions as well as the information on which the decisions were based. The elements of the inquiry are defined further in the Scope.

### Background

On 17 July 2014, Flight MH17, flying from Amsterdam to Kuala Lumpur, was downed over eastern Ukraine, where, at the time, an armed conflict was taking place. Tragically, all 298 passengers and crew lost their lives. While there were other losses of airliners as a result of military conflict over the previous decades, the loss of Flight MH17 constituted a watershed moment that galvanized the international community to proactively address the continuing threat to civil aviation arising from conflict zones.

In July 2014, the United Nations Security Council adopted a resolution related to the downing of Flight MH17. This was followed by an International Civil Aviation Organization (ICAO) State letter, issued to draw the attention of ICAO Member States to the international provisions specifying state responsibilities with respect to the safety and security of civil aircraft operating in airspace affected by conflict.

ICAO established a senior-level Task Force to address issues related to the safety and security of civil aircraft operating in airspace affected by conflict. The chairman of the Foundation's Board of Governors was elected as the chairman of the Task Force. The Task Force developed a report, which included recommendations to address the threat of military conflict to civil aviation. It urged

the international community to implement protocols to prevent similar events from happening. These recommendations included threat assessment, sharing of threat information, and timely and effective management of aircraft operations and airspace.

The 36-state ICAO Council reviewed the report of the Task Force and in October 2014, approved the conflict zone work program. The Council also unanimously adopted a resolution condemning the downing of Malaysia Airlines Flight MH17 over eastern Ukraine.

The technical investigation into the causes of the Flight MH17 crash was conducted by the Dutch Safety Board (DSB) after Ukraine delegated this authority to the Netherlands. The report of the DSB aimed at answering four key questions:

- What caused the crash of Flight MH17?
- How and why were decisions made to use Flight MH17's flight route?
- How is the decision-making process related to flying over conflict zones generally organized?
- What lessons can be learned from the investigation to improve flight safety and security?

The final report by the DSB was published on 13 October 2015.

Foundation research builds upon the information contained in the DSB's report and attempts to enlarge the scope and deepen understanding of the factual circumstances underlying the airspace restrictions both above the territory of Ukraine and above the territory of the Russian Federation.

### Scope

This inquiry is focused on the factual circumstances surrounding the decision-making regarding the closure of airspace above and around eastern Ukraine from 1 March 2014 up to and including the moment of complete closure

of that airspace after the downing of Flight MH17 on 17 July 2014. In addition, this inquiry will provide contextual background, through a representative inventory of state practices 20 to 30 years prior to 2014, regarding the use by civil aviation of airspace above conflict zones.

This inquiry was conducted from April 2020 to January 2021.

The scope of the inquiry did not include drawing (normative) conclusions on the question of whether, prior to the moment of the downing of Flight MH17, responsible authorities did or did not take adequate measures to prevent the downing of the aircraft.

The following elements were covered within the scope of the inquiry:

- A study of previous hostile events and state practice in regard to the use by civil aviation of airspace above conflict zones.
- An inquiry into the facts concerning the closure of airspace above eastern Ukraine as of 1 March 2014 up to and including the moment of complete closure of that airspace subsequent to the downing of Flight MH17 on 17 July 2014.
- An inquiry into the facts concerning the closure of airspace above the territory of the Russian Federation bordering eastern Ukraine as of 1 March 2014 up to and including the moment of complete closure of that airspace subsequent to the downing of Flight MH17 on 17 July 2014.

In this report, in accordance with ICAO and the other referenced sources, the terms “airspace restriction”<sup>1</sup> and “airspace closure”<sup>2</sup> are used interchangeably. Wherever applicable, these terms are used with the addition of their vertical limits.

### Inquiry Limitations

There are a number of limitations associated with carrying out this inquiry that should be considered. The limitations are related to the characteristics of the scope, purpose, and approach to the inquiry and to the sources and quality of information available for use in the inquiry. Readers of the report should keep in mind the following:

- The findings about airspace closure decisions in Ukraine and the Russian Federation are based on two specific sources of information: (a) public source information available during 2020 discovered by the Foundation and (b) information received by the Foundation from Ukraine and the Russian Federation through responses to questionnaires. Other sources of information, such as private sources and

information from intelligence services, were not available for the inquiry.

- The findings from the hostile events analysis and from the historical conflict zones analysis are based on the information discovered by the Foundation from public sources.
- The inquiry into airspace closure decisions in Ukraine and the Russian Federation is focused on information about: (a) the threat awareness of the authorities responsible for airspace security risk analysis and decision-making and not about the potential threat awareness of other entities within each government, and (b) facts reported publicly by organisations and authorities and does not include conclusions and inferences from these facts made by organisations and authorities.
- The inquiry was carried out remotely due to COVID-19 travel restrictions. The Foundation requested access to engage directly with identified relevant authorities and specialists in Ukraine and the Russian Federation, which would have been possible through teleconferencing or video conferencing. Ultimately, Ukraine and the Russian Federation preferred providing information through written questionnaires developed by the Foundation. Information was transmitted via the respective diplomatic channels. The Foundation does not have visibility on how the information was collected and processed within the relevant authorities in the two countries.
- The process of sending questionnaires, waiting for the written responses and then processing those responses took considerable time and limited the number of iterations to two — the first set of questions to each state and then a set of clarifying questions to each. These circumstances limited the depth of the inquiry.
- While the findings about airspace closure decisions in Ukraine and the Russian Federation and the findings from the historical conflict zones analysis are for the defined time periods ending on 17 July 2014, numerous changes have been implemented since then, including changes initiated by ICAO, sovereign states, aviation authorities, airlines, and air navigation service providers. The findings are not directly transferable to the current practices.
- Because six years have passed since the downing of Flight MH17, it is more challenging to obtain information on procedures, decisions and practices in place at the time in 2014. Key personnel and decision makers who were in place in 2014 may not

<sup>1</sup> As described in ICAO “Air Traffic Services Planning Manual”

<sup>2</sup> As used in ICAO “Aeronautical Information Services Manual”

be in place now. We do not have independent verification about whether our questions were answered by people knowledgeable about the decision-making processes and practices in place prior to the downing of Flight MH17.

### Hostile Events Analysis: 1985–2020

At the outset of the project, the Foundation gathered and analysed data on 57 hostile events involving civil aviation in and around conflict zones over a 35-year period beginning in 1985. The period was selected based on the information for the hostile events that the Foundation was able to collect. Included in the sample were intentional and unintentional attacks from the ground on commercial air transport and general aviation operations. Hostile events, as illustrated in Figure 1, are the intentional or unintentional engagement of a capability to attack<sup>3</sup> against civil aviation.

Hostile events are “the tip of the iceberg,” and for each hostile event that occurred, there were many more precursor situations that sometimes were and sometimes were not associated with a conflict zone (for example, a terrorist act not in a conflict zone).

In order to study the conflict zones, it is necessary to study their potential worst outcome — hostile events. Additionally, considering that most hostile events are associated with flights in nonrestricted airspace, this part of the inquiry was an important source of information about the failure of state practices to restrict the airspace.

The results of the hostile events analysis show that most hostile events took place over conflict zones when the airspace was not restricted.

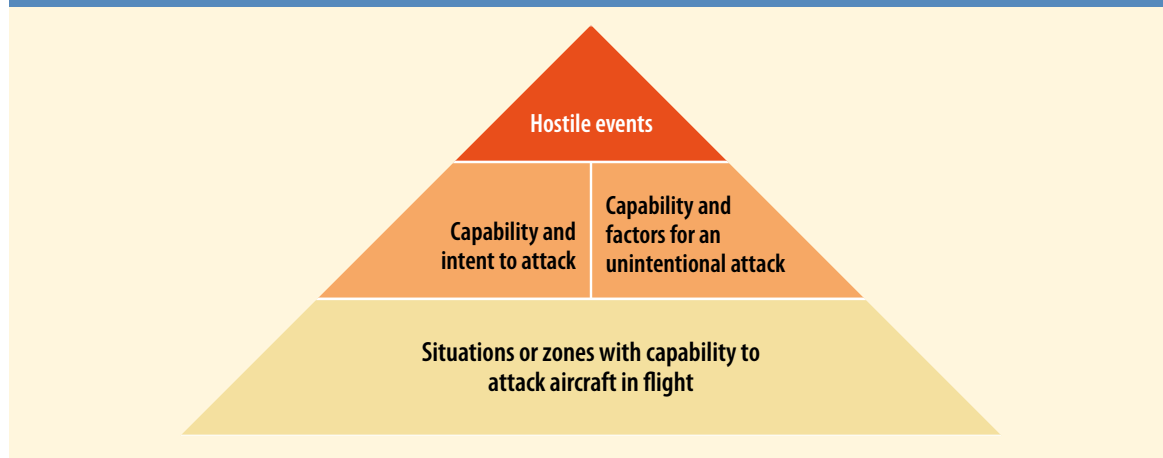
**Finding 1:** Foundation analysis shows that most of the hostile events involving surface-to-air attacks against civil aviation flights that took place during the period of 1985–2020 could have been prevented by restricting the airspace above or around the conflict zone and by adherence to the restrictions.

The Foundation’s research showed that man-portable air defence systems, or MANPADS, usually relatively small, shoulder-launched weapons capable of reaching 15,000 ft, are the most common weapon used against civil aviation. (See, in Figure 2 (p. 5), the number of events in the sample associated with a given capability to attack.) MANPADS generally are easier to obtain and use than larger, non-man-portable surface-to-air missile (SAM) systems, which are technically more complex, more difficult to operate and can reach targets at much higher altitudes.

However, the size of most MANPADS warheads (less than 2 kg [4 lb] for some common MANPADS) means that a catastrophic outcome — i.e., the aircraft being shot down — is not certain. By comparison, the SAM events identified show that a catastrophic outcome from a successful attack is highly probable, at least in part because of the larger warhead (as much as 70 kg [154 lb] in some missiles).

**Finding 2:** Based on an analysis of reported surface-to-air attacks against civil aviation flights for the period of 1985–2020, MANPADS are the most common weapon used against civil aviation. MANPADS are generally easier to obtain and use than larger, non-portable SAM systems. However, the size of most MANPADS warheads means that a catastrophic outcome is not certain. By comparison, the SAM events identified show that a

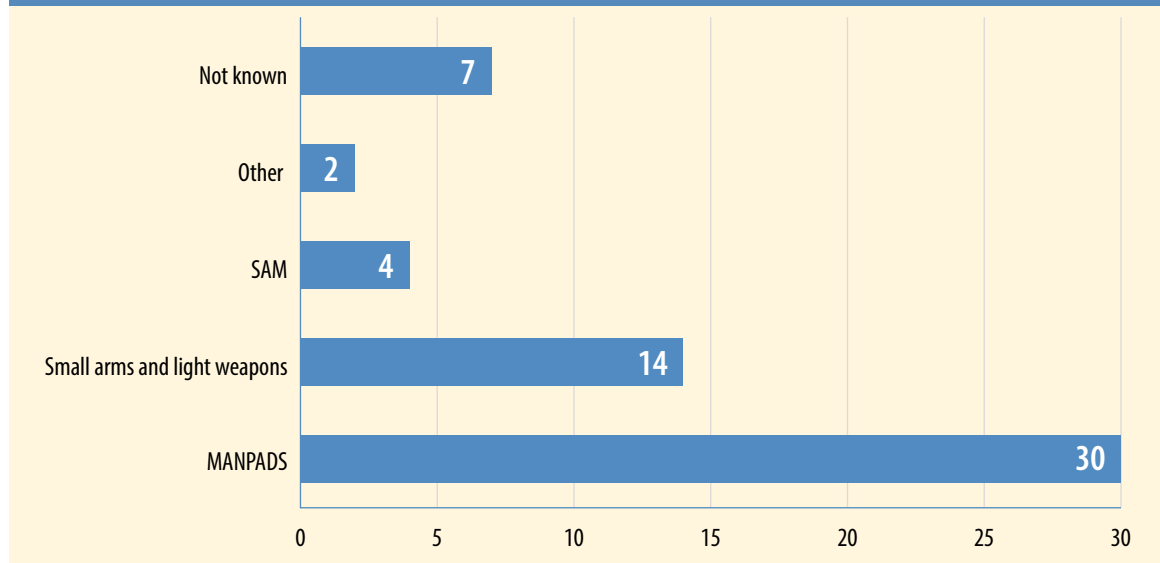
Figure 1  
Hostile Events Pyramid



<sup>3</sup> E.g., MANPADS or surface-to-air missiles

Figure 2

## Number of Events in the Sample Associated With a Given Capacity to Attack



**catastrophic outcome from an effective attack is highly probable. The presence of SAMs should therefore be a key indicator in any airspace risk analysis and avoid/overfly decision.**

Information about the engagement altitude was found in 34 of the 57 hostile events in the Foundation's "Hostile Events in Civil Aviation" database. Four of the events occurred above Flight Level (FL) 250 and 19 occurred below FL 50. Five occurrences, which are depicted in red in Figure 3 (p. 6), were identified as involving a SAM attack. The occurrences depicted in blue involved a capability to attack other than a SAM.

Table 1 (p. 6) presents information about unintentional attack occurrences extracted from the Foundation database. There are eight such events identified and all but one involved military misidentification of the target's identity and/or intentions. The remaining 49 events involved either an intentional attack or events for which the Foundation did not find information regarding intent.

#### Conflict Zones Analysis: 1990–2014

Apart from hostile events, the Foundation built an inventory of state practices up to 25 years prior to 2014 regarding the use by civil aviation of airspace above conflict zones. Among other things, the Foundation focused on determining the presence of air defence equipment (both air-to-air and surface-to-air) during a conflict and the restrictions applicable to the use of the airspace.

Within the context of this study, the purpose of the conflict zones analysis was to set data-defined context for

other research components by providing an overview of state practices regarding airspace restrictions above and/or around conflict zones.

Conflict zones were selected by choosing those cases in which security risk for civil aircraft above FL 250<sup>4</sup> could be reasonably expected. This was determined by the overall objective of the inquiry, which focuses on threats to civil aviation above airspace that was already closed to civil aviation in Ukraine and the Russian Federation prior to the downing of Flight MH17 and above the altitude where MANPADS can pose a risk.

In total, 16 conflict zones were selected, based on the information available for the studied period and where there was a reasonable expectation, prior to commencing the analysis, of the existence of capability to attack at altitudes above FL 250. The selected conflict zones were reviewed relative to a set of 10 pre-determined "indicators of likelihood of attack," such as the capability to attack a target in flight above FL 250 (e.g., the presence of surface-to-air missiles), the known intent to attack and the missile operators' experience and chain of command. For each of the 16 selected conflict zones, the Foundation researched the actual airspace restrictions and used proprietary risk analysis algorithms to assess the overall likelihood of attack on civil aircraft. The intent was to set data-defined context for other research components by providing an overview of state practices regarding airspace restrictions above and/or around conflict zones. The results of the analysis are summarised in Table 4 (p. 31) of the report.

<sup>4</sup>25,000 ft (7,600 m)

*Continued on p. 7*

Figure 3  
Altitude Distribution

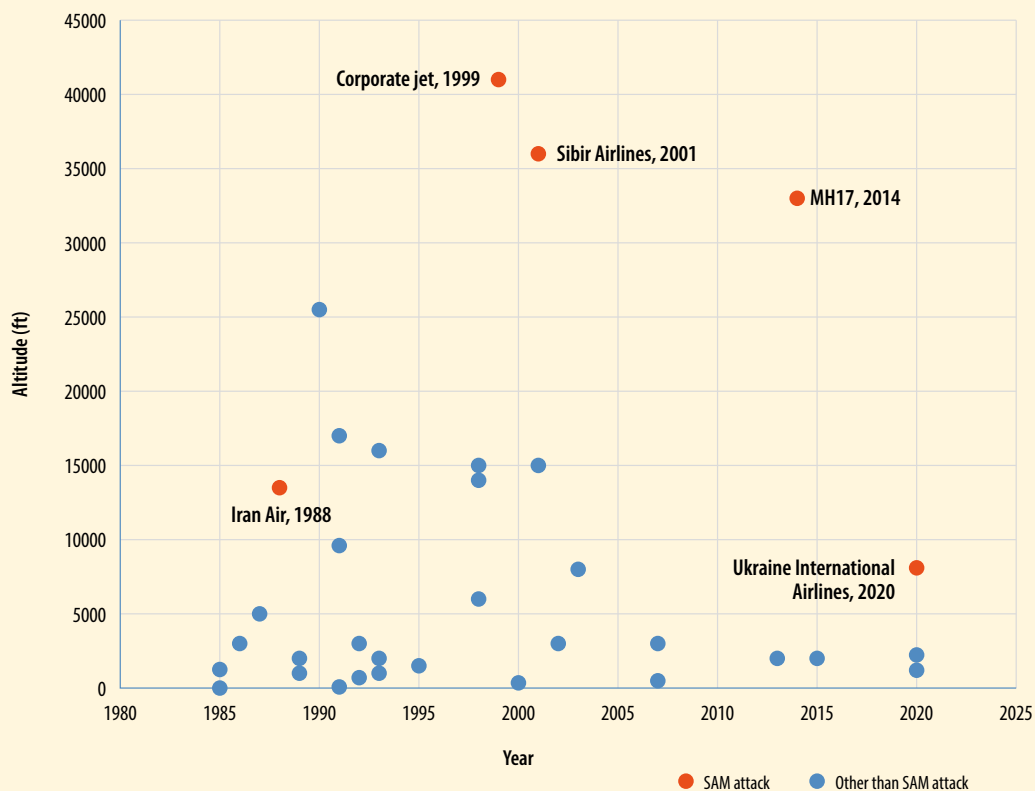


Table 1  
Unintentional Acts and Their Context

Date	State	Unintentional Act	Aircraft Operator	Perpetrator	Altitude	Killed/Injured/Uninjured
11-Jun-87	Afghanistan	Misidentified as a Russian IL14.	Bakhtar Afghan	Hezb-i-Islami	n/k	53/2/0
03-Jul-88	Iran	Military misidentified target as a descending Iranian F-14.	Iran Air	U.S. Navy	13,500 ft	290/0/0
29-Aug-99	Ethiopia	Military targeting error after proceeding into NOTAM closed airspace.	Corporate Jets	Ethiopian Army	FL 410	2/0/0
04-Oct-01	Black Sea	Military exercise missile overshoot intended target at 18 nm (33 km) by 140 nm (259 km) after locking onto it.	Sibir Airlines	Ukraine Armed Forces	FL 360	78/0/0
26-Jan-15	Iraq	Probably accidental, rounds from nearby social event.	FlyDubai	n/k	<2,000 ft	0/2/X
08-Jan-20	Iran	Military misidentified aircraft as a hostile target.	Ukraine International	Iranian Armed Forces	8,100 ft	176/0/0
04-May-20	Somalia	Military misidentified going-around aircraft as a suicide plane.		Ethiopian troops as part of AMISOM	2,230 ft	6/0/0
25-May-20	Somalia	Military misidentified aircraft and opened fire.	Aeronav/Kenya School of Flying	Ethiopian troops as part of AMISOM	<1,200 ft	0/0/X

AMISOM = African Union Mission to Somalia; FL = Flight Level; n/k = not known; NOTAM = notice to airmen

The Foundation concluded that restricting the airspace above conflict zones is a very effective measure to reduce the assessed likelihood of attack against civil flights. As illustrated in Figure 4, in the studied sample, there were eight cases in which an entity (the sovereign state or a third party) introduced partial or full airspace restrictions. This comparative assessment of likelihood of attack with and without airspace restrictions reveals that in six of the eight cases where airspace restrictions were introduced, the assessed likelihood of attack against civil aviation was reduced considerably.

However, the Foundation did not find a uniform practice of states closing their own airspace when there were indications of a likelihood of attack against civil aircraft. Of the 16 studied conflict zones, there were only two instances in which the sovereign state responsible for that airspace completely closed its own airspace (Figure 5).

**Finding 3:** The analysis of selected conflict zones over the period of 1990–2014 did not identify a uniform practice of states closing their own airspace when there were indications of a likelihood of attack against civil aircraft in the context of an armed conflict on the territory of that state.

**Finding 4:** The analysis of selected conflict zones over the period of 1990–2014 identified that, on the rare occasions when a state restricted its own airspace above FL 250, it was associated with the loss of effective control over the relevant airspace by the state.

Also, when a state does restrict its own airspace above FL 250, or such a restriction is imposed by a third party (such as in the introduction of a “no fly zone” by an entity like the North Atlantic Treaty Organization), the

predominant concerns are the security of military operations and of the population rather than the security of civil aviation.

**Finding 5:** The analysis of selected conflict zones over the period of 1990–2014 identified that whenever a state closed or restricted its own airspace above FL 250, or such a restriction was imposed by a third party, the predominant concerns were the security of military operations and of the population rather than the security of civil aviation.

#### Airspace Restrictions Over and Around Eastern Ukraine

After setting the wider background of the inquiry by characterising the historical occurrences of hostile events and the state practices of airspace management over conflict zones, the Foundation focused on airspace restrictions in Ukraine and the Russian Federation immediately prior to the downing of Flight MH17. The Foundation considered studying the airspace restrictions timeline and specifics to be important because restrictions are the main outcome of airspace restrictions decision-making, which is the focus of this inquiry.

Both Ukraine and the Russian Federation introduced restrictions on the airspace above and around eastern Ukraine, but neither state completely closed its airspace above or near the conflict zone before the downing of Flight MH17. The airspace in question was first restricted up to FL 260 and subsequently, but before the downing of Flight MH17, up to FL 320. These airspace restrictions were promulgated with notices to airmen (NOTAMs).

The Foundation analysed 1,310 NOTAMs regarding their relevance to the studied area and time. It selected 15 NOTAMs to be analysed in detail.

Figure 4

#### Eight Cases of Airspace Restrictions

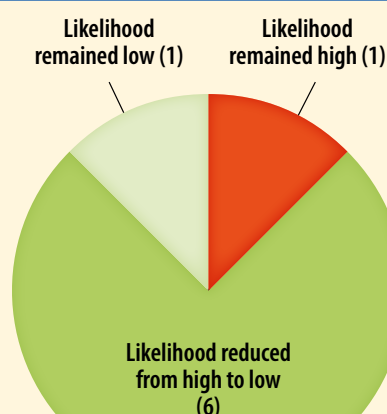
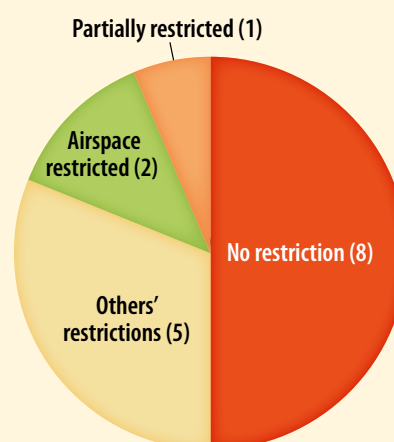


Figure 5

#### Sample of 16 Conflict Zones



In the NOTAMs in which Ukraine placed a partial restriction on airspace in the Dnepropetrovsk Flight Information Region (FIR), it did not provide any reasons for the restriction or any reference to incidents involving military aircraft in the airspace.

The DSB report on the crash of Flight MH17 provides information about the reasons the Ukrainian authorities restricted the airspace up to FL 260, promulgated with NOTAMs A1255/14 and A1256/14, issued on 5 June 2014. The provided reasons were not related to the security risk from attacks from the ground to civil aircraft overflying the area. The airspace was restricted to enable military aeroplanes to fly at an altitude that was considered safe from attacks from the ground and to eliminate the risk that they would encounter civil aeroplanes, which flew above FL 260, according to the DSB report.

The reasons the Ukrainian authorities increased the upper limit of the restricted airspace to an altitude of 32,000 ft (FL 320) were not provided in the respective NOTAMs (A1492/14 and A1493/14). The DSB report said the reason for increasing the upper limit of the restricted airspace “was intended to increase the altitude buffer between military and civil aircraft.”

The Russian Federation, on the other hand, cited international flight safety as a reason when it closed its affected air traffic services (ATS) routes up to FL 320. In two NOTAMs (V6158/14, A2681/14) published on 16 July 2014, the Russian Federation said that to ensure international flight safety, it was closing the ATS routes “*due to combat actions on the territory of Ukraine near the state border with the Russian Federation and the facts of firing from the territory of the Ukraine towards the territory of Russian Federation.*”

Prior to the downing of Flight MH17 on 17 July 2014, the two referenced Russian Federation NOTAMs were the only identified, specific warnings related to the security of civil aviation in the Dnepropetrovsk and Rostov-on-Don FIRs.

### Collecting Information About Ukraine and Russian Federation Threat Awareness

In order to discuss the airspace closure decisions made by authorities in Ukraine and the Russian Federation, the Foundation looked for information about the relevant authorities’ threat awareness for the referenced airspace that was not restricted.

The threat information is of different types. In respect to the capability to attack, the threat information can involve what authorities said they knew about the weapons that could pose a potential threat to civil aviation above FL 320. Or it can consist of information about the weapons that was available in the public space, such as on social media, without indications of whether relevant authorities knew about it. The source of information can be traditional media and/or social media or private information from intelligence services. These different types of information imply different degrees of confidence about authority awareness or the veracity of the information. For these reasons, the threat information is categorised conceptually in Figure 6 as follows:

- **Foresight knowledge of threat information: quadrant 1.** This is information that was known prior to the downing of Flight MH17 about the presence of weapons.
- **Hindsight knowledge of threat information: quadrant 2.** This is information that was made known after the downing of Flight MH17 about the presence of weapons. In

Figure 6  
Information Collection Framework

	Information published (made available) prior to Flight MH17 downing	Information published (made available) after Flight MH17 downing
What did the responsible State (authorities) know before Flight MH17 downing about the presence of air defense equipment	<b>3</b> Foresight knowledge of authorities awareness	<b>4</b> Hindsight knowledge of authorities awareness
Information about presence of air defense equipment prior to Flight MH17 downing	<b>1</b> Foresight knowledge of threat information	<b>2</b> Hindsight knowledge of threat information



general, this type of information gives less confidence about potential threat awareness of relevant authorities because it is just information about what has been seen, heard or otherwise discovered but made known only after the downing of Flight MH17.

- **Foresight knowledge of authorities' awareness: quadrant 3.** This is information that was known prior to the downing of Flight MH17 about what the relevant authorities knew about the presence of weapons. In general, this type of information gives the most confidence about potential threat awareness because it is mainly self-reporting by relevant authorities about their knowledge prior to the downing of Flight MH17 — hence clear of any hindsight bias.
- **Hindsight public knowledge of authorities' awareness: quadrant 4.** This is information that was made known after the downing of Flight MH17 about what the relevant authorities knew before the downing of Flight MH17 about the presence of weapons.

With the above-described four types of information, the Foundation looked at two main sources of information:

- Publicly available information from primarily online media, including Ukrainian and Russian news services and other news aggregation sites, internationally available aviation trade media, government announcements and news releases, as well as information available on social media, including Twitter and Facebook, and in the DSB accident investigation report.

- The responses from Ukraine and the Russian Federation to the standard procedure and threat knowledge questionnaires that were specifically developed for this inquiry and to the subsequent responses to some clarifying questions. The Russian Federation and the Ukrainian governments were approached with and responded to the information collection template containing the questionnaires. Following the analysis of the information received, the Foundation concluded that there are number of questions that remain open and formulated and received answers to some additional clarifying questions.

To ensure a systematic coverage and a comprehensiveness of the information collection, we identified the need to use certain standard process descriptions when drafting the information collection questionnaires. For that purpose, we used the Foundation's "best process" description that is based on our accumulated experience and analyses up to the moment of this inquiry. Namely, the Foundation's integrated standard for airspace security risk assessment, as illustrated in Figure 7, addresses the five main functions to be assigned to one or more different authorities, organised as an integrated process and performed within a given sovereign state.

The Foundation standard defines a statewide process for airspace security risk management that is distributed around different authorities and organisations, yet functional from end to end. In this way, the organisational scope of the process is not restricted to the more traditional perspective of civil-military aviation coordination (e.g,

Figure 7

#### Flight Safety Foundation Integrated Standard for Airspace Security Risk Assessment

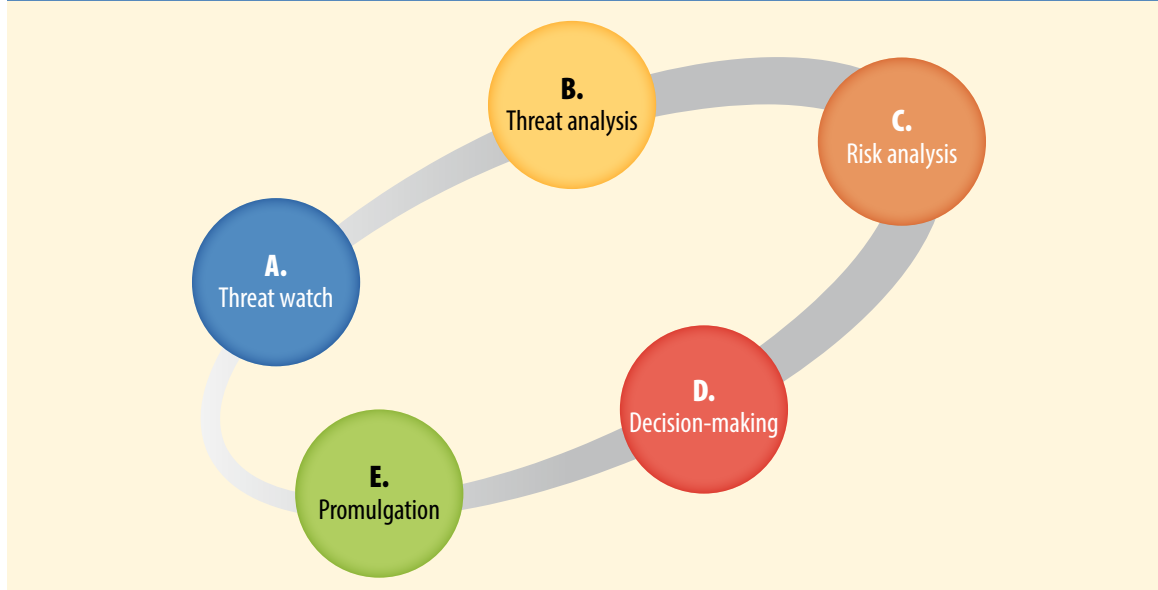
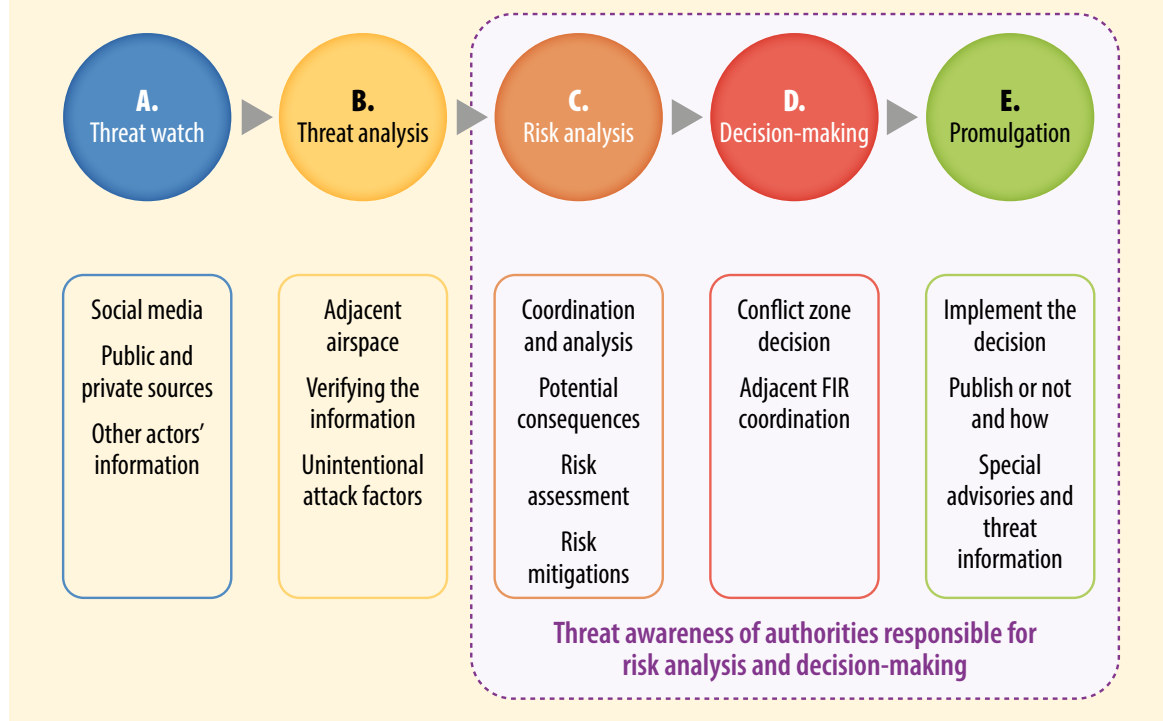


Figure 8

## Criterion for Threat Awareness



some state intelligence functions may not be attributed to military authorities).

Each of the five functions of the integrated standard for airspace security risk assessment targets a particular step from the risk assessment process and contains three or four specific sub-functions that are formulated as questions in our questionnaires.

One important part of our inquiry was identifying when information about the threat reaches:

- Those responsible for analysing security risk levels in civil aviation airspace over a conflict zone; and,
- Those establishing restrictions of airspace in a conflict zone.

This is illustrated in Figure 8, which outlines the respective stages of the Foundation's Integrated Standard for Airspace Security Risk Assessment.<sup>5</sup>

Threat information reaching the risk analysis and decision-making steps (C and D) in the process is the Foundation's criterion for threat awareness at the level of the statewide process. Using this criterion, unverified social media posts, other media reports or the potential presence of information in intercepted but unprocessed communications do not represent sufficient facts for realistic

threat awareness. This is because verified threat awareness is not available to those responsible for risk analysis and decision-making.

#### Ukraine Awareness of Threat to Civil Aircraft

The discussion on threat awareness is twofold — a discussion on reported threat awareness (concerning quadrants 3 and 4 in Figure 6) and a discussion on potential threat awareness (concerning quadrants 1 and 2 in Figure 6).

The discussion on the reported threat awareness is about what authorities said they knew about the threat that could reach an altitude higher than FL 320. We studied what authorities said in public (both before and after the downing of Flight MH17) and what they said in response to our questionnaires. This discussion is different from what information was available in the public and private space (on social media, in other publications and in intelligence) about a threat.

The Foundation's research did not find any instances *before* (quadrant 3 in Figure 6) the downing of Flight MH17 in which Ukrainian authorities publicly acknowledged the presence in eastern Ukraine of air defence systems capable of reaching an altitude greater than FL 320.

<sup>5</sup> Each step in the risk assessment process is defined in Section 6.3.

The Foundation identified from information made publicly known *after* (quadrant 4 in Figure 6) the downing of Flight MH17 that some Ukrainian authorities (counterintelligence services) suspected the presence of air defence equipment that could reach high altitudes — “*first information ‘hinting’ at a Buk launcher in the possession of the non-state forces was received on 14 July and came from counterintelligence units.*”<sup>6</sup> This information corresponds to Group A of the Foundation Standard, namely threat watch, as shown in Figure 8.

However, no facts were found that this information had been verified per the functions in Group B from the Foundation Standard — “*But we could not confirm directly that it was Buk missile launcher that trespassed illegally [in] Ukrainian territory.*”<sup>7</sup> Similarly, no facts were found by the Foundation to indicate that the information was disseminated throughout the statewide process to reach the authorities responsible for risk assessment and decision-making regarding airspace closure.

**Finding 6: This inquiry did not find sufficient facts that Ukrainian authorities responsible for analysing security risk levels in civil aviation airspace and those establishing restriction of airspace in a conflict zone<sup>8</sup> were aware of a threat to civil aviation before the downing of Flight MH17.**

The discussion of the potential threat awareness is about what information existed in the public and private space (social media, other publications, and intelligence sources) about a weapon. This discussion is not about the reported threat awareness of the relevant authorities (discussed previously).

It is clear from publicly available information that the conflict in eastern Ukraine was in an active combat phase in the weeks prior to the downing of Flight MH17.

Both the Ukrainian military and armed non-state forces were using small arms, heavy calibre machine guns, artillery, anti-tank weapons, tanks and various air defence systems. In addition, Ukraine was employing rotary- and fixed-wing aircraft for transport and attack purposes; Ukraine alleged that Russian aircraft also had been used to attack Ukrainian aircraft. Ukraine apparently had some success attacking non-state ground forces with aircraft and also suffered numerous aircraft losses.

There was a widespread belief among Ukraine and Western states that the Russian Federation was supplying

weapons, including heavy weapons, and personnel to support armed non-state forces in the conflict area. But as the DSB report stated: “*despite the Western political and military focus on the conflict, its escalation and its air component, none of the politicians or authorities quoted publicly made a connection between the military developments in the eastern part of Ukraine and risks to civil aviation.*”

There were numerous reports about the presence of heavy weapons in the region, such as tanks, MANPADS, artillery and large calibre machine guns. However, there were few reports in the public space about armed non-state forces possessing weapons with a capability to attack above FL 320.<sup>9</sup> There are conflicting accounts relating to the altitude of a Ukrainian An-26 when it was shot down on 14 July, although the aircraft was thought by some to have been brought down with a SAM system.

The most notable publicly available information about the capability to attack at high altitudes before the downing of Flight MH17 was from social media posts about Buk missile systems. Some of these posts were about the movement of Buk batteries in the Russian territory bordering Ukraine and some were about Buk missile systems being observed in eastern Ukraine a few hours before the downing of Flight MH17. The Foundation acknowledges that these were just a few instances of published social media posts out of probably millions of posts made in the region at that time. It should also be stressed that the veracity of published social media accounts is difficult to establish.

In addition, the Foundation did not identify any information available in the public space prior to the attack that would have verified the reports about the capability to attack above FL 320. The identified number of examples of publicly available information indicating the potential capability to attack above FL 320 were few, relative to the volume of all the publicly available information about the conflict zone at the time.

With hindsight, some facts made available after the downing of Flight MH17 pointed to the possibility for some authorities to have processed information and understood that there may have been a threat to civil aviation. Namely, these are the 150,000 telephone conversations<sup>10</sup> intercepted and the counterintelligence field information discussed previously.

However, without knowing the actual technological capabilities and preparedness to process on time these

<sup>6</sup> 19 July 2014 news conference featuring Vitaly Nayda, the head of counterintelligence for the Ukrainian State Security Service, <https://www.youtube.com/watch?v=PWtH8AA42Fc&feature=share>

<sup>7</sup> 19 July 2014 news conference featuring Vitaly Nayda, the head of counterintelligence for the Ukrainian State Security Service <https://www.youtube.com/watch?v=PWtH8AA42Fc&feature=share>

<sup>8</sup> Responsible authorities are defined in detail in Section 7.2.

<sup>9</sup> For more details see Section 6.2.

<sup>10</sup> On 28 September 2016, during the Joint Investigative Team (JIT) presentation of the first results of the Flight MH17 criminal investigation, it was revealed that more than 150,000 telephone calls were intercepted.

intercepted telephone conversations and social media posts, it is not possible for the Foundation to conclude that the Ukrainian authorities had the means to verify the intelligence and coordinate dissemination of the information so as to form a more accurate assessment of the risk to civil aviation and to completely close the airspace in time to prevent the attack on Flight MH17.

**Finding 7: This inquiry did not find sufficient facts that Ukrainian authorities responsible for analysing security risk levels in civil aviation airspace and those establishing restriction of airspace in a conflict zone<sup>11</sup> could have had a proper awareness of the high-altitude threat.**

#### Russian Federation Awareness of Threat to Civil Aircraft

Some of the western part of the Rostov-on-Don FIR airspace of the Russian Federation was in close proximity to the conflict zone in eastern Ukraine. Because of its close proximity to the conflict zone, the airspace could have been affected by a threat to civil aviation originating from a potential presence in the conflict zone of long-range air defence equipment not controlled by government forces.

The possibility of a threat to civil aviation was acknowledged in the Russian Federation's NOTAMs (V6158/14 and A2681/14) closing the airspace up to FL 320. It should be noted that an air defence equipment threat reaching FL 320 could also reach the airspace immediately above FL 320.<sup>12</sup>

The reasons for restricting their airspace, reported by the Russian Federation in an answer to a Foundation question, cited as a justification some statements made by the Ministry of Foreign Affairs of the Russian Federation prior to the Flight MH17 downing. These statements refer to only low-altitude threats of artillery shootings.

Responding to a Foundation query regarding the reason for selecting the upper limit for the airspace restriction, the Russian Federation acknowledged that the airspace has been closed up to FL 320 and that this limit was the same as the one indicated in the Ukrainian NOTAMs A1492/14 and A1493/14 and justified the decision in the fact that *“Rosaviatsiya did not have any other, more or less credible information provided by the Ukrainian side, which would allow to forecast the vertical limit of the hazard zone for civil aviation flights.”*

In response to Foundation's query on this matter, the Russian Federation indicated that authorities did not have any information regarding the presence of air defence equipment in the territory of Ukraine that was not controlled by the armed forces of the Ministry of Defence of

Ukraine and that could strike targets in the Rostov-on-Don FIR above FL 250.

The Foundation did not obtain satisfactory clarifications from the Russian Federation about the Russian authorities' knowledge of any intent to attack with air defence equipment that was not controlled by government forces and that could have reached the respective airspace in Rostov-on-Don FIR above FL 250 in eastern Ukraine.

The Foundation's research did not find any other instances in which Russian Federation authorities publicly acknowledged before or after the downing of Flight MH17 the presence in eastern Ukraine of air defence systems capable of reaching an altitude greater than FL 320.

**Finding 8: This inquiry did not find sufficient facts that Russian Federation authorities responsible for analysing security risk levels in civil aviation airspace and those establishing restriction of airspace in a conflict zone<sup>13</sup> were aware of a threat to civil aviation before the downing of Flight MH17.**

With regards to any Russian Federation potential threat awareness, the information identified in the public space, and already listed in the discussion about Ukraine, was also available to the Russian Federation, including the social media posts. However, it is assumed in this study that the Russian Federation did not have access to intercepted telephone conversations and intelligence information available to the Ukrainian authorities.

Another set of facts from the public information is associated with the Joint Investigation Team (JIT)<sup>14</sup> that points at a request by the non-state armed forces for a Buk and at the transport of a Buk in the Russian Federation and Ukraine. The JIT reported:<sup>15</sup> *“After an extensive and labor-intensive comparative investigation, in which many Buk-TELARs were involved, the JIT has come to the conclusion that the Buk-TELAR that shot down Flight MH17 comes from the 53rd Anti-Aircraft Missile Brigade, or the 53rd Brigade from Kursk in the Russian Federation. This 53rd Brigade is a unit of the Russian armed forces.”* This JIT conclusion has been denied by the Russian Federation.

However, the purpose of the present analysis is to identify if the relevant authorities responsible for risk analysis and decision-making could have had a proper threat awareness irrespective of the origin of the weapon system. The Foundation did not identify sufficient facts to indicate that such threat awareness existed among relevant authorities.

Apart from the discussion on the accessibility of the information, another important aspect of the Russian

<sup>11</sup> Responsible authorities are defined in detail in Section 7.2.

<sup>12</sup> For example, as reported in the DSB report *“The Buk surface-to-air missile system is able to engage targets at altitudes up to 70,000 or 80,000 feet.”*

<sup>13</sup> Responsible authorities are defined in detail in Section 7.2.

<sup>14</sup> The JIT, comprised of representatives from the Netherlands, Australia, Malaysia, Belgium and Ukraine, is conducting a criminal investigation into the crash.

<sup>15</sup> <https://www.prosecutionservice.nl/topics/mh17-plane-crash/criminal-investigation-jit-mh17/speakers-text-jit-mh17-press-meeting-24-5-2018>

Federation risk analysis and decision-making can be deduced from the Russian Federation standard procedure and decision-making protocols. In response to a Foundation inquiry relating to standard procedures and threat knowledge, the Russian Federation stated that, “*Threats to air traffic safety in the Rostov-on-Don FIR stemmed from the dangerous activities in the area of responsibility of the adjacent Dnepropetrovsk FIR.*” Further, it was also stated that “*all possible risk factors for an unintended attack should be considered*” and that “*such preparations should include an assessment of the risk to civil aircraft operations due to a military conflict or incidents of unlawful interference with civil aviation.*”

After acknowledging the source of the threat in the neighbouring territory and, in general the need to consider all risk factors, the Russian Federation did not

acknowledge the responsibility to determine the risk factors for an unintentional attack in Russian Federation airspace originating from the close proximity to the conflict zone in the eastern Ukraine. With respect to the issue of which authorities were responsible, the response was: “*The state responsible for compliance with the rules for the introduction of restrictions on the use of airspace over an armed conflict zone (Ukraine, in relation to the MH17 crash).*”

**Finding 9: This inquiry did not find sufficient facts that the Russian Federation authorities responsible for analysing security risk levels in civil aviation airspace and those establishing restriction of airspace in a conflict zone<sup>16</sup> could have had a proper awareness of the high-altitude threat.**

<sup>16</sup> Responsible authorities are defined in detail in Section 7.2.

## 1. Introduction

### 1.1. Purpose

The Foundation conducted an inquiry<sup>17</sup> into the circumstances that led to a partial closure of the airspace above and adjacent to eastern Ukraine in the three-month period prior to the 17 July 2014 shootdown of Malaysia Airlines Flight MH17.

The intent of the inquiry was to analyse airspace closure decisions made by authorities in both Ukraine and the Russian Federation, and to understand the processes used in making those decisions as well as the information on which the decisions were based.

### 1.2. Background

On 17 July 2014, Flight MH17, flying from Amsterdam to Kuala Lumpur, was downed over eastern Ukraine where, at the time, an armed conflict was taking place. Tragically, all 298 passengers and crew lost their lives. While there have been other losses of airliners as a result of military conflict over the previous decades, the loss of Flight MH17 constituted a watershed moment that galvanized the international community to proactively address the continuing threat to civil aviation arising from conflict zones.

In July 2014, the United Nations Security Council adopted a resolution related to the downing of Flight MH17. This was followed by an International Civil Aviation Organization (ICAO) State letter, issued to draw the attention of ICAO Member States to the international provisions specifying state responsibilities with respect to the safety and security of civil aircraft operating in airspace affected by conflict.

ICAO established a senior-level Task Force to address issues related to the safety and security of civil aircraft operating in airspace affected by conflict. The chairman of the Foundation's Board of Governors was elected chairman of the Task Force. The Task Force developed a report, which included recommendations to address the threat of military conflict to civil aviation. It urged the international community to implement protocols to prevent similar events in the future. These recommendations included threat assessment, sharing of threat information, and timely and effective management of aircraft operations and airspace.

The 36-state ICAO Council reviewed the report of the Task Force and in October 2014 approved the conflict zone work program. The Council also unanimously adopted a resolution condemning the downing of Malaysia Airlines Flight MH17 over eastern Ukraine.

The technical investigation into the causes of the Flight MH17 crash was conducted by the Dutch Safety Board (DSB) after Ukraine delegated this authority to the Netherlands. The report of the DSB aimed at answering four key questions:

- What caused the crash of Flight MH17?
- How and why were decisions made to use Flight MH17's flight route?
- How is the decision-making process related to flying over conflict zones generally organized?
- What lessons can be learned from the investigation to improve flight safety and security?

The final report by the DSB was published on 13 October 2015. With regard to the first question, the DSB determined that the cause of the crash was the detonation of a warhead above the left side of the cockpit. The weapon used was a 9N314M-model warhead carried on the 9M38 series of missiles, as installed on the Buk surface-to-air (SAM) missile system.

With regard to the second question, the DSB's report provides an overview of the precise flight path followed by Flight MH17 as well as the different airspace restrictions that were imposed over time, both above the territory of Ukraine and above the territory of the Russian Federation. The report also provides information about possible risks for civil aviation in those areas during the relevant period and measures that were taken in that regard.

Foundation research builds upon the information contained in the DSB's report and attempts to enlarge the scope and deepen understanding of the factual circumstances underlying the airspace restrictions both above the territory of Ukraine and above the territory of the Russian Federation.

Civil aviation accidents caused by attack from the ground continue to happen. During 2020, there were two such occurrences. On 8 January 2020, Ukraine International Airlines Flight 752 was shot down shortly after takeoff from Tehran Imam Khomeini International Airport, resulting in 176 fatalities. On 4 May 2020, an East African Express Airways aircraft was shot down on approach to Berdale airport in Somalia, resulting in six fatalities. Threats to commercial aviation due to hostile activity in conflict regions around the world are a continuing concern. The Foundation continues its global campaign to encourage heightened awareness and action on this matter.

<sup>17</sup> This inquiry was commissioned by the Ministry of Foreign Affairs of the Kingdom of the Netherlands, as announced in the letter the Ministry sent to the Netherlands' House of Representatives on 1 May 2020: <https://www.rijksoverheid.nl/documenten/kamerstukken/2020/05/01/kamerbrief-inzake-diverse-onderwerpen-inzake-mh17-dossier>.

Within the context of a still prominent risk, this report also attempts to advance further the understanding of risk assessment of attack from the ground on civil aircraft and on the state processes for integrated airspace security risk assessment.

### 1.3. Scope

This inquiry is focused on the factual circumstances surrounding the decision-making regarding the closure of airspace above and around eastern Ukraine from 1 March 2014 up to and including the moment of complete closure of that airspace after the downing of Flight MH17 on 17 July 2014. In addition, this inquiry will provide contextual background, through a representative inventory of state practices 20 to 30 years prior to 2014, regarding the use by civil aviation of airspace above conflict zones.

This inquiry was conducted from April 2020 to January 2021.

The scope did not include drawing (normative) conclusions on the question of whether, prior to the moment of the downing of Flight MH17, responsible authorities did or did not take adequate measures to prevent the downing of the aircraft.

The following elements were covered within the scope of the inquiry:

- A study of previous hostile events and state practice in regard to the use by civil aviation of airspace above conflict zones.
- An inquiry into the facts concerning the closure of airspace above eastern Ukraine as of 1 March 2014 up to and including the moment of complete closure of that airspace subsequent to the downing of Flight MH17 on 17 July 2014.
- An inquiry into the facts concerning the closure of airspace above the territory of the Russian Federation bordering eastern Ukraine as of 1 March 2014 up to and including the moment of complete closure of that airspace subsequent to the downing of Flight MH17 on 17 July 2014.

### 1.4. Inquiry Limitations

There are a number of limitations associated with carrying out this inquiry that should be considered. The limitations are related to the characteristics of the scope, purpose, and approach to the inquiry and to the sources and quality of information available for use in the inquiry. Readers of the report should keep in mind the following:

- The findings about airspace closure decisions in Ukraine and the Russian Federation are based on two specific sources of information: (a) public source information available during 2020 discovered by the Foundation and (b) information received by the Foundation from Ukraine and the Russian

Federation through responses to questionnaires.

Other sources of information, such as private sources and information from intelligence services, were not available for the inquiry.

- The findings from the hostile events analysis and from the historical conflict zones analysis are based on the information discovered by the Foundation from public sources.
- The inquiry into airspace closure decisions in Ukraine and the Russian Federation is focused on information about: (a) the threat awareness of the authorities responsible for airspace security risk analysis and decision-making and not about the potential threat awareness of other entities within each government, and (b) facts reported publicly by organisations and authorities and does not include conclusions and inferences from these facts made by organisations and authorities.
- The inquiry was carried out remotely due to COVID-19 travel restrictions. The Foundation requested access to engage directly with identified relevant authorities and specialists in Ukraine and the Russian Federation, which would have been possible through teleconferencing or video conferencing. Ultimately, Ukraine and the Russian Federation preferred providing information through written questionnaires developed by the Foundation. Information was transmitted via the respective diplomatic channels. The Foundation does not have visibility on how the information was collected and processed within the relevant authorities in the two countries.
- The process of sending questionnaires, waiting for the written responses and then processing those responses took considerable time and limited the number of iterations to two — the first set of questions to each state and then a set of clarifying questions to each. These circumstances limited the depth of the inquiry.
- While the findings about airspace closure decisions in Ukraine and the Russian Federation and the findings from the historical conflict zones analysis are for the defined time periods ending on 17 July 2014, numerous changes have been implemented since then, including changes initiated by ICAO, sovereign states, aviation authorities, airlines, and air navigation service providers. The findings are not directly transferable to the current practices.
- Because six years have passed since the downing of Flight MH17, it is more challenging to obtain information on procedures, decisions and practices in place at the time in 2014. Key personnel and decision makers who were in place in 2014 may not

be in place now. We do not have independent verification about whether our questions were answered by people knowledgeable about the decision-making processes and practices in place prior to the downing of Flight MH17.

### 1.5. Definitions

For the purpose of this report, existing ICAO definitions were adopted [1]. When the following terms are used in this document, they have the following meanings:

**Air-to-air missiles (AAMs)** — Missiles fired at an aircraft from another aircraft.

**Civil aircraft** — Non-state aircraft (pursuant to Article 3 of the Chicago Convention). This could include passenger airliners, cargo aircraft and business or private aircraft.

**Conflict zones** — Airspace over areas where armed conflict is occurring or is likely to occur between militarized parties and is also taken to include airspace over areas where such parties are in a heightened state of military alert or tension, which might endanger civil aircraft.

**Hazard** — A condition or an object with the potential to cause or contribute to an aircraft incident or accident.

**MANPADS (man-portable air defence systems)** — Shoulder-launched surface-to-air missiles. These are widely available in many countries, particularly in conflict areas;

are portable; and can be used with relatively limited training. MANPADS are capable of bringing down aircraft, but not of reaching cruising altitudes.

**Overflying** — Passing over terrestrial areas (land or sea) at cruising altitude.

**Risk** — The potential for an unwanted or calculated outcome resulting from an occurrence. Risk can be estimated by considering the likelihood of threats, vulnerabilities and consequences or impacts.

**Surface-to-air missiles (SAMs)** — Any weapon that may be fired at an aircraft from the ground (including MANPADS), but in this context, is taken to mean advanced military equipment that is capable of attacking airborne targets at altitudes of at least 25,000 ft.

**Threat** — A man-made occurrence, individual, entity or action that has, or indicates, the potential to harm life, information, operations, the environment and/or property.

**Vulnerability** — Factors or attributes that render an entity, asset, system, network or geographic area open to successful exploitation or attack or susceptible to a given threat or hazard.

In this report, in accordance with ICAO and the other referenced sources, the terms “airspace restriction”<sup>18</sup> and “airspace closure”<sup>19</sup> are used interchangeably. Wherever applicable, these terms are used with the addition of their vertical limits.

<sup>18</sup> As described in ICAO “Air Traffic Services Planning Manual”

<sup>19</sup> As used in ICAO “Aeronautical Information Services Manual”



## 2. Overall Framework

The conceptual framework for this study is provided in Figure 9 below.

The conceptual framework defines two study spaces: *risk situation* and *state practices*. These study spaces are described below.

*Risk situation* defines the objective evolution of the circumstances associated with civil aviation security or safety risk above conflict zones. It should be noted that the ICAO definition of *conflict zones (CZ)* is restrictively confined to armed conflict that is occurring or is likely to occur between militarized parties. The conceptual framework acknowledges that there may be *other situations (OS)* that do not fall within the ICAO CZ definition but that can still be associated with civil aviation security threats. An example of an OS is a situation associated with insurgents or terrorists that is not an armed conflict.

A *security threat (ST)* can be associated with conflict zones or other situations and can be assessed with the help of the following groups of indicators:

- *Capability to attack* — this study will not exclude other capabilities but will be mainly focused on the presence of long-range SAMs and AAMs that can hit an aircraft flying at cruising level<sup>20</sup>.
- *Intent to attack* — the plan for a deliberate act against civil aviation

- *Possibility of an unintentional attack* — shaped by the presence of one or more risk factors.
- *Conflict parties' command and control* — the rigorosity and reliability of the command and control procedures and practices for authorizing a capability launch.

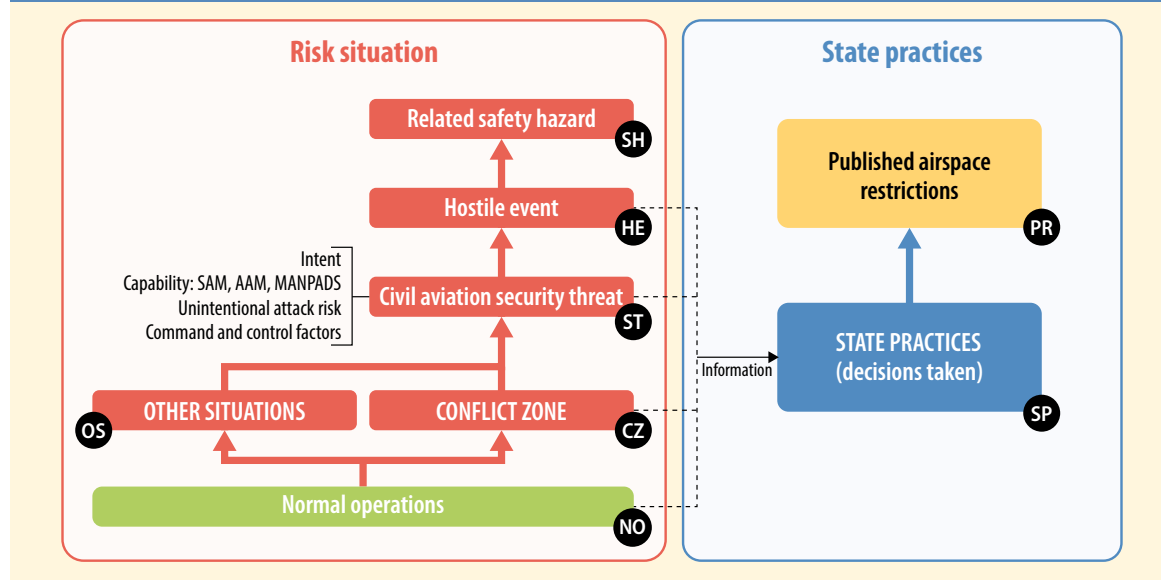
A security threat associated with a security risk situation may be dormant and never materialise. Whenever it is actively manifested, however, the security threat usually materialises in a *hostile event (HE)*. Hostile events are intentional or unintentional engagement of a capability against civil aviation. Hostile events can lead to aircraft damage and/or injuries to flight crew and/or passengers, but also can be inconsequential.

A hostile event and, in some instances, the actions of the involved actors to manage the security threat, can lead to *safety hazards (SH)* that are part of the overall consequence of a risk situation and may need also to be assessed. An example of a safety hazard is a civil flight in dangerous proximity to military flights.

*State practices (SP)* are the actions of bodies and organisations authorised by the state to manage the airspace over which the state has sovereignty. It should be noted that state practices can be explicitly coded into rules and procedures but also can be an implicitly established way of working.

Figure 9

### Study Conceptual Framework



<sup>20</sup> Some anti-aircraft artillery (AAA) systems are capable of reaching cruising levels, but these are generally of lower lethality than SAMs and are discounted from this analysis.

Airspace *published restrictions (PR)*, as part of airspace management practices, are normally promulgated through:

- *Aeronautical Information Publications (AIPs)*, which generally are used for information of a permanent or lasting nature, as well as for temporary changes of long duration; or
- *Notices to airmen (NOTAMs)*, which are used to disseminate information of a temporary nature and of short duration or when operationally significant permanent changes, or temporary changes of long duration, are made at short notice. NOTAMs do not include extensive text and/or graphics.

State practices also may concern airspace over which the state does not have sovereignty and may be directed at aircraft operators that have been issued an air operator

certificate (AOC) by that state (authority). In this case, the state may elect to publish various forms of state advisories or restrictions covering operations in particular airspace. These advisories and restrictions are outside the scope of this study.

Optimally, and as shown in Figure 9, for states to determine what type of state practice to apply to a given risk situation, they need to possess information about the elements of the risk situation — such as information about the characteristics of the conflict zone and the level of escalation; information about the existing security threat as determined by the presence of intent, capability, risk factors for an unintentional attack, command and control rigorousness and reliability; and information about previous hostile events.

This study will use the above-defined framework to analyse the threat and the corresponding airspace restrictions.

### 3. Hostile Events Analysis: 1985–2020

#### 3.1. Purpose of the Hostile Events Analysis

At the outset of the project, the Foundation gathered and analysed data on 57 hostile events involving civil aviation in and around conflict zones over a 35-year period beginning in 1985. The period was selected based on the information for the hostile events that the Foundation was able to collect. Included in the sample were intentional and unintentional attacks from the ground on commercial air transport and general aviation operations. Hostile events, as illustrated in Figure 10, are the intentional or unintentional engagement of a capability to attack<sup>21</sup> against civil aviation.

Within the context of this study, the purpose of the hostile events analysis is twofold: to provide an empirically based context for the study and to inform the selection of conflict zones for further analysis. These two purposes are explained further.

The analysis of civil aviation hostile events would provide the necessary, data-defined context for the conflict zone security risk situation. In order to study the conflict zones, it is necessary to study their potential worst outcome — hostile events. Additionally, considering that most hostile events are associated with flights in non-restricted airspace, this part of the inquiry was an important source of information about the failure of state practices to restrict the airspace.

The security threat associated with a security risk situation may be dormant and may never materialise. Whenever it is actively manifested, however, the security threat usually materialises in a hostile event. Hostile events, as illustrated in Figure 10 below, are the intentional

or unintentional engagement of a capability against civil aviation. Hostile events can lead to hull loss, multiple fatalities, aircraft damage and/or injuries to flight crew and/or passengers, but they also can be inconsequential (i.e., a failed attack).

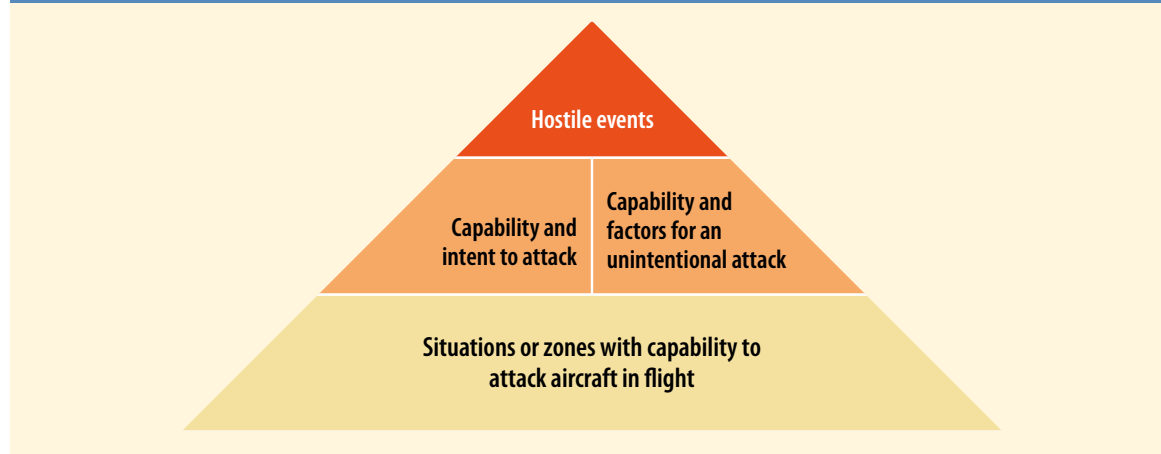
Hostile events are “the tip of the iceberg,” and for each hostile event that occurred, there were many more precursor situations that sometimes were and sometimes were not associated with a conflict zone (for example, a terrorist act not in a conflict zone).

For each hostile event that occurred, there were many more precursor situations with factors that could lead to a hostile event — capability and intent to attack and/or capability and factors for an unintentional attack — were present, but the situation did not actually result in a hostile event. This is represented in the security threat layer of the security risk pyramid in Figure 10.

At the bottom of the security risk pyramid, there are multiple states and zones where the capability to attack aircraft in flight exists but where there is neither an intent to attack nor factors for unintentional attack. In general, the higher the situation is on the security risk pyramid, the higher is the associated security risk. One can study all types of situations associated with the above-illustrated security risk pyramid, including its lower layer of “normal situations” or the higher risk situations represented by the upper layers.

This study proposes an analysis of the “tip of the pyramid” — the hostile events. It is acknowledged that this is the least populated layer of the security pyramid, and

Figure 10  
Hostile Events Pyramid



<sup>21</sup> E.g. MANPADS or SAMs

because of that, the associated sample will be the smallest. However infrequent, hostile events are the actual manifestation of the security threat and their study, together with the airspace-related information, is necessary but not entirely sufficient for a systematic, fact-based and data-driven study of conflict zone state practices.

The second purpose of the hostile events analysis is to inform the selection of conflict zones for further analysis. Conflict zones belong to the second layer of the security risk pyramid and occur more frequently than hostile events because there are more situations in which both the capability and intent to attack or capability and factors for unintentional attack are present.

The hostile events analysis can clearly indicate some (but not all) conflict zones with either intent to attack or present factors for an unintentional attack.

### 3.2. Hostile Events Sample

The sample of hostile events was selected in compliance with the following study-specific requirements:

- Attack occurred during the review period, 1985–2020.
- Attack involved civil aviation flights, including commercial air transport (both scheduled and non-scheduled) and general aviation (for example non-commercial business aviation, aerial work and pleasure flying).
- Global scope.
- Attack could be either intentional or unintentional.
- Attacks considered were not restricted to a specific capability to attack (for example, MANPADS or SAMs) in order not to restrict the possibility for comparative analysis.

Using publicly available resources and a dedicated Foundation database of “hostile events in civil aviation” and considering the above-defined scope of the sample, research concluded that there were at least 57 occurrences during the studied period.

An extract from the Foundation database of hostile events is provided in Table 2 (p. 21).

### 3.3. Airspace Restrictions and Hostile Events

Airspace restrictions analysis is a key element of this study. The results of the hostile events analysis, illustrated in Figure 11 below, show that most hostile events took place over conflict zones when the airspace was not restricted.

There was only one occurrence in the analysed sample (29 August 1999, Ethiopia) that took place in previously closed airspace. In this case, a business jet deviated from its route and flew deep inside the Ethiopian no-fly zone from Eritrea’s airspace and was shot down by Ethiopian military with SA2 and/or SA3 SAMs.

Only eight occurrences out of the sample of 57 events are not associated with conflict zone and/or insurgency activity and, because of that, could have not been prevented by an restricting the airspace above and around a conflict zone.

**Finding 1: Foundation analysis shows that most of the hostile events involving surface-to-air attacks against civil aviation flights that took place during the period of 1985–2020 could have been prevented by restricting the airspace above or around the conflict zone and by adherence to the restrictions.**

### 3.4. Targeted Aircraft

An analysis of the hostile events indicates that turbo-props are a more frequent target than jets, as can be seen

Figure 11

#### Airspace Restrictions

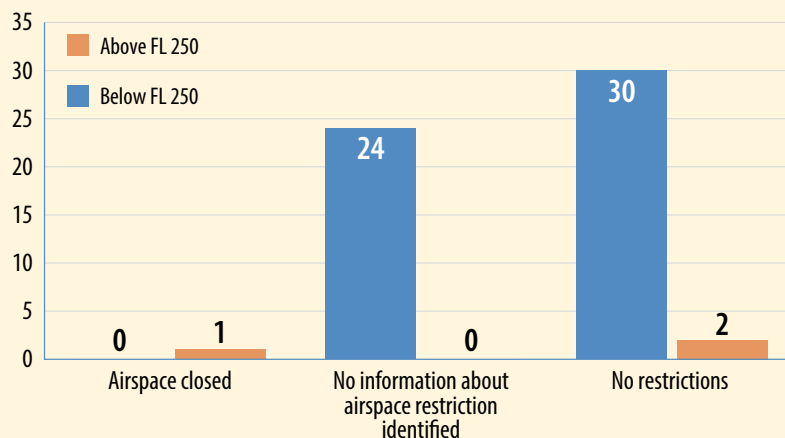


Table 2  
An Extract from FSF “Hostile Events in Civil Aviation” Database

Date	State	Consequences	Aircraft Operator	Capability	Perpetrator	Flight phase	Altitude	Type	Killed/Injured/Uninjured
04-Apr-85	Greece	Fuselage holed, no explosion	Royal Jordanian Airlines	RPG7	Abu Nidal and Black September	Takeoff	Ground	B727	0/0/75
04-Sep-85	Afghanistan	Hit after climbing overhead KDH before setting course, fire, subsequent crash.	Bakhtar Afghan	Shorts Blowpipe	Hezb-i-Islami faction	En route	12,500 ft	AN26	52/0/0
08-Jun-86	Angola	Veer off and wing fire during landing due to damage.	TAAG	UIDM	UNITA	Landing	n/k	L100	0/0/5
16-Aug-86	Sudan	Crashed	Sudan Airways	SA-7	SPLA	Initial climb	<3,000ft	F27	60/0/0
05-May-87	Sudan	Crashed	SASCO Air Charter	MANPADS	SPLA	Initial climb	n/k	C404	13/0/0
11-Jun-87	Afghanistan	Crashed	Bakhtar Afghan	MANPADS	Hezb-i-Islami	En route	n/k	AN26	53/2/0
14-Oct-87	Angola	No. 3 engine hit, caught fire, subsequent crash.	Zimex	MANPADS	MPLA or UNITA	Climb	5,000 ft	L100	6/0/0
06-Nov-87	Mozambique	Crashed	Air Malawi	MANPADS	Mozambique Armed Forces	En route	n/k	SC7	10/0/0
03-Jul-88	Iran	Crashed, missiles fired from ship; flight on airway A59 in accordance with Iranian ATC clearance.	Iran Air	2 x SM2	U.S. Navy	Climb	13,500 ft	A300	290/0/0
10-Dec-88	Pakistan	Crashed	Ariana Afghan	n/k	Pakistan Armed Forces	En route	n/k	AN26	25/0/0
xx Feb-89	Angola	Right wing fire; return to Dundo airport where wing burned off — whole later replaced.	TransAfrik	MANPADS	UNITA	En route	n/k	L100	0/0/X
08-Apr-89	Angola	No. 2 engine disabled and smoke on flight deck; crash landing and fire destroyed aircraft.	TransAfrik	Small arms	UNITA	Approach	<2,000 ft	L100	0/0/4
05-Sep-89	U.S.	Aircraft hit by gunshot while landing, bullet pierced door and grazed passenger’s head.	USAir	Small arms		Landing			0/1/??
21-Dec-89	Sudan	Crashed	MSF	SA7	SPLA	Takeoff/ initial climb	<1,000ft	BN2	4/0/0
28-Dec-89	Romania	Crashed after suspected missile exploded in vicinity causing LOC; cause initially hidden by Romania, revealed in 2014.	TAROM	MANPADS	n/k	En route	n/k	AN24	7/0/0

AMISOM = African Union Mission to Somalia; ATC = air traffic control; CAA = civil aviation authority; DRG = Democratic Republic of the Congo; KDH = Ahmad Shah Baba International Airport; LOC = loss of control; MANPADS = man-portable air defence system; MEG = Malange Airport; MLPA = People’s Movement for the Liberation of Angola; n/k = not known; NOTAMs = notices to airmen; RTO = rejected takeoff; SPLA = South Sudan People’s Defence Forces; UNITA = National Union for the Total Independence of Angola

Table 2  
An Extract from FSF “Hostile Events in Civil Aviation” Database (continued)

Date	State	Consequences	Aircraft Operator	Capability	Perpetrator	Flight phase	Altitude	Type	Killed/Injured/Uninjured
05-Jan-90	Angola	Emergency landing after no. 4 engine hit and collateral damage to no. 3 engine 3, returned to land.	Angola Air Charter	SA7?	UNITA	Climb	n/k	L100	0/0/7
12-Jun-90	Afghanistan	Two engines shut down, then emergency landing on unpaved runway en-route.	Aeroflot	RaytheonFIM-92 Stinger	n/k	En route	FL255	IL76	0/0/10
13-Feb-91	Angola	Damaged on final, normal landing completed	TransAfrik	n/k	UNITA	Approach	n/k	DC8	n/k
16-Mar-91	Angola	Crashed	TransAfrik	Stinger	UNITA	En route	FL170	L100	9/0/0
29-Mar-91	Angola	Hit left wing/engine; flight completed.	Zimex	MANPADS	UNITA	En route	n/k	DHC6	0/0/11
10-Jul-91	Peru	Both pilots killed by police gunfire just after takeoff, 13 passengers killed in subsequent crash.	Aerochasqui	Small arms	Illegal action by National Police	Initial climb	75ft	C212	15/0/0
10-Sep-91	Rwanda	Minor aircraft damage; flight completed.	Scibe Airlift Cargo Zaire	MANPADS	RPF	En route	n/k	F27	0/0/14
17-Sep-91	Somalia	Empennage hit, temp LOC, recovery and diversion to Djibouti.	Zimex	MANPADS	n/k	En route	9,600 ft	D228	0/0/5
28-Jan-92	Azerbaijan	Attackers targeted aircraft after “assuming” it was carrying weapons.	Azal Azerbaijan Airlines	Heat seeking missile	Armenian Resistance	En route	n/k	Mi8	44/0/0
27-Mar-92	Azerbaijan	Middle engine disabled, resultant fire, diversion to Yerevan completed.	Armenian Airlines	Gunfire	Azerbaijan Air Force	Initial climb	n/k	YK40	0/0/34
09-May-92	Azerbaijan	Both pilots injured; aircraft caught fire and diverted to Sisian, Armenia; crash landing.	Ararat Avia	Su25	Azerbaijan Air Force	En route	n/k	YK40	0/0/33
29-May-92	Afghanistan	Missile hit runway ahead of aircraft, one pilot injured by shrapnel from explosion, but landing completed. Afghan president on board.	Ariana Afghan	MANPADS	n/k	Approach	700 ft	T154	0/0/17
27-Aug-92	Turkey	Continued to destination with nine bullet holes in fuselage.	THY	Gunfire	PKK	Initial climb	<3,000 ft	A310	0/0/128
23-Jan-93	Angola	No. 3 propeller blown off, returned to land, no other damage.	TransAfrik	RPG	UNITA	Initial climb	<2,000 ft	L100	0/0/X
26-Apr-93	Angola	Left engine hit, turned back but crew conducted forced landing in field.	for UNWFP	MANPADS	UNITA	En route	FL160	AN12	1/2/5

AMISOM = African Union Mission to Somalia; ATC = air traffic control; CAA = civil aviation authority; DRG = Democratic Republic of the Congo; KDH = Ahmad Shah Baba International Airport; LOC = loss of control; MANPADS = man-portable air defence system; MEG = Malange Airport; MLPA = People’s Movement for the Liberation of Angola; n/k = not known; NOTAMS = notices to airmen; RTO = rejected takeoff; SPLA = South Sudan People’s Defence Forces; UNITA = National Union for the Total Independence of Angola

Table 2  
An Extract from FSF “Hostile Events in Civil Aviation” Database (continued)

Date	State	Consequences	Aircraft Operator	Capability	Perpetrator	Flight phase	Altitude	Type	Killed/Injured/Uninjured
21-Sep-93	Georgia	Missile fired from boat; LOC, crashed.	Transair Georgia	Strela-2 (SA7)	Abkhazian Insurgents	Approach	1,000 ft	T134	27/0/0
22-Sep-93	Georgia	Damaged on short final, crash landed on runway, fire destroyed aircraft.	Orbi Georgian AW	n/k	Abkhazian Insurgents	Approach	n/k	T154	108/24/0
28-Jan-95	Angola	Right engine hit just after takeoff, followed by crash landing.	SAL	Raytheon FIM-92 Stinger	UNITA	En route	<1,500 ft	BE20	2/0/4
02-Sep-98	Angola	Engine fire, initial attempt to divert to MEG but then forced landing.	Permttransavia	MANPADS	UNITA	En route	n/k	AN26	24/0/0
29-Sep-98	Sri Lanka	Crashed	Gomelavia	n/k	LTTE	Climb	FL140	AN24	55/0/0
10-Oct-98	DRC	Attempted crash landing in jungle after the rear engine was struck.	Lignes Aeriennes Congolaises	Strela-2 (SA7)	Tutsi Militia	Climb	<6,000ft	B727	41/0/0
14-Dec-98	Angola	Crashed	Khors Air	n/k	UNITA	En route	FL150	AN12	10/0/0
26-Dec-98	Angola	Crashed	TransAfrik	anti-aircraft missile	UNITA	En route	n/k	L100	14/0/0
02-Jan-99	Angola	Crash landing in enemy-held territory during turnback.	TransAfrik	MANPADS	UNITA	En route	n/k	L100	9/0/0
12-May-99	Angola	Engine hit; forced landing; crew captured by UNITA.	Volga Atlantic AL	MANPADS	UNITA	En route	n/k	AN26	0/0/4
01-Jul-99	Angola	Crashed	Savanair	MANPADS	UNITA	En route	n/k	AN12	1/0/4
29-Aug-99	Ethiopia	Hit by proximity missile after proceeding into NOTAM-closed airspace.	Corporate Jets	SAM	Ethiopian Army Targeting Error	En route	FL410	LJ45	2/0/0
31-Oct-00	Angola	Crashed (UNITA claimed shoot down; CAA and military blamed a technical problem).	Ancargo NS	n/k	UNITA	En route	n/k	AN26	49/0/0
04-Dec-00	Burundi	Flight continued to normal landing, 13 bullet holes in fuselage.	Sabena	gunfire	Insurgents	Approach	350ft	A332	0/2/168
08-Jun-01	Angola	Aircraft from World Food Program hit in one engine; crew regained control and landed safely at Luena.	TransAfrik	anti-aircraft missile	Rebels (Unita admitted the attack)	En route—Approach	FL 150, 15000 ft (16,404 ft)	B727	0/0/3

AMISOM = African Union Mission to Somalia; ATC = air traffic control; CAA = civil aviation authority; DRC = Democratic Republic of the Congo; KDH = Ahmad Shah Baba International Airport; LOC = loss of control; MANPADS = man-portable air defence system; MEG = Malange Airport; MLPA = People's Movement for the Liberation of Angola; n/k = not known; NOTAMs = notices to airmen; RTO = rejected takeoff; SPLA = South Sudan People's Defence Forces; UNITA = National Union for the Total Independence of Angola

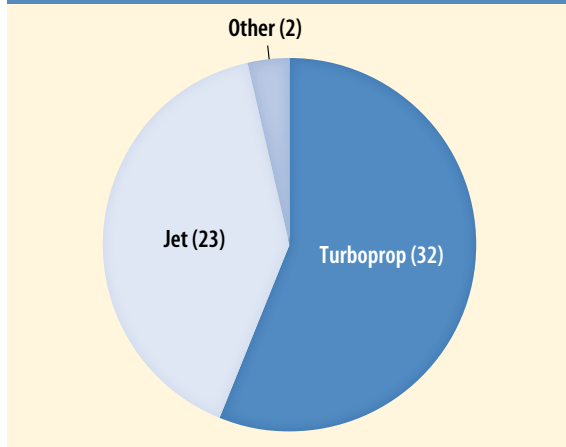
Table 2  
An Extract from FSF “Hostile Events in Civil Aviation” Database (continued)

Date	State	Consequences	Aircraft Operator	Capability	Perpetrator	Flight phase	Altitude	Type	Killed/Injured/Uninjured
04-Oct-01	Black Sea	On Airway B145; crashed, missile fired from Feodosia overshoot intended target at 18 nm by 140 nm after locking onto it.	Sibir Airlines	S-200 (SA5c)	Ukraine Armed Forces	En route	FL360	T154	78/0/0
28-Nov-02	Kenya	Missile missed the airplane, no damage; pilot decided to continue to Tel Aviv. Not a conflict zone.	Arkia	2 SA-7 - Strela 2	al-Qaida	Initial climb	3000ft	B757	0/0/271
22-Nov-03	Iraq	Continued with wing fire, no hydraulics, no flight controls; turned back, flapless only thrust-controlled landing, gravity drop for landing gear, runway excursion.	European Air Transport (DHL)	SA14 - Strela 3	Insurgents	Climb	8000ft	A300	0/0/3
09-Mar-07	Somalia	Projectile hit aircraft on the left hand side of fuselage near main landing gear. Fire caused smoke inside the airplane, which landed safely.	TransAVIAexport Airlines	most likely an RPG	Rebels on a boat. Islamist militia claimed the attack	Approach	490 ft	IL-76TD	0/0/15
23-Mar-07	Somalia	Crashed	TransAviaExport Airlines	n/k	Rebels on boat	Initial climb	<3,000ft	IL76	11/0/0
15-Oct-09	Colombia	Flight.	SADELCA	gunfire	FARC	En route	n/k	DC3	0/1/X
17-Apr-13	Libya	Bullet entered flight deck.	Buraq Air	gunfire	n/k	Approach	2,000ft	B738	0/0/155
24-Jun-14	Pakistan	15-plus bullets; 2 cabin crew, 1 passenger hit; passenger died.	PIA	gunfire	n/k	Approach	n/k	A310	1/2/187
26-Jan-15	Iraq	3-4 bullet holes	FlyDubai	Small Arms Fire	n/k	Approach	<2,000ft	B738	0/2/X
08-Jan-20	Iran	Proximity missile; aircraft destroyed,	Ukraine International Airlines	2x TorM1 (SA15)	Iranian Armed Forces	Climb	8,100ft	B738	176/0/0
04-May-20	Somalia	Going around because of animals on or near the runway; soldiers believed it was a suicide plane and shot it down.	African Express Airways or East African Express	ZU-23 anti-aircraft cannon	Ethiopian troops stationed as part of AMISOM	Approach	2,230ft	E120	6/0/0
25-May-20	Somalia	Continued for a landing. All occupants disembarked uninjured. The aircraft sustained damage by bullets penetrating wings and cabin.	Aeronav/Kenya School of Flying	Small arms fire	Ethiopian troops misidentified the aircraft and opened fire	Approach	<1,200ft	L410	0/0/X

AMISOM = African Union Mission to Somalia; ATC = air traffic control; CAA = civil aviation authority; DRG = Democratic Republic of the Congo; KDH = Ahmad Shah Baba International Airport; LOC = loss of control; MANPADS = man-portable air defence system; MEG = Malange Airport; MLPA = People's Movement for the Liberation of Angola; n/k = not known; NOTAMS = notices to airmen; RTO = rejected takeoff; SPLA = South Sudan People's Defence Forces; UNITA = National Union for the Total Independence of Angola



Figure 12  
Type of Aircraft



in Figure 12. A possible explanation is that turboprops fly lower and slower than jets, including during their approach to land or initial climb following takeoff. The slower speed and engine signature make them easier to hit with less sophisticated and more readily available weapons (MANPADS vs. SAMs).

While potential launch areas around airports can be more easily secured and protected against attackers, the relatively low cruising altitudes of turboprops are within the engagement altitude limits for some MANPADS. Data reviewed show that of the 32 occurrences involving turboprops, only nine were during approach to land or initial climb phases of flight and 20 were during the en route phase.

Also, turboprop-powered aircraft often are used for humanitarian aid/relief flights and in various government utility operations, which often occur in circumstances where security and political stability are sub-optimal.

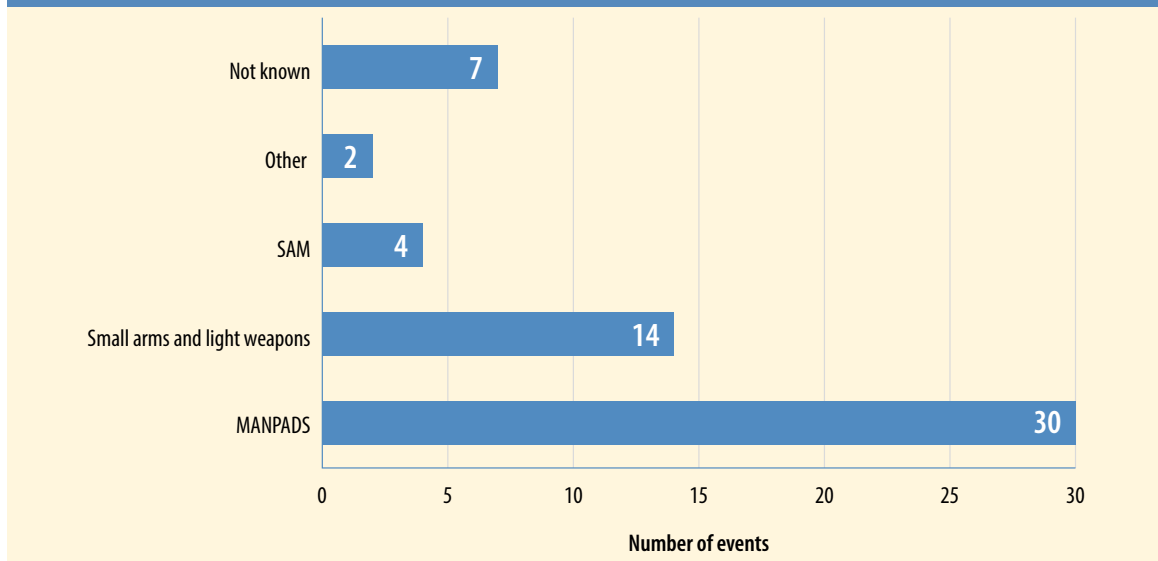
### 3.5. Capability to Attack

The Foundation's research showed MANPADS are the most common weapon used against civil aviation. Figure 13 shows the number of events in the sample associated with a given capability to attack. MANPADS generally are easier to obtain and use than larger, non-man-portable SAM systems.

However, the size of the warhead for most MANPADS (less than 2 kg for some common MANPADS) and their typical infrared homing guidance, which biases attacks toward aircraft engines, means that a catastrophic outcome (i.e., the aircraft being shot down) is not certain. By comparison, the four SAM events identified (five, including Flight MH17) show that a catastrophic outcome from an effective SAM attack is highly probable, at least in part because of the larger warhead (as much as 70 kg in some missiles).

It also should be noted that small arms attacks against aircraft at lower altitudes likely are the most frequent form of attack simply because of the prevalence of these weapons across the world. However, it is extremely difficult to accurately target an aircraft in flight with small arms, such as assault rifles; any damage tends to be minor; and attacks are difficult to detect. Therefore, it is noted that the number of small arms attacks in our sample may not be representative of the overall population of such events in the world.

Figure 13  
Number of Events in the Sample Associated With a Given Capacity to Attack



**Finding 2:** Based on an analysis of reported surface-to-air attacks against civil aviation flights for the period of 1985–2020, MANPADS are the most common weapon used against civil aviation. MANPADS are generally easier to obtain and use than larger, non-portable SAM systems. However, the size of most MANPADS warheads means that a catastrophic outcome is not certain. By comparison, the SAM events identified show that a catastrophic outcome from an effective attack is highly probable. The presence of SAMs should therefore be a key indicator in any airspace risk analysis and avoid/overfly decision.

### 3.6. Risk and Capability Engagement Altitude

In 34 of the hostile events in the Foundation “Hostile Events in Civil Aviation” database, information about the engagement altitude was found. The engagement altitude for the hostile events in the Foundation database is presented in Figure 14. The Flight MH17 event is also indicated on the figure for reference.

Three (four, including the Flight MH17 event, which was not considered in the hostile events analysis) of the events occurred above Flight Level (FL) 250 and 19 occurred below FL 50.

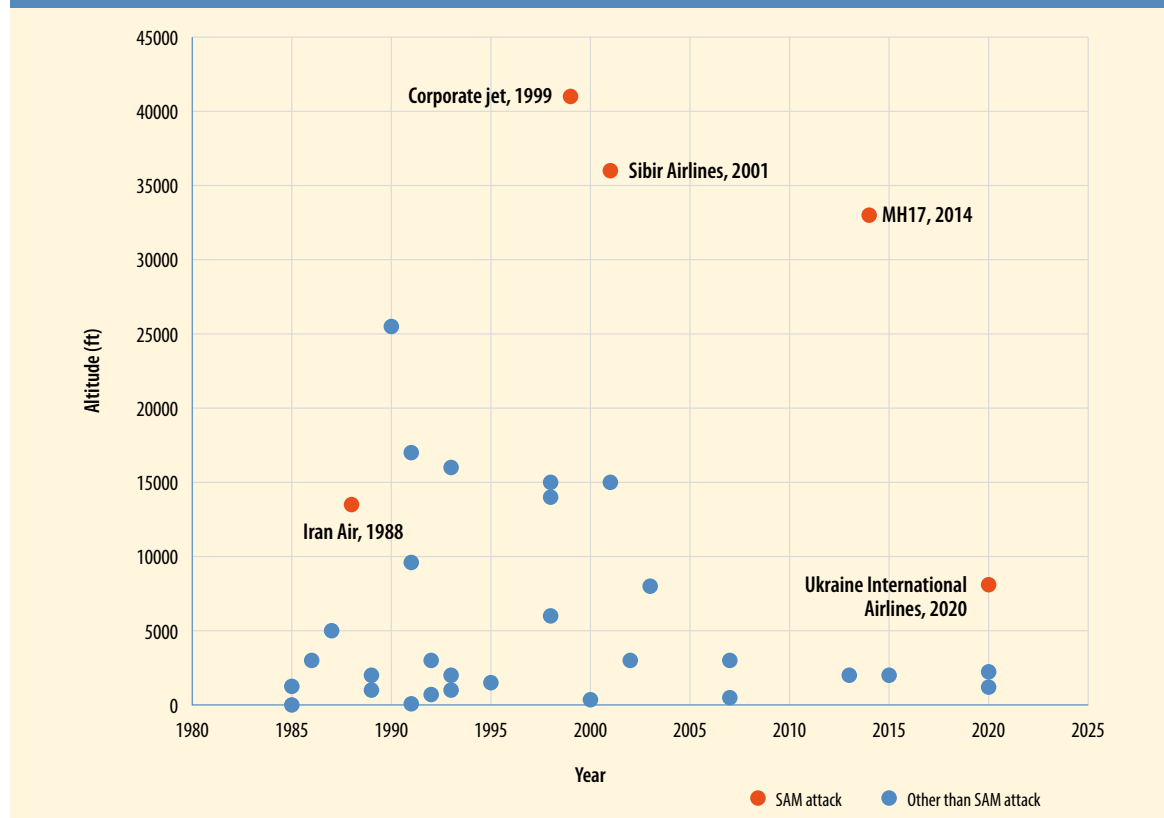
There were five occurrences, depicted in red in Figure 14, identified as involving a SAM attack. Two of these events (Iran Air, 1988, and Ukraine International Airlines, 2020) occurred within the limits of MANPADS engagement altitude. The occurrences depicted in blue involved capability to attack other than a SAM.

From the analysis, it appears that MANPADS range can be greater than sometimes assumed. A U.S. government assessment, published in July 2011, stated that MANPADS could “strike aircraft flying at altitudes up to approximately 15,000 feet at a range of up to 3.2 miles [5.9 km].” However, data associated with a 1990 attack on an IL-76 in Afghanistan recorded its altitude when hit by a U.S.-manufactured Raytheon FIM-92 Stinger MANPADS missile as FL 255. In this case, the missile was fired from high terrain. Therefore, the launch altitude for MANPADS can have a significant effect on their range and maximum engagement altitude.

It can be concluded that a reliable initial assessment of risk to airspace users demands an accurate up-to-date assessment of any effective capability in the hands of potential non-state aggressors and state actors.

The analysis of the engagement altitude, the associated phase of flight and the typical cruising altitude for an involved type of aircraft reveals that FL 250 is well selected

Figure 14  
Altitude Distribution



for studying the security risk for aircraft at a cruising level that does not include the risk of MANPADS.

### 3.7. Intentional vs. Unintentional Attack

The two origins of risk to airspace users are “intentional act” and “unintentional act.” State perpetrators’ acts are generally associated with the latter explanation. And while irregular perpetrators also make targeting errors, in some regional conflict zones, an intent to bring down civil transport aircraft has featured prominently in their actions.

In terms of consequences, the most difficult to predict risk with the most serious consequences is error by those controlling the offensive capability of well-armed states. Recent history shows that this capability can sometimes be inadequately controlled both during training exercises and when applying the “offensive engagement approval” process in the general context of growing political instability.

Table 3 presents information about unintentional attack occurrences extracted from the Foundation database. There are eight such events identified and all but one involved military misidentification of the target identity and/or intentions. The remaining 49 events involved either an intentional attack or events for which the Foundation did not find information regarding intent.

The capability of “irregular perpetrators” is likely to be less than that of states unless states are pursuing an aggressive policy objective by equipping irregulars with offensive capability much greater than they normally would possess

(older versions of MANPADS with less than current front-line capability, for example).

### 3.8. Hostile Events and Conflict Zone Flights

The analysis of the Foundation database sample suggests that the primary risk of overflying conflict zones at high cruising altitudes is the mis-targeting of long-range airburst missiles. Based on our sample, these long-range missiles are unlikely to be in the possession of non-state actors.

Information about the risk of flight within a conflict zone is usually disseminated with a NOTAM.

The hostile events analysis identified several conflict zones where either an obvious intent to attack or factors for an unintentional attack existed. These zones, listed below, were considered candidates for further conflict zone analysis as part of the study.

- Afghanistan;
- Georgia during civil war, 1991-1993;
- Iraq;
- Libya;
- Democratic Republic of the Congo; and,
- Nagorno-Karabakh war.

Angola, where a number of attacks occurred, including the TransAfrik event noted above, was reviewed for inclusion, but is not included in the final list because the parties involved did not have a capability to attack aircraft flying at cruise altitude.

Table 3

Unintentional Acts and Their Context

Date	State	Unintentional Act	Aircraft Operator	Perpetrator	Altitude	Killed/Injured/Uninjured
11-Jun-87	Afghanistan	Misidentified as a Russian IL14.	Bakhtar Afghan	Hezb-i-Islami	n/k	53/2/0
03-Jul-88	Iran	Military misidentified target as a descending Iranian F-14.	Iran Air	U.S. Navy	13,500 ft	290/0/0
29-Aug-99	Ethiopia	Military targeting error after proceeding into NOTAM closed airspace.	Corporate Jets	Ethiopian Army	FL 410	2/0/0
04-Oct-01	Black Sea	Military exercise missile overshoot intended target at 18 nm (33 km) by 140 nm (259 km) after locking onto it.	Sibir Airlines	Ukraine Armed Forces	FL 360	78/0/0
26-Jan-15	Iraq	Probably accidental, rounds from nearby social event.	FlyDubai	n/k	<2,000 ft	0/2/X
08-Jan-20	Iran	Military misidentified aircraft as a hostile target.	Ukraine International	Iranian Armed Forces	8,100 ft	176/0/0
04-May-20	Somalia	Military misidentified going-around aircraft as a suicide plane.		Ethiopian troops as part of AMISOM	2,230 ft	6/0/0
25-May-20	Somalia	Military misidentified aircraft and opened fire.	Aeronav/Kenya School of Flying	Ethiopian troops as part of AMISOM	<1,200 ft	0/0/X

AMISOM = African Union Mission to Somalia; n/k = not known; NOTAM = notice to airmen

## 4. Conflict Zones Analysis: 1990–2014

### 4.1. Purpose of the Conflict Zones Analysis

Within the context of this study, the purpose of the conflict zones analysis was to set data-defined context for other research components by providing an overview of state practices regarding airspace restrictions above and/or around conflict zones. Among other things, the Foundation focussed on determining the presence of air defence equipment (both air-to-air and surface-to-air) during a conflict and the restrictions that were applicable to the use of the airspace.

### 4.2. Conflict Zones Sample

Conflict zones were selected in the following manner:

- Based on publicly available information for the major conflict zones in the world.
- Conflict zones were active during the period 1990–2014.
- There was a reasonable expectation, prior to commencing the analysis, of the existence of capability to attack at altitudes above FL 250. As defined previously, the scope of the study is determined by the overall objective of the research related to Flight MH17 and does not include the risk from MANPADS. In this respect, the study scope is restricted to the airspace management state practices for cruising altitudes that are more than 25 000 ft above ground level. FL 250 is also the altitude limit that is often used in state advisories or restrictions for operations in particular airspace with regard to risk associated with MANPADS.

Following the above-outlined study-specific requirements, and including the results of the hostile events analysis, the conflict zones selected for analysis are:

- Bosnian war, 1992–1997.
- Croatian war, 1991–1995.
- Democratic Republic of the Congo — it is to be noted that this conflict zone is the only one from the sample for which the analysis concluded that there was low likelihood of the presence of capability to attack above FL 250. However, the analysis is kept in the sample to provide context and perspective.
- Egypt (Sinai).
- Georgia-Russia, 2008.
- Iraq war, 1991.
- Iraq war, 2003–2011.
- Kosovo, Allied Force 1999.
- Libya, 2011.

- Slovenia, 1991.
- Afghanistan, 2001–present.
- Armenia Azerbaijan.
- Ivory Coast, 2002–2004.
- Indonesia (Aceh), 1990–1998.
- Mali, 2012–2015.

### 4.3. Conflict Zone Indicators

The situation in each conflict zone was reviewed relative to a set of 10 predetermined “indicators of likelihood of attack,” such as the presence of SAMs capable of reaching a target in flight above FL 250.

Each of the indicators is considered as a question with possible answers numbered from 1 to 3. The number of the answer is an indication of likelihood, with 1 indicating, in general and with all other conditions being equal, the lowest likelihood of attack. The higher the number of the answer, the greater is the indication of the likelihood of attack.

The indicators are defined as follows:

#### A. Parties:

1. Conflict between states.
2. Conflict between non-state armed groups and state(s) or civil wars.
3. Conflict between non-state armed groups.

#### B. Armed conflict scale and/or tensions:

1. Terrorism and/or international political tension.
2. Insurgency (small-scale military activities) and/or medium increasing political tension.
3. Large-scale military activities and/or heightened international political tension.

#### C. Military air transport activities - Use of aircraft to transport ground troops or military equipment by at least one party (such aircraft may be difficult to distinguish from civil aircraft, particularly when they operate near airways and close to civil aircraft cruising altitudes):

1. Military air transport activities not reported.
2. Occasional use of aircraft to transport ground troops or military equipment.
3. More than occasional use of aircraft to transport ground troops or military equipment (by at least one party).

#### D. Military air combat activities - Use of military aircraft in a combat role or for hostile reconnaissance

by at least one party in the conflict. This could include remotely piloted (unmanned) aircraft:

1. No military air combat activities.
2. Small-scale (occasional) military air combat activities and/or some activities above FL 250.
3. Large- to medium-scale military air combat activities and/or regular activities above FL 250.

E. Known attacks:

1. Conflict area without any publicly reported security incidents involving military and civil aviation.
2. Conflict area with a single security-related reported incident/accident involving military (or civil) aviation.
3. Conflict area with multiple reported security-related incidents/accidents involving military (or civil) aviation.

F. Capability to attack by at least one party:

1. No information about capability to attack with range above FL 250.
2. Air-to-air missiles (AAMs) launched from fighter aircraft (and no SAMs) and/or some indication (but not full certainty) of long-range SAMs that can hit an aircraft at cruising level.
3. Long-range SAMs that can hit an aircraft at cruising level.

G. Capability to differentiate between civil and military aircraft:

1. Differentiation supported by radar, electronic identification and non-cooperative target recognition systems measuring signature using acoustic and thermal radiation, radio emissions, radar techniques.
2. Differentiation supported by radar and electronic identification (e.g., identification, friend or foe (IFF); or secondary surveillance radar (SSR).
3. Differentiation supported only by radar tracks.

H. SAM/AAM operators' experience and chain of command:

1. Regular forces.
2. SAMs in the possession of irregular military forces or an absence of robust SAM/AAM command and control procedures for authorizing launch.
3. SAMs in the possession of irregular military forces and an absence of robust SAM/AAM command and control procedures for authorizing launch.

I. Known intent to attack:

1. Known intent to attack military aircraft.
2. Known intent to attack civil aircraft.
3. Communication of intent and a plan to attack civil aircraft or actual attack against civil aircraft.

J. Civil aircraft operations over or close to conflict zone (with and without the airspace restrictions, if any):

1. No air traffic or only occasional traffic.
2. Small to moderate traffic volume (for example, traffic restricted to arrivals and departures to airports).
3. Considerable traffic volume, including international overflights

The 10 indicators belong to groups of indicators defined in Section 2 that characterise the security threat. Each of the 10 indicators can belong to more than one group as follows:

- Capability to attack: indicators D, F and G.
- Intent to attack: indicators E and I.
- Possibility for an unintentional attack: indicators B, C, D, G, H and J.
- Conflict parties' command and control: indicators A, B and H.

One of the indicators, "The capability to attack by at least one party," is used as the primary filter, because the presence of an air defence system (surface-to-air or air-to-air) that can reach aircraft above FL 250 is an enabling risk factor at that altitude. The only possible exception would be an aircraft emergency such as an engine failure requiring a drift-down or an aircraft pressurisation failure leading to an emergency descent within the range of lower altitude capability to attack.

Other indicators of likelihood of attack were considered. Within them are some indirect indicators that are based on others' risk analyses. Examples of such indicators are the behaviour of large airlines and/or airlines with better access to risk information and the information from underwriting companies.

Detailed information about conflict zones is now generated globally by the insurance industry and is used to determine underwriting risk for so-called "war risk insurance" on an hour-by-hour basis. The risk assessments are used to set premiums for a given route, whether for overflight or landing, and underwriters may even refuse to insure an operator if the risk is considered to be unacceptably high. Sudden increases, sustained high premiums or refusals of coverage may therefore provide a useful indicator of overflight risk before formal airspace closures

or NOTAM warnings are issued. Operators will balance insurance costs against the cost of flying a less efficient avoidance route as part of their own risk assessment for a given flight; however, state authorities can lawfully direct their certificated operators to avoid a given area regardless of any efficiency penalties.

The indicators based on the behaviour of airlines and underwriters, although considered important in general, were not retained for the conflict zone risk analysis because of the lack of access to such historical information for the studied conflict zones.

Apart from the conflict zone likelihood of attack, and within the context of this study, there is another important indicator — the indicator of airspace restrictions. This indicator describes when airspace restrictions were introduced, what airspace they affected and how they evolved over time including:

- Restrictions by the sovereign authority (state) responsible for the airspace.
- Restrictions by others — third parties (for example, introducing a no-fly zone) and/or neighbouring states.

#### 4.4. Overview of the Conflict Zone Analysis

Table 4 (p. 31) provides an overview of the analysed conflict zones.

The individual indicators of likelihood of attack (A to J) are coloured to illustrate how each contributes to the overall likelihood of attack. Green boxes indicate a low contribution to the likelihood, red boxes indicate a high contribution to the likelihood and yellow means a medium contribution to the likelihood.

The overall likelihood of attack is defined qualitatively as follows:

- *High* means a very plausible scenario that includes the presence of civil aircraft operations and evidence of capability and intent to attack or high indication of likelihood of unintentional attack.
- *Low* means a scenario with no information about capability to attack or without civil aircraft operations or low indication of unintentional attack.
- *Medium* means a scenario that is not covered by the either the *high* or *low* likelihood to attack definitions.

The overall likelihood of attack is not just a simple aggregation of the 10 indications of likelihood of attack provided by the 10 individual indicators. For example, the indicator “capability to attack by at least one party,” apart from influencing the risk factors for an unintentional attack, is also a key filtering factor that, in the beginning of the risk analysis, defines with its indication the subsequent course of the risk analysis. Indeed, if in a given conflict zone there is (certainty of) no capability to attack above

FL 250, then there is no need to analyse the other indicators, and the likelihood of attack there can be considered to be low.

Another example of the complex interactions of the indicators and their influence on the likelihood of attack can be illustrated by discussing the “intent to attack” and “capability to attack” indicators. High likelihood of attack is determined not simply by the intent of one of the conflict parties to attack, but also by their capability to attack at that altitude.

Similarly, fusing the information from the six indicators related to the likelihood of unintentional attack only makes sense when military aviation assets are in possession of the enemies of the parties that possess capability.

With the aim of providing an overall assessment of the likelihood of attack in a conflict zone while at the same time addressing all the complexities related to the interactions of the individual indicators in their influence the likelihood of attack, the Foundation used proprietary risk analysis algorithms. The algorithms were parametrised to assess the overall likelihood of attack above FL 250, and the results are provided in Table 4.

Using the algorithms, two sets of assessment were performed — one factoring the civil aviation traffic volume for the situation after introducing the airspace restrictions (if any), and the other for assessing the situation as if airspace restrictions were not in effect. The latter assessment is hypothetical and is not the same as the assessment of the likelihood before the introduction of the airspace restrictions. The reason for that is because before the introduction of airspace restrictions, many of the other indicators were often also different — the military combat activities have not commenced, the armed conflict scale was still to be seen and the attacks on military aircraft were still to be performed.

For each set of assessments, separate “algorithm runs” were performed for each credible capability to attack. Here are some examples of risk scenarios that determine separate runs of the algorithm:

- Long-range SAM capability of one conflict party that could result in intentional or unintentional attack against civil aircraft;
- AAM capability of a party that could result in intentional or unintentional attack against civil aircraft; and,
- A scenario (specific to the mountainous terrain in places like Afghanistan) where MANPADS can reach above FL 250.

The overall likelihood for a given set of algorithm runs is determined by the highest risk assessed for the scenarios within the set. For example, in a given set (with or without airspace restrictions), if the likelihood of attack associated

Table 4 Overview of the Conflict Zone Analysis		Command and control factors		Risk factors for an unintentional attack									
		No information		Capability to attack					Intent to attack				
Conflict zone	Airspace Restrictions above FL 250	High likelihood indication	A. Parties	B. Armed conflict scale and/or tensions	H. SAM operators' experience and chain of command	C. Military air transport activities	J. Civil aircraft operations (with airspace restrictions)	D. Military air combat activities	G. Capability to differentiate between civil and military aircraft	F. Capability to attack by at least one party	E. Known attacks	I. Known intent to attack (civil a/c)	
		Medium likelihood indication	Overall indication of likelihood of attack above FL 250	With actual airspace restrictions	Without airspace restrictions								
Bosnian war 1992-1997	Others' restrictions												
Croatian war 1991-1995	Partially restricted												
Democratic Republic of the Congo	No restriction												
Egypt (Sinai)	No restrictions												
Georgia-Russia 2008	No restriction												
Iraq war 1991	Others' restrictions												
Iraq war 2003-2011	Others' restrictions												
Kosovo, Allied Force 1999	Others' restrictions												
Libya 2011	Others' restrictions												
Slovenia 1991	Restricted												
Afghanistan 2001- present	No restrictions												
Armenia Azerbaijan	Restricted												
Ivory Coast 2002-2004	No restriction												
Indonesia (Aceh) 1990-1998	No restriction												
Mali 2012-2015	No restriction												
Georgian civil wars 1991-93	No restriction												

with air-to-air unintentional attack is assessed as medium and the likelihood of attack with long range SAMs is assessed as high, then the likelihood of attack for the set is considered high. This is intuitively logical because for an aircraft operator and the general public, what is important is not how the attack will be performed but the likelihood of attack when flying in a given airspace.

#### 4.5. Discussion of the Conflict Zone Analysis

In this section, we analyse the data in Table 4 and draw conclusions based on the historical evidence and our expert analysis.

In analysing these conflict zones, sometimes the evidence and expert interpretations led to clear conclusions, and in other cases, due to lack of information, a conclusion could not be definitively established.

The overview of the conflict zones analysis provided in Table 4 reveals (see the two columns under the common title “Overall indication of likelihood of attack above FL 250”) that in the studied sample there are only two conflict zones where a state completely closed its own airspace. These are the conflict zones of “Slovenia, 1991” and “Armenia-Azerbaijan.”

In one conflict zone, “Croatian war, 1991–1995,” the airspace was partially closed. In five of the analysed conflict zones, the airspace was closed by other states or organisations and not the sovereign state — for example by a U.N. Security Council resolution, as in the case of “Libya, 2011,” or by the neighbouring states, as in the case of “Kosovo, Allied Force, 1999.”

For eight conflict zones, either there were no airspace restrictions or no information about airspace restrictions could be found.

The analysis of airspace restrictions for the studied sample of 16 conflict zones is illustrated in Figure 15.

Overall, there are 11 conflict zones with medium or high indication of likelihood of attack without airspace restrictions. Of these 11 conflict zones, there was only one instance in which the sovereign state responsible for that airspace introduced airspace restrictions — see Figure 16.

**Finding 3:** The analysis of selected conflict zones over the period of 1990–2014 did not identify a uniform practice of states closing their own airspace when there were indications of a likelihood of attack against civil aircraft in the context of an armed conflict on the territory of that state.

In the few cases in the sample where states partially or completely closed their airspace, this was often associated with the loss of effective control over the relevant airspace by the state — Yugoslavia with the “Croatian war, 1991–1995” and with “Slovenia, 1991” and the conflict zone “Armenia-Azerbaijan.”

**Finding 4:** The analysis of selected conflict zones over the period of 1990–2014 identified that, on the rare occasions when a state restricted its own airspace above FL 250, it was associated with the loss of effective control over the relevant airspace by the state.

Whenever a state closes or restricts its own airspace above FL 250, or such a restriction is imposed by a third party (such as in the introduction of a “no fly zone” by an entity like the North Atlantic Treaty Organization), the predominant concerns historically have related to the security of military operations, military aircraft traversing airspace, and the protection of ground infrastructure and of the

Figure 15  
Sample of 16 Conflict Zones

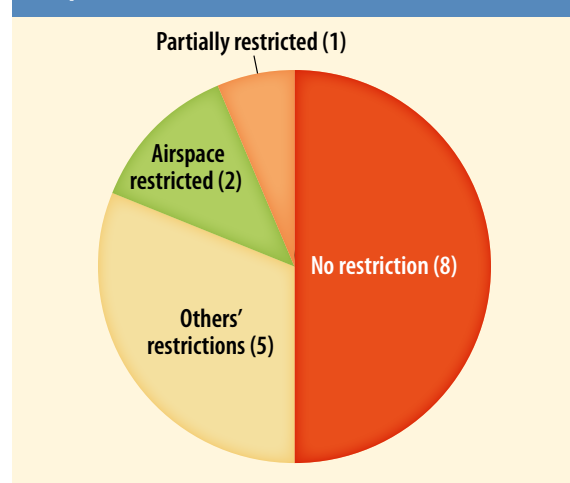
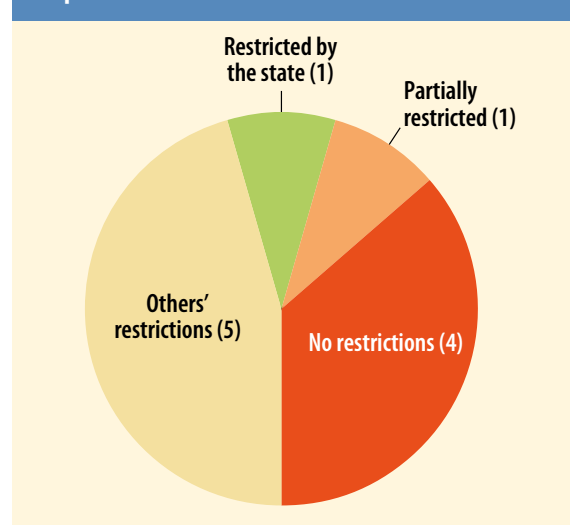


Figure 16  
11 Conflict Zones With Medium or High Indications of Likelihood of Attack Without Airspace Restrictions





population rather than the security of the civil aviation. Indeed, looking at the publicly available sources, U.N. Security Council resolutions and/or the introduction of no-fly zones, no information was found referring to the protection of civil aviation whenever airspace was restricted or closed.

**Finding 5:** The analysis of selected conflict zones over the period of 1990–2014 identified that whenever a state closed or restricted its own airspace above FL 250, or such a restriction was imposed by a third party, the predominant concerns were the security of military operations and of the population rather than the security of civil aviation.

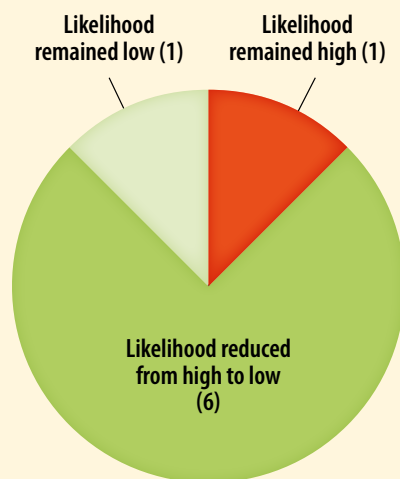
In the studied sample, there were eight cases in which an entity (the sovereign state or a third party) introduced partial or full airspace restrictions. These restrictions were for the conflict zones “Bosnian war, 1992-1997,” “Croatian war, 1991-1995,” “Iraq war, 1991,” “Iraq war, 2003-2011,” “Kosovo, Allied Force, 1999,” “Libya, 2011,” “Slovenia, 1991” and “Armenia-Azerbaijan.”

Two sets of overall indication of likelihood of attack above FL 250 for these conflict zones were compared. These two sets of assessment include one that factors in the civil aviation traffic volume for the situation after introducing the airspace restrictions (if any), and the other that assesses the situation as if airspace restrictions were not in effect.

This comparison reveals that in six of the eight cases in which airspace restrictions were introduced, the assessed

Figure 17

#### Eight Cases of Airspace Restrictions



likelihood of attack against civil aviation was reduced considerably. (See Figure 17)

The likelihood of attack for the conflict zone “Slovenia, 1991” without airspace restrictions was assessed as low, and because of that, it can be argued that the restrictions were not necessary for the purpose of protecting civil aircraft at cruising altitudes above FL 250.

## 5. Airspace Restrictions Over and Around Eastern Ukraine

### 5.1. Objectives of the Airspace Restrictions Analysis

After setting the wider background of the inquiry by characterising the historical occurrences of hostile events and the state practices of airspace management over conflict zones, the Foundation focused on airspace restrictions in Ukraine and the Russian Federation immediately prior to the downing of Flight MH17. The Foundation considered studying the airspace restrictions timeline and specifics to be important because restrictions are the main outcome of airspace restrictions decision-making, which is the study focus of this inquiry.

### 5.2. Scope of the Airspace Restrictions Analysis

The scope of the airspace restrictions analysis is defined as follows:

- The analysed information is from NOTAMs.
- Information was sourced and analysed for the period from 1 March 2014 up to and including the moment of complete closure of the respective airspace subsequent to the downing of Flight MH17 on 17 July 2014.
- The respective airspace is contained in the Dnepropetrovsk Flight Information Region (FIR), UKDV, and in the Rostov-on-Don FIR, URRV (which borders the UKDV FIR).
- The specific focus of the analysis is on the restrictions above FL 250.

### 5.3. Technical Background

#### 5.3.1. Background

The situation at the time involved several airspace restrictions, introduced by both Ukraine and Russian Federation, of airspace above and around eastern Ukraine. These airspace restrictions were promulgated with NOTAMs. To introduce the technical context of airspace restrictions, what follows is a short overview of airspace restrictions as a measure and of NOTAMs as aeronautical information products that are often used to promulgate this measure.

#### 5.3.2. Airspace Sovereignty, FIRs and ATS Routes

States have sovereignty over the airspace above their territory and exercise complete and exclusive control of it. As provided in reference [2]: “For reasons of safety, a state may impose limitations on the use of its airspace and determine along which routes and at which minimum altitude aircraft may fly within that airspace. The managing state can also partly or fully close its airspace if this is necessary for safety reasons.”

Global airspace is divided by ICAO into nine air navigation regions. Airspace is divided further into FIRs. An FIR

is an airspace of defined dimensions within which flight information service and alerting service are provided. The nature and scope of air traffic services, which include the flight information service and alerting service, are defined in Annex 11 to the Convention on International Civil Aviation, *Air Traffic Services*. In some cases, FIRs are split vertically into lower and upper sections. The lower section remains referred to as an FIR, but the upper portion is referred to as an upper information region (UIR).

Each FIR is managed by a controlling authority that has responsibility for ensuring that air traffic services are provided to the aircraft flying within it. Smaller countries may have one FIR in the airspace above them and larger countries may have several. Airspace over international waters (e.g., the oceans) is typically divided into FIRs that are delegated to controlling authorities within countries that border it.

Airspace within an FIR is usually divided into airspace structural elements. The airspace structural elements vary in their function, size and classification. Classifications determine the rules for flying within a part of airspace and whether it is controlled or uncontrolled airspace. Aircraft flying in controlled airspace must follow instructions from air traffic controllers. Air traffic control's main purpose is preventing collisions between aircraft. Aircraft flying in uncontrolled airspace are not provided with air traffic control services.

One airspace structural element, particularly important for flights overflying a given territory, is an air traffic services (ATS) route.

An ATS route is a specified route designed for channeling the flow of traffic as necessary for the provision of air traffic services. ATS routes serve a purpose similar to that of roads on the ground. ATS routes are also used to plan the trajectory of flights that are recorded in flight plans.

Flight plans are documents filed by a pilot or flight dispatcher prior to departure which indicate the airplane's planned route or flight path. Flight plan format is specified in ICAO Doc 4444, “Air Traffic Management.” Flight plans, among other things, have to ensure that the planned airplane flight trajectory respects all airspace constraints, including airspace restrictions known at the time the flight plan is filed.

#### 5.3.3. Airspace Restrictions

Airspace restrictions can be introduced by sovereign states at different time horizons and different levels of airspace management.

Published airspace restrictions, as part of airspace management practices, are normally promulgated through Aeronautical Information Publications (AIPs) or through

NOTAMs. AIPs are generally used for information of a permanent or lasting nature, as well as for temporary changes of long duration while NOTAMs are used to disseminate information of a temporary nature and of short duration or when operationally significant permanent changes, or temporary changes of long duration, are made at short notice.

Airspace restriction for a given airspace can be effectively introduced by describing the three-dimensional boundaries of the airspace and specifying the time validity of the restrictions. In the same way, wherever only ATS routes are used for civil aviation flight planning, the restriction of the ATS route segments that pass through a given airspace has the same effect as restricting the airspace volume.

Airspace restrictions are a key constraint for flight planning. Aircraft operators or specialised third parties plan the flight trajectory considering the constraints imposed by the airspace restrictions. Flight planning is often performed with the help of specialised software applications that process the requested flight trajectory through the airspace and other constraints to find an optimal flight trajectory.

#### 5.3.4. NOTAM

A NOTAM is a notice containing information concerning the establishment, condition or change in any aeronautical facility, service, procedure or hazard, the timely knowledge of which is essential to personnel concerned with flight operations. NOTAMs do not include extensive text and/or graphics.

NOTAMs are issued by national authorities for a number of reasons, such as:

- Hazards such as air shows, parachute jumps and glider or micro-light flying;
- Flights by important people such as heads of state;
- Closed runways, taxiways, etc;
- Unserviceable radio navigational aids;
- Military exercises with resulting airspace restrictions;
- Unserviceable lights on tall obstructions;
- Temporary erection of obstacles near airfields (e.g., cranes).

For reasons of conciseness and precision, NOTAMs are encoded, although the code is usually sufficiently self-evident to allow the user to identify a hazard.

NOTAMs are communicated by the issuing agency using the fastest available means to all addressees for whom the information is assessed as being of direct operational significance, and who would not otherwise have at least seven days' prior notification.

Flight crew access to current NOTAMs during pre-flight planning may be via airport flight briefing facilities provided for all aircraft operators or via an alternative

system provided by their company to provide access only to NOTAMs relevant to their intended flight.

NOTAMs are published using all upper-case letters. NOTAMs comprise up to eight items, which are identified by letters: Q, A, B, C, D, E, F, and G. Individual items are often omitted if unnecessary or inappropriate.

The NOTAM first line contains NOTAM identification (series, sequence number and year of issue), the type of operation (NEW, REPLACE, or CANCEL), as well as a reference to a previously issued NOTAM, if relevant.

Item Q contains a comprehensive description of information contained within the NOTAM. It consists of up to eight fields separated by a stroke (/). This information is repeated in the text of the NOTAM. Some authorities do not include Item Q in NOTAMs.

The first field of Item Q is the abbreviation of the FIR for which the subject of the information in the NOTAM is located geographically. For example, "UKDV" identifies the Dnipropetrovsk FIR.

The second field in Item Q is the NOTAM code. All NOTAM code groups contain a total of five letters and the first letter is always the letter Q. The second and third letters identify the subject, and the fourth and fifth letters denote the status or condition of the subject. For example, QARLC code identifies "subject ATS routes" ("AR") "closed" ("LC"); QRTCA code identifies "temporary restricted area" ("RT") "activated" ("CA"); QRAXX identifies "airspace reservation" ("RA") "in plain language" ("XX"). Another example of Q code from the studied NOTAMs is QFALT that identifies "aerodromes" ("FA") "limited to..." ("LT").

The third field in Item Q identifies the subject traffic. For example, "IV" identifies instrument ("I") and visual ("V") traffic.

The fourth field in Item Q identifies the purpose of the NOTAM. For example, "NBO" identifies: (N), NOTAM selected for the immediate attention of flight crewmembers; (B), NOTAM of operational significance selected for preflight information bulletin entry; and (O), NOTAM concerning flight operations.

The fifth field in Item Q identifies the scope of the NOTAM. For example, "E" identifies en-route scope.

The sixth and seventh fields in item Q identify lower and upper limits. The lower and upper limits are only expressed in flight levels (FL) and express the actual vertical limits of the airspace area without the addition of buffers. In the case of navigation warnings and airspace restrictions, values entered shall be consistent with those provided under NOTAM Items F and G. For example, "260/320" identifies lower and upper limits from FL 260 to FL 320. If the subject does not contain specific height information, "000" is used for lower and "999" for upper limits as default values.

The eighth field in Item Q identifies the coordinates and/or the radius that defines the subject of the information in

the NOTAM. For example, “4820N03716E119” identifies a circle with centre 4820N and 03716E and radius of 119 nm (220 km).

Item A is the 4-letter ICAO code for the location — the affected aerodrome or FIR for the NOTAM.

Item B is the 10-figure group that indicates the year, month, date and time at which any change to already published information comes into force. Alternatively, the date/time group may be written in plain language.

Item C is the 10-figure group giving the year, month, date and time at which the NOTAM ceases to have effect. Item C may be omitted if the information is permanent, or “PERM” (permanent) or “UFN” (until further notice) may be inserted.

Item D gives the schedule of dates and times when the NOTAM will be active.

Item E describes, in plain language but using simple abbreviations where appropriate, the nature of the event that is the subject of the NOTAM. It is in English but can be abbreviated.

Items F and G, when present, indicate the lower and upper limit of activity of navigation warnings or airspace restrictions. If the lower limit is ground level, Item F is usually omitted, but “SFC” (surface) or “GRD” (ground) may be inserted.

#### 5.4. Analysis of the NOTAMs

The studied NOTAMs were extracted from the European AIS Database (EAD) archive for the studied period (1 March 2014 up to and including the moment of complete closure of the respective airspace subsequent to the downing of Flight MH17 on 17 July 2014). The selected NOTAMs for URRV FIR and UKDV FIR, start from 01 January 2014 to make sure that NOTAMs that had been created earlier and that were still valid after 01 March 2014 are also included in this extraction. The archive facility has limited extraction capabilities as compared to the production system for more recent periods. The initially extracted files included all NOTAMs (i.e., the files were not limited to those involving airspace restrictions above FL 250) because it was not possible to make such a specific extraction from the NOTAM archive. However, the NOTAM text allowed for more filtering to narrow the search as needed for the scope of the analysis.

The search of NOTAMs for the studied period identified 291 NOTAMs for the Dnepropetrovsk UKDV FIR. Of these NOTAMs, 96 concerned airspace restrictions. Airspace restrictions above FL 250 were defined in 39 NOTAMs. Analysis of the geographical coverage of these 39 NOTAMs resulted in the final selection of 15 NOTAMs that were analysed and for which an illustration map was produced.

Similarly, the search of NOTAMs for the studied period identified 1019 NOTAMs for the Rostov-on-Don FIR URRV. Of these NOTAMs, 799 concerned airspace restrictions. Airspace restrictions above FL 250 were defined in 37 NOTAMs. Analysis of the geographical coverage of these 37 NOTAMs resulted in the final selection of two NOTAMs that were analysed and for which an illustration map was produced. The final 15 NOTAMs for UKDV FIR and 2 NOTAMs for URRV FIR are represented in the next sections.

#### 5.5. Adopted Format for NOTAM Description

The 17 NOTAMs analysed are further described separately. Each NOTAM description is provided in a separate subsection of this report that contains the NOTAM content, an illustration map of the restricted airspace elements introduced by the NOTAM (where the illustration is approximate and the maps cannot be used for navigation or other purposes) and the description of the restrictions the NOTAM introduces.

The description of the restrictions includes the validity of the NOTAM, the description of the restriction, the description of any exemptions provided (e.g., for state aircraft) and the altitude limits.

The restrictions promulgated by the studied NOTAMs are two types — restricting ATS routes or restricting three-dimensional area of airspace. The restricted ATS routes are depicted on the illustration map as lines, and the restricted areas are depicted as polygons.

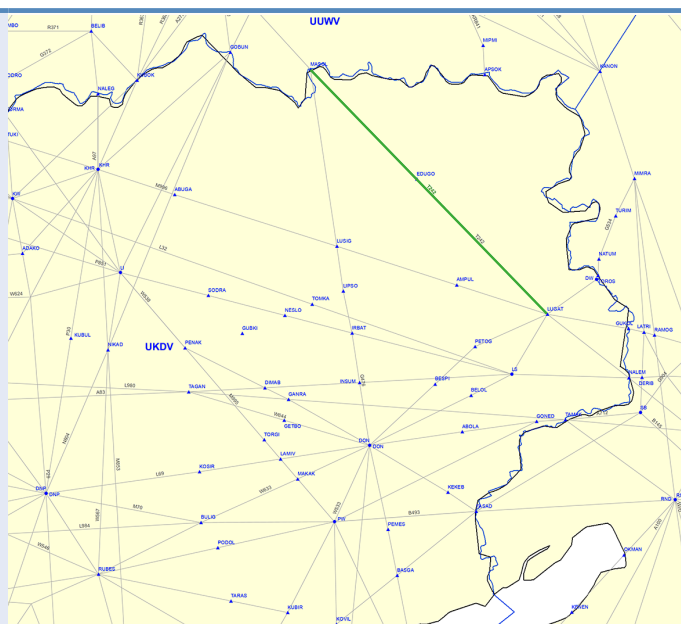
The illustrations of the restrictions of the ATS routes use different colours. These colours do not have any specific significance and are only used to help the reader identify similarity between the different restrictions. For example, the illustrations of the restrictions of NOTAM A0942/14 and NOTAM A0820/14 depict a line in the same colour that illustrate the same restricted ATS route.

## 5.6. Ukraine Airspace Restrictions Timeline

### 5.6.1. NOTAM A0820/14, Issued on 24 April 2014

#### NOTAM content and illustration map

A0820/14 NOTAMN  
 Q) UKDV/QARLC/IV/NBO/E  
 /100/350/4915N03848E056  
 A) UKDV B) 1404260400 C) 1405081800  
 D) DAILY 0400-1800  
 E) SEGMENT ATS ROUTE MASOL-EDUGO-LUGAT T242  
 CLOSED.  
 FM 3050M AMSL UP TO FL350.



Note: The Illustration is approximate

#### Restrictions

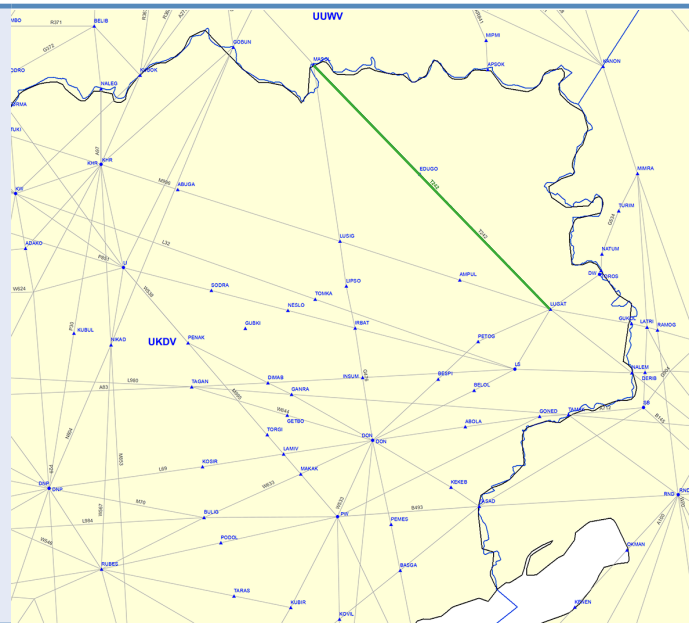
The NOTAM A0820/14 introduced restrictions:

- Valid from 0400 UTC on 26 April 2014 until 1800 UTC on 08 May 2014.
- For a defined segment of ATS route (MASOL-EDUGO-LUGAT T242).
- Closed daily from 0400 UTC until 1800 UTC.
- From 3050 m above mean sea level to FL 350 inclusive.

### 5.6.2. NOTAM A0942/14, Issued on 05 May 2014

#### NOTAM content and illustration map

A0942/14 NOTAMN  
 Q) UKDV/QARLC/IV/NBO/E  
 /100/350/4915N03848E056  
 A) UKDV B) 1405120400 C) 1405201800  
 D) DAILY 0400-1800  
 E) SEGMENT ATS ROUTE MASOL-EDUGO-LUGAT T242  
 CLOSED.  
 FM 3050M AMSL UP TO FL350.



Note: The Illustration is approximate

#### Restrictions

The NOTAM A0942/14 introduced restrictions:

- Valid from 0400 UTC on 12 May 2014 until 1800 UTC on 20 May 2014.
- For a defined segment of ATS route (MASOL-EDUGO-LUGAT T242).
- Closed daily from 0400 UTC until 1800 UTC.
- From 3050 m above mean sea level to FL 350 inclusive.

### 5.6.3. NOTAM A1219/14, Issued on 02 June 2014

#### NOTAM content and illustration map

A1219/14 NOTAMN

Q) UKDV/QARLC/IV/NBO/E  
/000/280/4839N03844E069

A) UKDV B) 1406021540 C) 1406031700

E) SEGMENTS ATS ROUTES CLOSED:

LS-DIMAB A83

TOMKA-NALEM L32

AMPUL-LUGAT M996

LUSIG-GUKOL M996

LS-IRBAT P851

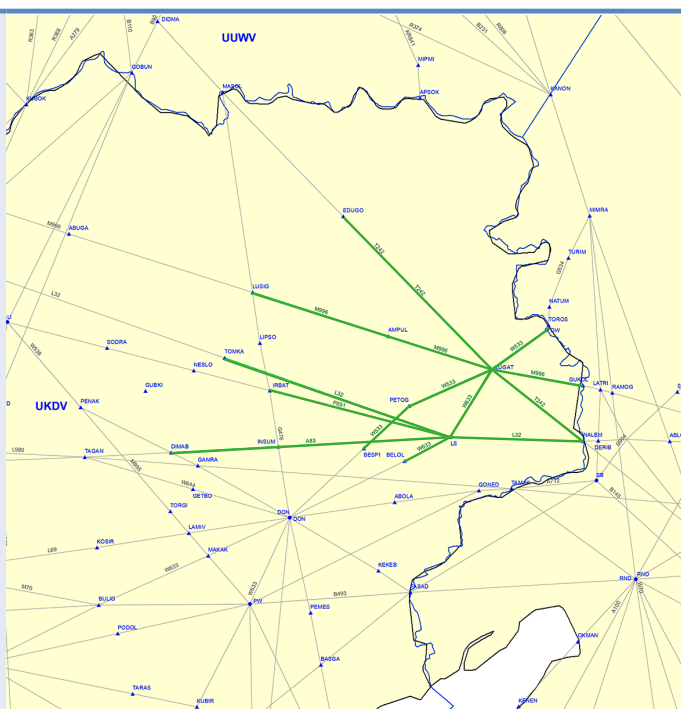
EDUGO-NALEM T242

DW-LUGAT W533

TOROS-BESPI W533

BELOL-LUGAT W633

FROM SFC TO FL280.



Note: The Illustration is approximate

#### Restrictions

The NOTAM A1219/14 introduced restrictions:

- Valid from 1540 UTC on 02 June 2014 until 1700 UTC on 03 June 2014.
- For defined segments of ATS routes (LS-DIMAB A83, TOMKA-NALEM L32, AMPUL-LUGAT M996, LUSIG-GUKOL M996, LS-IRBAT P851, EDUGO-NALEM T242, DW-LUGAT W533, TOROS-BESPI W533, BELOL-LUGAT W633).
- Closed.
- From surface to FL 280 inclusive.

## 5.6.4. NOTAM A1229/14, Issued on 03 June 2014

## NOTAM content and illustration map

A1229/14 NOTAMN

Q) UKDV/QARLC/IV/NBO/E  
/000/280/4839N03844E069

A) UKDV B) 1406031801 C) 1406041700

E) SEGMENTS ATS ROUTES CLOSED:

LS-DIMAB A83

TOMKA-NALEM L32

AMPUL-LUGAT M996

LUSIG-GUKOL M996

LS-IRBAT P851

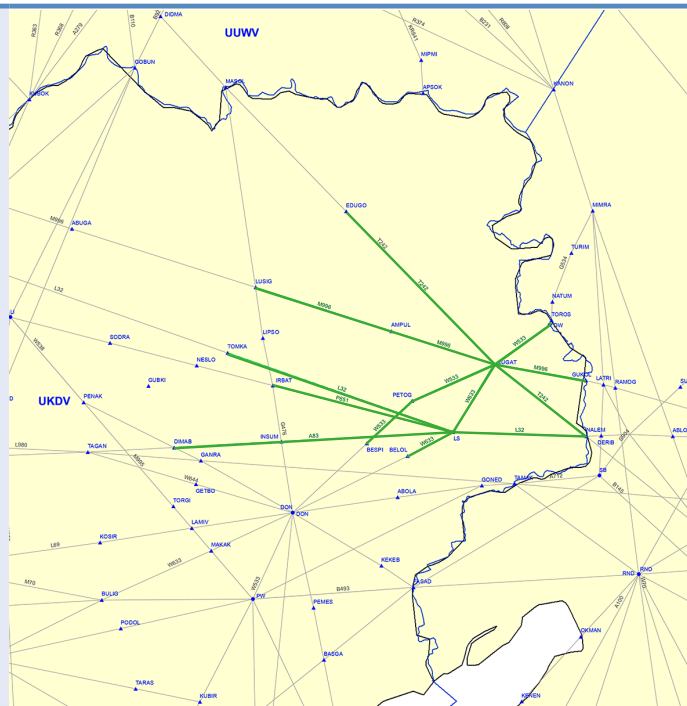
EDUGO-NALEM T242

DW-LUGAT W533

TOROS-BESPI W533

BELOL-LUGAT W633

FROM SFC TO FL280.



Note: The Illustration is approximate

## Restrictions

The NOTAM A1229/14 introduced restrictions:

- Valid from 1801 UTC on 03 June 2014 until 1700 UTC on 04 June 2014.
- For defined segments of ATS routes (LS-DIMAB A83, TOMKA-NALEM L32, AMPUL-LUGAT M996, LUSIG-GUKOL M996, LS-IRBAT P851, EDUGO-NALEM T242, DW-LUGAT W533, TOROS-BESPI W533, BELOL-LUGAT W633).
- Closed.
- From surface to FL 280 inclusive.



### 5.6.5. NOTAM A1231/14, Issued on 04 June 2014

#### NOTAM content and illustration map

A1231/14 NOTAMN

Q) UKDV/QARLC/IV/NBO/E  
/000/280/4839N03844E069

A) UKDV B) 1406041200 C) 1406041700

E) SEGMENTS ATS ROUTES CLOSED:

LS-DIMAB A83

TOMKA-NALEM L32

LUSIG-GUKOL M996

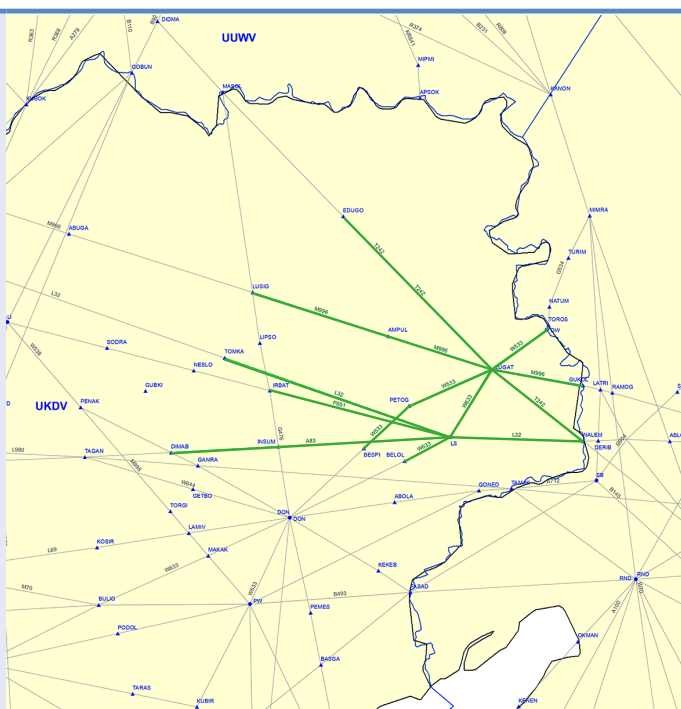
LS-IRBAT P851

EDUGO-NALEM T242

TOROS-BESPI W533

BELOL-LUGAT W633.

FROM SFC TO FL280.



Note: The Illustration is approximate

#### Restrictions

The NOTAM A1231/14 introduced restrictions:

- Valid from 1200 UTC on 04 June 2014 until 1700 UTC on 04 June 2014.
- For defined segments of ATS routes (LS-DIMAB A83, TOMKA-NALEM L32, LUSIG-GUKOL M996, LS-IRBAT P851, EDUGO-NALEM T242, TOROS-BESPI W533, BELOL-LUGAT W633).
- Closed.
- From surface to FL 280 inclusive.

### 5.6.6. NOTAM A1234/14, Issued on 04 June 2014

#### NOTAM content and illustration map

A1234/14 NOTAMN

Q) UKDV/QARLC/IV/NBO/E  
/000/280/4910N03640E064

A) UKDV B) 1406041600 C) 1406052359

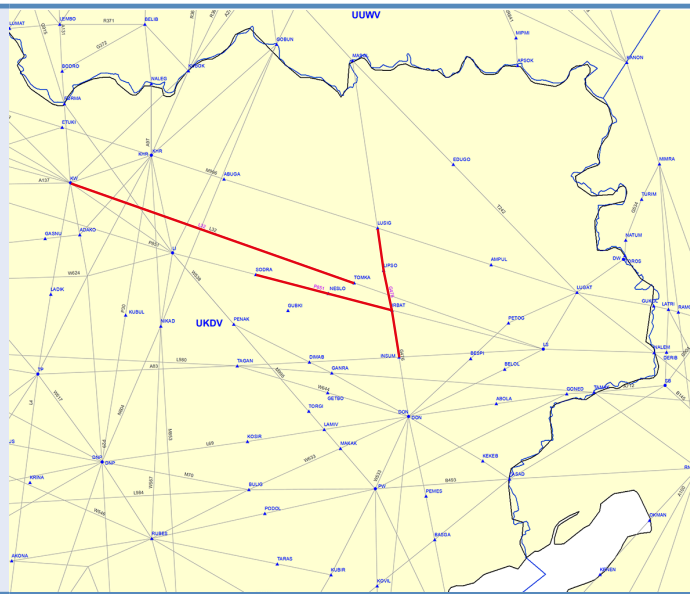
E) SEGMENTS ATS ROUTES CLOSED:

IRBAT-SODRA P851

TOMKA-KW L32

INSUM-LUSIG G476.

FROM SFC TO FL280.



Note: The Illustration is approximate

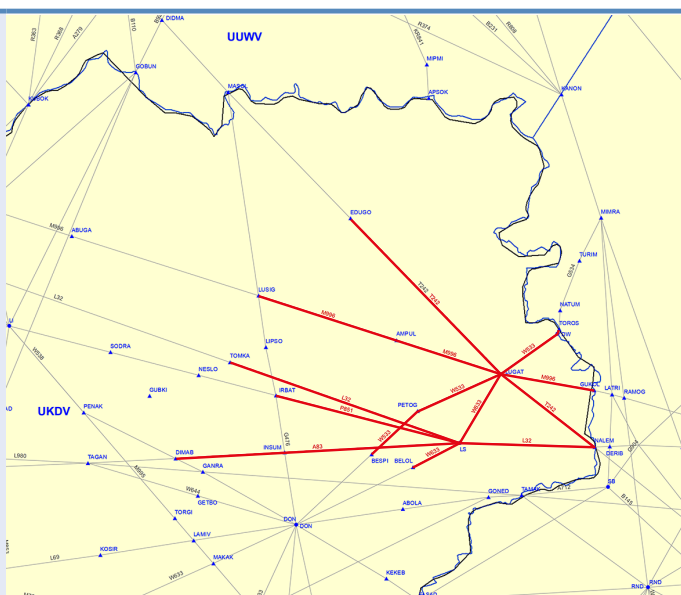
#### Restrictions

- The NOTAM A1234/14 introduced restrictions:
- Valid from 1600 UTC on 04 June 2014 until 2359 UTC on 05 June 2014.
- For defined segments of ATS routes (IRBAT-SODRA P851, TOMKA-KW L32, INSUM-LUSIG G476).
- Closed.
- From surface to FL 280 inclusive.

### 5.6.7. NOTAM A1236/14, Issued on 04 June 2014

#### NOTAM content and illustration map

A1236/14 NOTAMR A1231/14  
 Q) UKDV/QARLC/IV/NBO/E  
 /000/280/4839N03844E069  
 A) UKDV B) 1406041640 C) 1406052359  
 E) SEGMENTS ATS ROUTES CLOSED:  
 LS-DIMAB A83  
 TOMKA-NALEM L32  
 LUSIG-GUKOL M996  
 LS-IRBAT P851  
 EDUGO-NALEM T242  
 TOROS-BESPI W533  
 BELOL-LUGAT W633.  
 FROM SFC TO FL280.



Note: The Illustration is approximate

#### Restrictions

The NOTAM A1236/14 introduced restrictions:

- Valid from 1640 UTC on 04 June 2014 until 2359 UTC on 05 June 2014.
- For defined segments of ATS routes (LS-DIMAB A83, TOMKA-NALEM L32, LUSIG-GUKOL M996, LS-IRBAT P851, EDUGO-NALEM T242, TOROS-BESPI W533, BELOL-LUGAT W633).
- Closed.
- From surface to FL 280 inclusive.

### 5.6.8. NOTAM A1255/14, Issued on 05 June 2014

#### NOTAM content and illustration map

A1255/14 NOTAMN

Q) UKDV/QARLC/IV/NBO/E  
/000/260/4829N03721E114

A) UKDV B) 1406060000 C) 1406302359

E) SEGMENTS ATS ROUTES CLOSED:

KHR-GOBUN A137 LS-TP A83

RUBES-FASAD B493 OLGIN-MASOL G476

KERTA-FASAD L140 LS-NALEM L32

DNP-GONED L69 PW-FASAD L984

DNP-TAMAK M70 KHR-KUBOK M987

LI-OLGIN M995 KHR-GUKOL M996

LS-LI P851 MASOL-LUGATT242

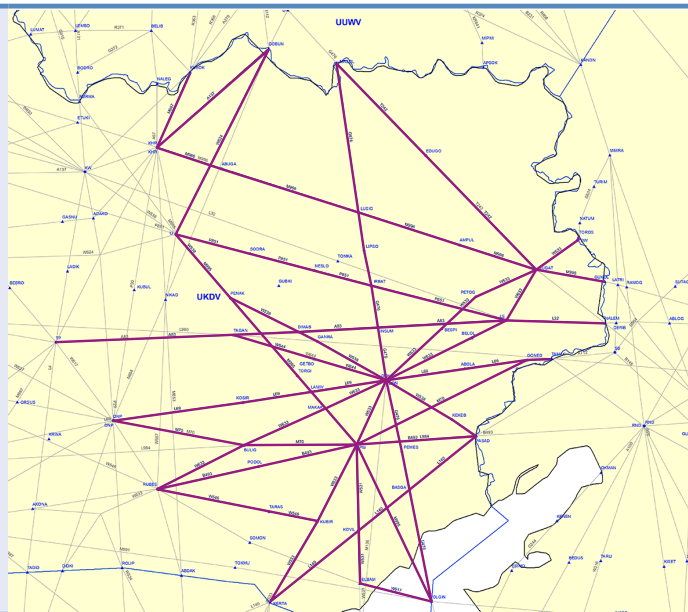
PW-ELBAM W531 TOROS-KERTA W533

LI-FASAD W538 RUBES-KUBIR W546

ELBAM-OLGIN W617 GOBUN-LI W624

RUBES-LUGAT W633 DON-TAGAN W644.

FROM SFC TO FL260.



Note: The Illustration is approximate

#### Restrictions

The NOTAM A1255/14 introduced restrictions:

- Valid from 0000 UTC on 06 June 2014 until 2359 UTC on 30 June 2014.
- For defined segments of ATS routes (KHR-GOBUN A137 LS-TP A83, RUBES-FASAD B493 OLGIN-MASOL G476, KERTA-FASAD L140 LS-NALEM L32, DNP-GONED L69 PW-FASAD L984, DNP-TAMAK M70 KHR-KUBOK M987, LI-OLGIN M995 KHR-GUKOL M996, LS-LI P851 MASOL-LUGAT T242, PW-ELBAM W531 TOROS-KERTA W533, LI-FASAD W538 RUBES-KUBIR W546, ELBAM-OLGIN W617 GOBUN-LI W624, RUBES-LUGAT W633 DON-TAGAN W644).
- Closed.
- From surface to FL 260 inclusive.

## 5.6.9. NOTAM A1256/14, Issued on 05 June 2014

## NOTAM content and illustration map

A1256/14 NOTAMN

Q) UKDV/QRAXX/IV/NBO/W  
/000/260/4833N03731E111

A) UKDV B) 1406060000 C) 1406302359

E) TEMPORARY RESERVED AREA BOUNDED BY  
COORDINATES:

501900N 0364942E 490600N 0365000E 481520N  
0360510E

475542N 0355136E 472200N 0363900E 465400N  
0370500E

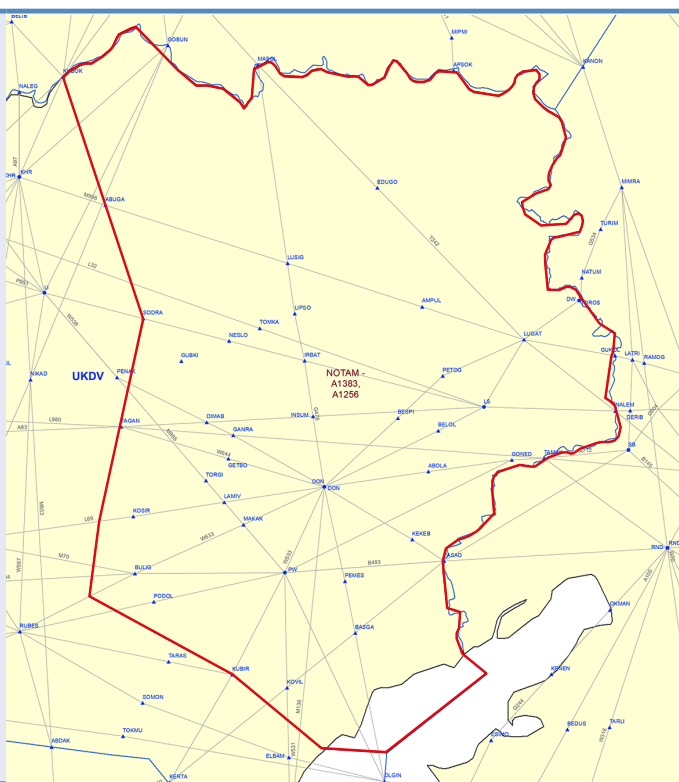
464700N 0373000E 465900N 0382000E 470642N  
0381324E

THEN ALONG STATE BOUNDARY UNTIL POINT  
501900N 0364942E.

AUTHORIZED FLIGHTS OF STATE ACFT OF UKRAINE.

FOR FLIGHTS OF CIVIL ACFT NEED HAVE PERMISSION  
HEADQUARTERS OF ARMED FORCES UKRAINE NOT  
LESS ONE DAY BEFORE FLIGHT.

F) SFC G) FL260)



Note: The Illustration is approximate

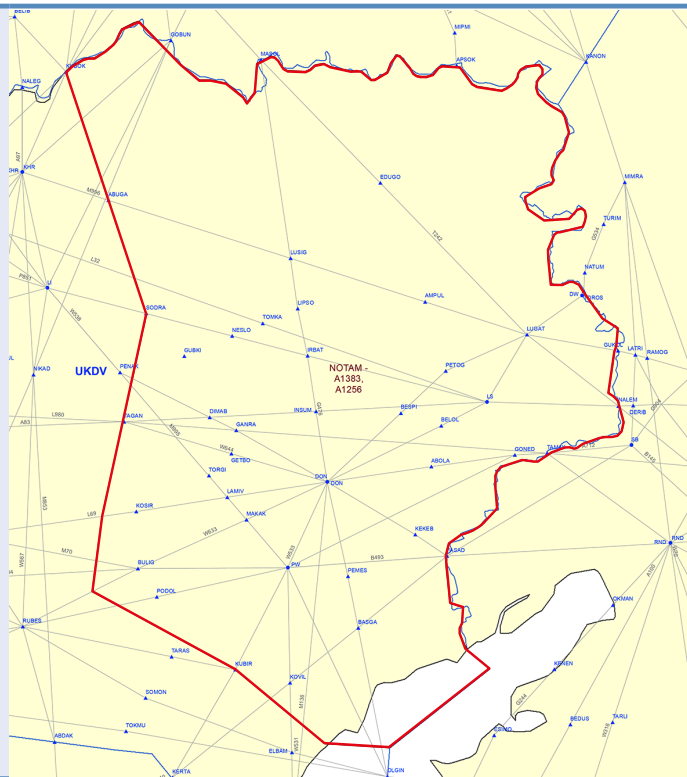
## Restrictions

- The NOTAM A1256/14 introduced restrictions:
- Valid from 0000 UTC on 06 June 2014 until 2359 UTC on 30 June 2014.
- For a defined by geographic coordinates area bordering Russian Federation.
- From surface to FL 260 inclusive.
- Not applicable for flights of state aircraft of Ukraine.
- Civil aircraft need permission to fly in the area from the headquarter of the armed forces of Ukraine not less than one day before the flight.

## 5.6.10. NOTAM A1383/14, Issued on 26 June 2014

## NOTAM content and illustration map

A1383/14 NOTAMN  
 Q) UKDV/QRAXX/IV/NBO/W  
 /000/260/4833N03731E111  
 A) UKDV B) 1407010000 C) 1407282359  
 E) TEMPORARY RESERVED AREA BOUNDED BY  
 COORDINATES:  
 501900N 0364942E 490600N 0365000E 481520N  
 0360510E  
 475542N 0355136E 472200N 0363900E 465400N  
 0370500E  
 464700N 0373000E 465900N 0382000E 470642N  
 0381324E  
 THEN ALONG STATE BOUNDARY UNTIL POINT  
 501900N 0364942E.  
 AUTHORIZED FLIGHTS OF STATE ACFT OF UKRAINE.  
 FOR FLIGHTS OF CIVIL ACFT NEED HAVE PERMISSION  
 HEADQUARTERS OF ARMED FORCES UKRAINE NOT  
 LESS  
 ONE DAY BEFORE FLIGHT.  
 F) SFC G) FL260



Note: The Illustration is approximate

## Restrictions

The NOTAM A1383/14 introduced restrictions:

- Valid from 0000 UTC on 01 July 2014 until 2359 UTC on 28 July 2014.
- For a defined by geographic coordinates area bordering Russian Federation.
- From surface to FL 260 inclusive.
- Not applicable for flights of state aircraft of Ukraine.
- Civil aircraft need permission to fly in the area from the headquarters of the armed forces of Ukraine not less than one day before the flight.

## 5.6.11. NOTAM A1384/14, Issued on 26 June 2014

## NOTAM content and illustration map

## A1384/14 NOTAMN

Q) UKXX/QARLC/IV/NBO/E /000/260/4829N03721E114

A) UKDV UKFV B) 1407010000 C) 1407282359

E) SEGMENTS ATS ROUTES CLOSED:

KHR-GOBUN A137 LS-TP A83

RUBES-FASAD B493 OLGIN-MASOL G476

KERTA-FASAD L140 LS-NALEM L32

DNP-GONED L69 PW-FASAD L984

DNP-TAMAK M70 KHR-KUBOK M987

LI-OLGIN M995 KHR-GUKOL M996

LS-LI P851 MASOL-LUGAT T242

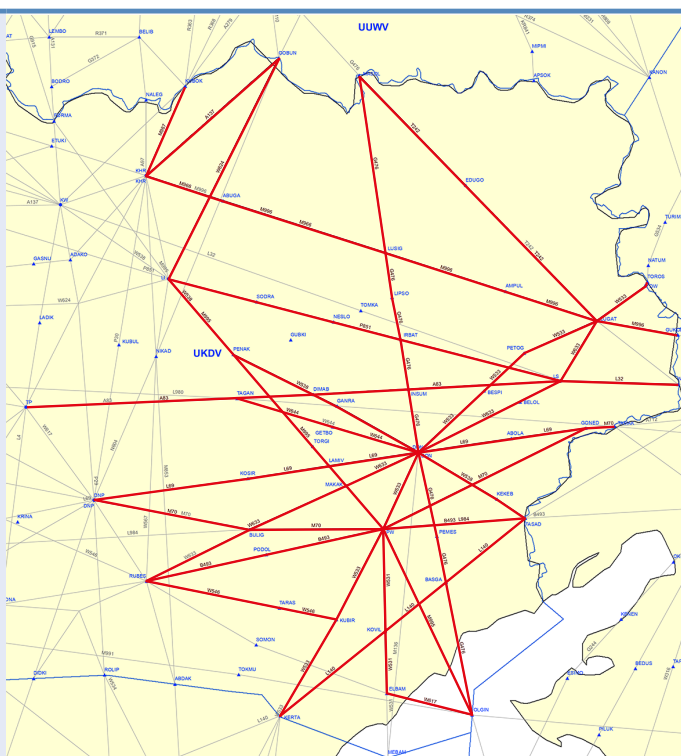
PW-ELBAM W531 TOROS-KERTA W533

LI-FASAD W538 RUBES-KUBIR W546

ELBAM-OLGIN W617 GOBUN-LI W624

RUBES-LUGAT W633 DON-TAGAN W644.

FROM SFC TO FL260.



Note: The Illustration is approximate

## Restrictions

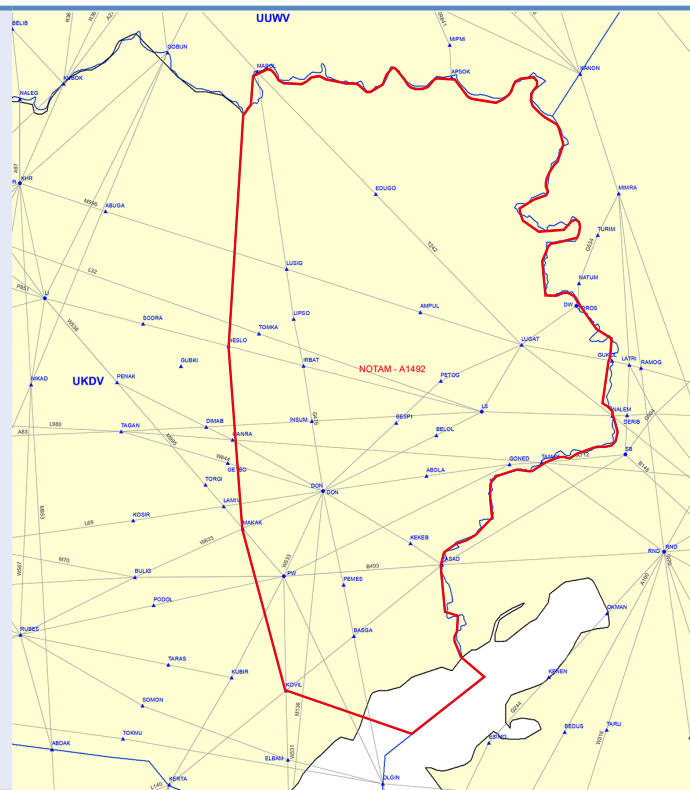
The NOTAM A1384/14 introduced restrictions:

- Valid from 0000 UTC on 01 July 2014 until 2359 UTC on 28 July 2014.
- For defined segments of ATS routes (KHR-GOBUN A137 LS-TP A83, RUBES-FASAD B493 OLGIN-MASOL G476, KERTA-FASAD L140 LS-NALEM L32, DNP-GONED L69 PW-FASAD L984, DNP-TAMAK M70 KHR-KUBOK M987, LI-OLGIN M995 KHR-GUKOL M996, LS-LI P851 MASOL-LUGAT T242, PW-ELBAM W531 TOROS-KERTA W533, LI-FASAD W538 RUBES-KUBIR W546, ELBAM-OLGIN W617 GOBUN-LI W624, RUBES-LUGAT W633 DON-TAGAN W6440).
- Closed.
- From surface to FL 260 inclusive.

## 5.6.12. NOTAM A1492/14, Issued on 14 July 2014

## NOTAM content and illustration map

A1492/14 NOTAMN  
 Q) UKDV/QRCA/IV/BO /W /260/320/4822N03807E095  
 A) UKDV B) 1407141800 C) 1408142359EST  
 E) TEMPO RESTRICTED AREA INSTALLED WITHIN FIR DNIPROPETROVSK BOUNDED BY COORDINATES:  
 495355N 0380155E 485213N 0372209E 480122N 0370253E  
 471352N 0365856E 465018N 0374325E 465900N 0382000E  
 470642N 0381324E THEN ALONG STATE BOUNDARY UNTIL POINT 495355N 0380155E.  
 RESTRICTION NOT APPLIED FOR FLIGHTS OF STATE ACFT OF UKRAINE.  
 F) FL260 G) FL320



Note: The Illustration is approximate

## Restrictions

The NOTAM A1492 introduced restrictions:

- Valid from 1800 UTC on 14 July 2014 until 2359 UTC on 14 August 2014 (estimated duration).
- For a defined by geographic coordinates area bordering Russian Federation.
- From FL 260 to FL 320 inclusive.
- Not applicable for flights of state aircraft of Ukraine.



## 5.6.13. NOTAM A1493/14, Issued on 14 July 2014

## NOTAM content and illustration map

A1493/14 NOTAMN

Q) UKDV/QARLC/IV/NBO/E  
/260/320/4820N03716E119

A) UKDV B) 1407141800 C) 1408142359EST

E) SEGMENTS OF ATS ROUTES CLOSED:

T242 NALEM MASOL M996 ABUGA GUKOL

G476 MASOL OLGIN W533 TOROS KUBIR

L32 NALEM KW P851 LS NESLO

A83 LS DIMAB L980 GANRA TAMAK

W538 GANRA FASAD W633 LUGAT MAKAK

L69 LAMIV GONED W644 DON GETBO

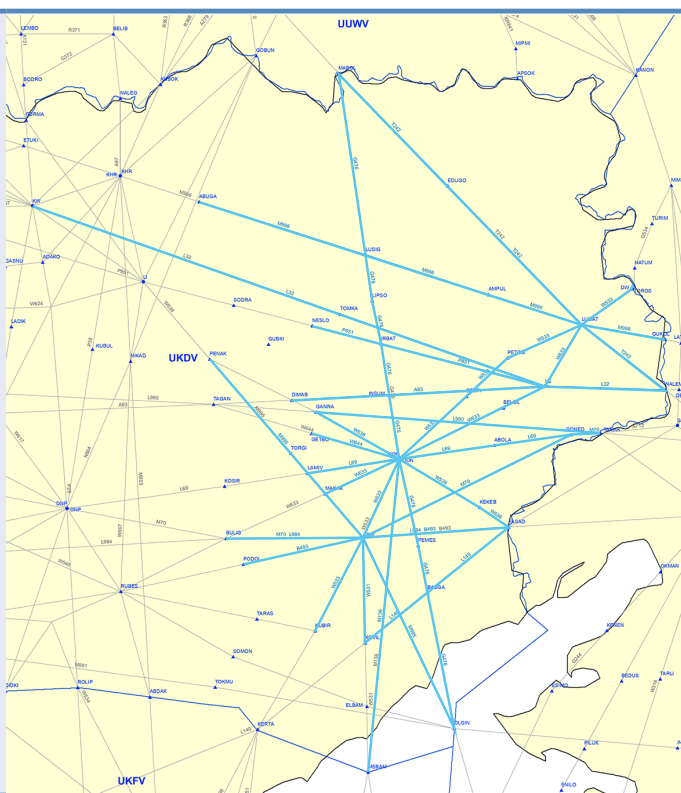
M70 BULIG TAMAK B493 PODOL FASAD

L984 BULIG FASAD W531 KOVIL PW

M136 MEBAM DON M995 OLGIN PENAK

L140 KOVIL FASAD.

FM FL260 UP TO FL320.



Note: The Illustration is approximate

### Restrictions

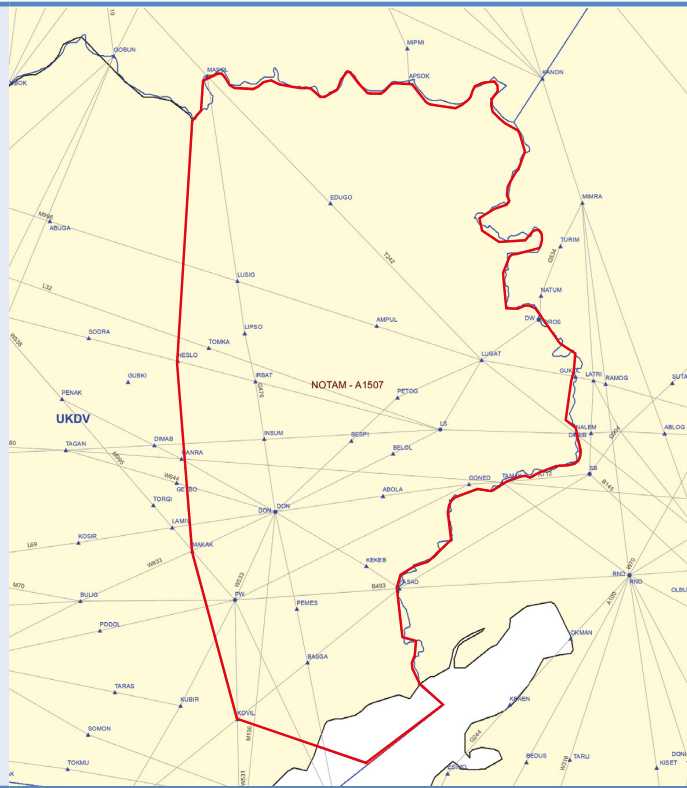
The NOTAM A1493/14 introduced restrictions:

- Valid from 1800 UTC on 14 July 2014 until 2359 UTC on 14 August 2014.
- For defined segments of ATS routes (T242 NALEM MASOL M996 ABUGA GUKOL, G476 MASOL OLGIN W533 TOROS KUBIR, L32 NALEM KW P851 LS NESLO, A83 LS DIMAB L980 GANRA TAMAK, W538 GANRA FASAD W633 LUGAT MAKAK, L69 LAMIV GONED W644 DON GETBO, M70 BULIG TAMAK B493 PODOL FASAD, L984 BULIG FASAD W531 KOVIL PW, M136 MEBAM DON M995 OLGIN PENAK, L140 KOVIL FASAD).
- Closed.
- From FL 260 to FL 320 inclusive.

#### 5.6.14. NOTAM A1507/14, Issued on 17 July 2014 after the Downing of Flight MH17

##### NOTAM content and illustration map

A1507/14 NOTAM  
 Q) UKDV/QRCA/IV/BO /W /320/660/4822N03807E095 A) UKDV  
 B) 1407171500 C) 1408172359EST  
 E) TEMPO RESTRICTED AREA INSTALLED WITHIN FIR DNIPROPETROVSK BOUNDED BY COORDINATES :  
 495355N 0380155E 485213N 0372209E 480122N  
 0370253E 471352N 0365856E 465018N 0374325E  
 465900N 0382000E 470642N 0381324E THEN ALONG  
 STATE BOUNDARY UNTIL POINT 495355N 0380155E.  
 RESTRICTION NOT APPLIED FOR FLIGHTS OF STATE  
 ACFT OF UKRAINE.  
 F) FL320 G) UNL



Note: The Illustration is approximate

##### Restrictions

The NOTAM A1507/14 introduced restrictions:

- Valid from 1500 UTC on 17 July 2014 until 2359 UTC on 17 August 2014.
- For a defined by geographic coordinates area bordering Russian Federation.
- Closed.
- From FL 320 to unlimited.
- Not applicable for flights of state aircraft of Ukraine.

### 5.6.15. NOTAM A1517/14, Issued on 17 July 2014 after the Downing of Flight MH17

#### NOTAM content and illustration map

A1517/14 NOTAM  
 Q) UKXX/QRCA/IV/BO /W /000/660/4801N03731E117  
 A) UKDV UKFV  
 B) 1407180005 C) 1408172359  
 E) TEMPO RESTRICTED AREA BOUNDED BY  
 COORDINATES: 495428N 038020E 490600N  
 0365000E 481520N 0360510E 475542N 0355136E  
 460809N 0370518E 464700N 0373000E 465900N  
 0382000E 470642N 0381324E  
 THEN ALONG STATE BOUNDARY UNTIL POINT  
 495428N 038020E CLOSED.

F) SFC G) UNL



Note: The Illustration is approximate

#### Restrictions

The NOTAM A1517/14 introduced restrictions:

- Valid from 0005 UTC on 18 July 2014 until 2359 UTC on 17 August 2014.
- For a defined by geographic coordinates area bordering Russian Federation.
- Closed.
- From surface to unlimited.

## 5.7. Russian Federation Airspace Restrictions Timeline

### 5.7.1. NOTAM V6158/14, Issued on 17 July 2014

#### NOTAM content and illustration map

V6158/14 NOTAMN

Q)URRV/QARLC/IV/NBO/E/000/530/4818N04023E095

A) URRV B) 1407170000 C) 1408312359EST

E) DUE TO COMBAT ACTIONS ON THE TERRITORY OF THE UKRAINE NEAR THE STATE BORDER WITH THE RUSSIAN FEDERATION AND THE FACTS OF FIRING FROM THE TERRITORY OF THE UKRAINE TOWARDS THE TERRITORY OF RUSSIAN FEDERATION, TO ENSURE INTL FLT SAFETY, ATS RTE SEGMENTS CLSD AS FLW:

A100 MIMRA - ROSTOV-NA-DONU VOR/DME (RND), B145 KANON - ASMIL, G247 MIMRA - BAGAYEVSKIY NDB (BA), A87 TAMAK - SARNA, A102 PENEG - NALEM, A225 GUKOL - ODETA, A712 TAMAK - SAMBEK NDB (SB), B493 FASAD - ROSTOV-NA-DONU VOR/DME (RND), B947 TAMAK - ROSTOV-NA-DONU VOR/DME (RND), G118 LATRI - BAGAYEVSKIY NDB (BA), G534 MIMRA - TOROS, G904 FASAD - SUTAG, R114 BAGAYEVSKIY NDB (BA)-NALEM.

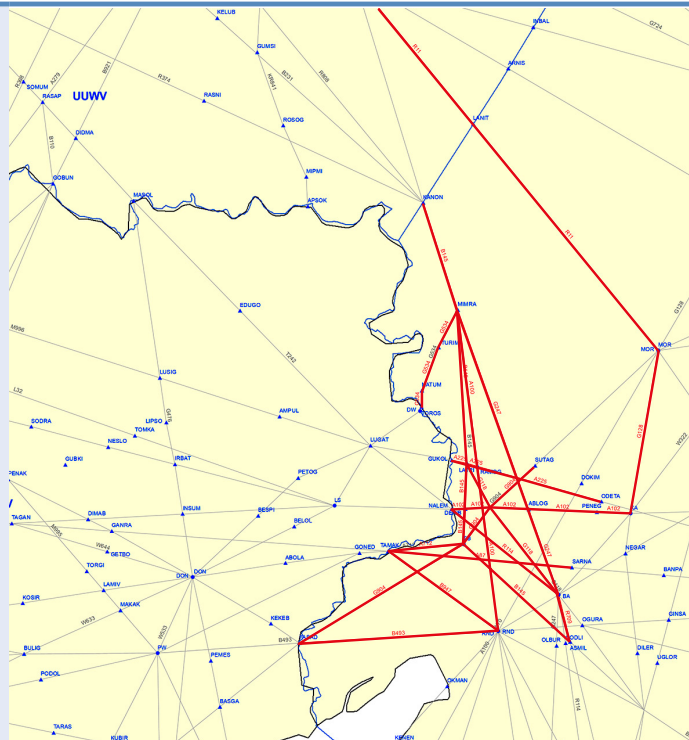
SFC - FL320.

DEP FM/ARR TO ROSTOV-NA-DONU AD TO/FM MOSCOW FIR CARRIED OUT ALONG ATS RTE G128 KONSTANTINOVSK NDB (KA) - MOROZOVSK VOR/DME (MOR) AND R11 MOROZOVSK VOR/DME (MOR) - BUTRI ON ASSIGNED FL.

DEP FM ROSTOV-NA-DONU AD TO DNEPROPETROVSK FIR CARRIED OUT ALONG ATS RTE A102 KONSTANTINOVSK NDB (KA) - NALEM ON FL340 AND ABOVE.

ARR TO ROSTOV-NA-DONU AD FM DNEPROPETROVSK FIR CARRIED OUT ALONG ATS RTE A712 TAMAK - SAMBEK NDB (SB) THEN DCT KONSTANTINOVSK NDB (KA) ON FL330 AND ABOVE.

F)SFC G)FL530)



Note: The Illustration is approximate

#### Restrictions

The NOTAM V6158/14 introduced restrictions:

- Valid from 0000 UTC on 17 July 2014 until 2359 UTC on 31 August 2014.
- Reason provided was “due to combat actions on the territory of Ukraine near the state border with the Russian Federation and the facts of firing from the territory of the Ukraine towards the territory of Russian Federation, to ensure international flight ATS routes closed as follows:
  - A100 MIMRA - ROSTOV-NA-DONU VOR/DME (RND), B145 KANON - ASMIL, G247 MIMRA - BAGAYEVSKIY NDB (BA), A87 TAMAK - SARNA, A102 PENEG - NALEM, A225 GUKOL - ODETA, A712 TAMAK - SAMBEK NDB (SB), B493 FASAD - ROSTOV-NA-DONU VOR/DME (RND), B947 TAMAK - ROSTOV-NA-DONU VOR/DME (RND), G118 LATRI - BAGAYEVSKIY NDB (BA), G534 MIMRA - TOROS, G904 FASAD - SUTAG, R114 BAGAYEVSKIY NDB (BA)-NALEM — from surface to FL320.
  - Departures from/arrivals to Rostov-on-Don arrivals departures to/from Moscow FIR carried out along ATS route G128 KONSTANTINOVSK NDB (KA) - MOROZOVSK VOR/DME (MOR) AND R11 MOROZOVSK VOR/DME (MOR) - BUTRI — on assigned FL.
  - Departures from Rostov-on-Don arrival departures to Dnepropetrovsk FIR carried out along ATS route A102 KONSTANTINOVSK NDB (KA) - NALEM on FL340 and above.
  - Arrivals to Rostov-on-Don arrivals departures from Dnepropetrovsk FIR carried out along ATS route 712 TAMAK - SAMBEK NDB (SB) then

direct to THEN DCT KONSTANTINOVSK  
NDB (KA) on FL330 and above.

- From surface to FL 530.

Items F and G as well as the information in the sixth and seventh fields in item Q identify lower and upper limits as surface and FL 530. This, in fact, means total closure of the airspace. Item E, which describes the nature of the restriction, in fact describes four different restrictions and specifies different altitude limits for each of them. Specifically, for the restrictions affecting ATS routes that are in the area bordering Ukraine, the first part of item E defines surface to FL 320 as height limits.

As provided in reference [3] about the information in items F and G:

*“These items are normally applicable to navigation warnings or airspace restrictions and are usually part of the PIB entry.”*

It is to be noted that reference [3] was published in 2018 and prior to that, the referred provisions were not with the status of “procedures.” For example, reference [4], published in 2003, provides:

*“Items F) and G). These items are normally applicable to navigation warnings or airspace restrictions, but can be used for any other applicable subjects, and are usually part of the PIB entry.”*

## 5.7.2. NOTAM A2681/14, Issued on 16 July 2014

## NOTAM content and illustration map

A2681/14 NOTAMN

Q) URRV/QFALT/IV/NBO/A /000/999/4716N03949E005

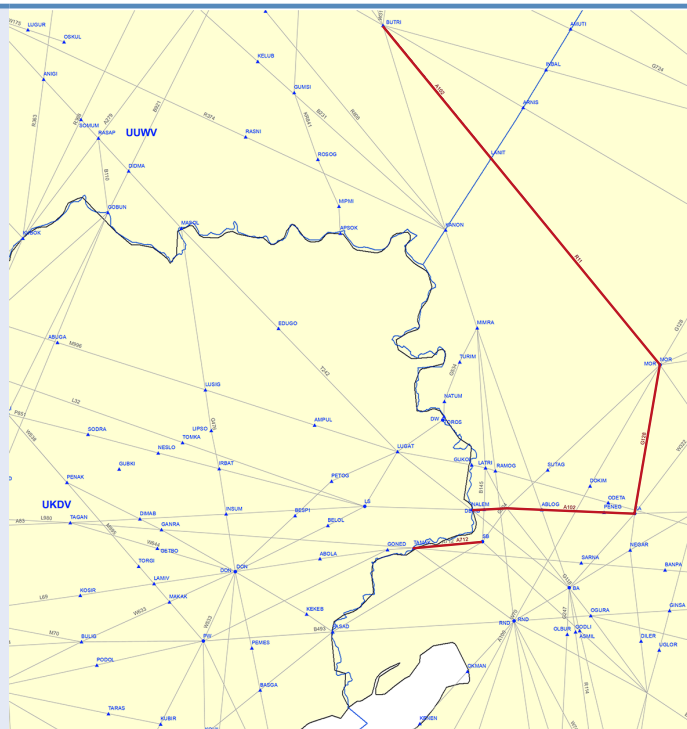
A) URRR B) 1407170000 C) 1408312359EST

E) DUE TO COMBAT ACTIONS ON THE TERRITORY OF THE UKRAINE NEAR THE STATE BORDER WITH THE RUSSIAN FEDERATION AND THE FACTS OF FIRING FROM THE TERRITORY OF THE UKRAINE TOWARDS THE TERRITORY OF RUSSIAN FEDERATION, TO ENSURE INTL FLT SAFETY DEP FM/ARR TO ROSTOV-NA-DONU AD TO/FM MOSCOW FIR CARRIED OUT ALONG ATS RTE:

G128 KONSTANTINOVSK NDB (KA) - MOROZOVSK VOR/DME (MOR) AND R11 MOROZOVSK VOR/DME (MOR) - BUTRI ON ASSIGNED FL.

DEP FM ROSTOV-NA-DONU AD TO DNEPROPETROVSK FIR CARRIED OUT ALONG ATS RTE A102 KONSTANTINOVSK NDB (KA) - NALEM ON FL340 AND ABOVE.

ARR TO ROSTOV-NA-DONU AD FM DNEPROPETROVSK FIR CARRIED OUT ALONG ATS RTE A712 TAMAK - SAMBEK NDB (SB) THEN DCT KONSTANTINOVSK NDB (KA) ON FL330 AND ABOVE.



Note: The Illustration is approximate

## Restrictions

The NOTAM A2681/14 introduced restrictions:

- Valid from 0000 UTC on 17 July 2014 until 2359 UTC on 31 August 2014.
- Reason provided was “due to combat actions on the territory of Ukraine near the state border with the Russian Federation and the facts of firing from the territory of the Ukraine towards the territory of Russian Federation, to ensure international flight safety departures from/arrivals to Rostov-na-Donu.”
- For arrivals and departures to/from Moscow FIR that are carried out along the ATS routes:
  - G128 KONSTANTINOVSK NDB (KA) - MOROZOVSK VOR/DME (MOR) AND R11 MOROZOVSK VOR/DME (MOR) - BUTRI - Restricted on assigned FL.
  - Departures from Rostov-on-Dan arrivals and departures to Dnepropetrovsk FIR carried out along ATS route A102 KONSTANTINOVSK NDB (KA) — NALEM — on FL340 and above.
  - Arrivals to Rostov-on-Dan arrivals and departures from Dnepropetrovsk FIR carried out along ATS route A712 TAMAK - SAMBEK NDB (SB) then direct to KONSTANTINOVSK NDB (KA) — on FL 330 and above.

### 5.8. Summary of the Airspace Restriction Timeline Prior to the Downing of Flight MH17

This section describes the timeline of 13 selected NOTAMs for UKDV FIR and two NOTAMs for URRV FIR that were issued prior to the downing of Flight MH17. Each NOTAM was described separately previously in this report but, in Table 5 below, we provide an overall summary of the timeline. There are two NOTAMs for UKDV FIR that are included in the individual descriptions of NOTAMs previously in this report, but which are not included here because they were issued after the downing of Flight MH17 and have no relevance to its trajectory. Those two NOTAMs promulgated closure of the airspace.

Each of the selected NOTAMs is described with the date on which it was issued, its identification number, period of

validity, reference to the restriction it imposes and the upper and lower limits of the restriction. Additionally, in the table, there are three more descriptors for each NOTAM — concerning the overlap of the Flight MH17 trajectory with the NOTAM restriction. The horizontal overlap descriptor whether the Flight MH17 trajectory passed through the geographical region of the restriction, without considering the altitude or the time of the restriction. For example, NOTAM A1256/14 close an area that overlaps with the Flight MH17 planned trajectory and because of that, the horizontal overlap descriptor is “yes.” Similarly, the altitude and time overlap descriptors specify whether the altitude and time validity of the restriction concern the Flight MH17 trajectory. In the case of NOTAM A1256/14, the restricted airspace upper limit is FL 260 and the time

Table 5  
NOTAM Restrictions Timeline

Date	NOTAM	Valid from	Valid until	Restriction	Lower limit	Upper limit	Overlap with MH17 trajectory		
							Horizontal	Altitude	Time
24-April-14	A0820/14 Ukraine	04:00 UTC 26-April-14	18:00 UTC 08 May 2014	Segment of ATS route closed daily 04:00-18:00 UTC	3,050 meters above mean sea level	FL 350	No	No	No
05-May-14	A0942/14 Ukraine	04:00 UTC 12-May-14	18:00 UTC 20-May-14	Segment of ATS route closed daily 04:00-18:00 UTC	3,050 meters above mean sea level	FL 350	No	No	No
02-June-14	A1219/14 Ukraine	15:40 UTC 02-June-14	17:00 UTC 03-June-14	Segment of ATS route closed	Surface	FL 280	No	No	No
03-June-14	A1229/14 Ukraine	18:01 UTC 03-June-14	17:00 UTC 04-June-14	Segment of ATS route closed	Surface	FL 280	No	No	No
04-June-14	A1231/14 Ukraine	18:01 UTC 03-June-14	17:00 UTC 04-June-14	Segment of ATS route closed	Surface	FL 280	No	No	No
04-June-14	A1234/14 Ukraine	16:00 UTC 04-June-14	23:59 UTC 05-June-14	Segment of ATS route closed	Surface	FL 280	No	No	No
04-June-14	A1236/14 Ukraine	16:40 UTC 04-June-14	23:59 UTC 05-June-14	Segment of ATS route closed	Surface	FL 280	No	No	No
05-June-14	A1255/14 Ukraine	00:00 UTC 06-June-14	23:59 UTC 30-June-14	Segment of ATS route closed	Surface	FL 260	No	No	No
05-June-14	A1256/14 Ukraine	00:00 UTC 06-June-14	23:59 UTC 30-June-14	Area closed	Surface	FL 260	Yes	No	No
26-June-14	A1383/14 Ukraine	00:00 UTC 01-July-14	23:59 UTC 28-July-14	Area closed	Surface	FL 260	Yes	No	Yes
26-June-14	A1384/14 Ukraine	00:00 UTC 01-July-14	23:59 UTC 28-July-14	Segment of ATS route closed	Surface	FL 260	No	No	Yes
14-July-14	A1492/14 Ukraine	18:00 UTC 14-July-14	23:59 UTC 14-Aug-14	Area closed	FL 260	FL 320	Yes	No	Yes
14-July-14	A1492/14 Ukraine	18:00 UTC 14-July-14	23:59 UTC 14-Aug-14	Segment of ATS route closed	FL 260	FL 320	Yes	No	Yes
16-July-14	V6158/14 Russia	00:00 UTC 17-July-14	23:59 UTC 3-Aug-14	Segment of ATS route closed	n/k	n/k	Yes	n/k	Yes
16-July-14	A2681/14 Russia	00:00 UTC 17-July-14	23:59 UTC 3-Aug-14	Segment of ATS route closed	FL 330/340	-	No	Yes	Yes

ATS = air traffic services; FL = flight level; n/k = not known; NOTAM = notice to airmen; UTC = coordinated universal time

of the validity of the restriction is before the downing of Flight MH17; because of that, the altitude and time overlap descriptors are “no.”

The last two rows in the table provide a description of the two selected NOTAMs issued by the Russian Federation. In the case of these two NOTAMs, the overlap of the NOTAM restriction is assessed against what Flight MH17’s trajectory would have been if the aircraft was not downed. In other words, it is an assessment of the extrapolated trajectory on the basis of the flight plan.

In the table, for NOTAM V6158/14 the lower and upper limits of the restriction validity it is noted “n/k” — signifying “not known.” This is because, as explained further in the detailed description of this NOTAM, there are internal contradictions about its altitude limits.

Of particular interest for the purpose of this inquiry are the airspace restrictions prior to the downing of Flight MH17 for which there was a horizontal overlap of their boundaries with either the trajectory of Flight MH17 or its extrapolated trajectory. In fact, these are restrictions for the geographical area where Flight MH17 was downed. The following is a summary of these restrictions.

On 5 June 2014, NOTAM A1256/14, issued by Ukraine, promulgated airspace restrictions to civil aviation in the airspace area above the eastern part of Ukraine from the ground up to 26,000 ft (FL 260). The restrictions were valid from 0000 UTC on 06 June. At the same time, NOTAM A1255/14 promulgated airspace restrictions for ATS route segments in the same part of Ukraine, valid from the same time and to the same altitude as the area restriction. As reported by reference [2]: *“This enabled military aeroplanes to fly at an altitude that was considered safe from attacks from the ground and eliminated the risk that they would encounter civil aeroplanes, which flew above FL 260. The authorities automatically assumed that aeroplanes flying at a higher altitude than that considered safe for military aeroplanes, were also safe.”*

On 26 June 2014, NOTAMs A1383/14 and A1383/14, issued by Ukraine, extended the time validity of the airspace restrictions of NOTAMs A1256/14 and A1255/14 from 1 July until and including 28 July 2014.

On 14 July 2014, NOTAMs A1492/14 and A1493/14, issued by Ukraine and valid from 18:00 UTC 14 July increased the upper limit of the restricted airspace imposed on civil aviation to 32,000 ft (FL320). In comparison with NOTAM A1255/14 that was issued on 5 June, NOTAM A1493/14 introduced airspace restrictions above a smaller area (covering the same part in the east part of Ukraine, bordering the Russian Federation but less area to the west). Similarly, in comparison with NOTAM A1256/14, NOTAMs A1492/14 introduced restrictions to more ATS route segments. As reported by reference [2]: *“The exact underlying reason for this decision remains unclear.”*

On 16 July 2014, NOTAMs V6158/14 and A2681/A, issued by the Russian Federation, promulgated airspace restrictions to civil aviation in the Rostov-on-Don FIR airspace area that borders the Dnipropetrovsk FIR area in the eastern part of Ukraine. The restrictions were valid from 0000 UTC on 17 July. Both NOTAMs refer to the armed conflict in the eastern part of Ukraine as the reason for their issue: *“Due to combat actions on the territory of the Ukraine near the state border with the Russian Federation and the facts of firing from the territory of the Ukraine towards the territory of the Russian Federation, to ensure intl flt safety [international flight safety].”*

However, in NOTAM V6158/14, there are some contradictions about the lower and upper limits of the restriction. Items F and G, as well as the information in the sixth and seventh fields in item Q, identify lower and upper limits as surface and FL 530. This, in fact, means total closure of the airspace. Item E, which describes the nature of the restriction, outlines four different restrictions and specifies different altitude limits for each of them. For the restrictions affecting ATS routes that are in the area bordering Ukraine, the altitude limits provided in item E of the NOTAM are the same as the altitude limits of NOTAMs A1492/14 and A1493/14 issued by Ukrainian authorities — FL 320.

The contradiction in the altitude limits of NOTAM V6158/14 was apparently not identified or not identified as critical during the flight planning of the Flight MH17 trajectory when the software analysed the trajectory against the airspace constraints. It is to be noted, as reported in reference [2], that not only Malaysia Airlines, but almost all airlines, including airlines domiciled in the Russian Federation, that used routes over the conflict zone continued to do so during the period in which the armed conflict was expanding into the airspace, and the contradiction in the altitude limits of NOTAM V6158/14 was immaterial in their flight route planning.

In summary:

- Both Ukraine and the Russian Federation issued restrictions on the airspace above and around eastern Ukraine, but neither state completely closed their airspace above or near the conflict zone at that time. The situation at the time involved several airspace restrictions, introduced by both Ukraine and the Russian Federation, of airspace above and around eastern Ukraine. The airspace in question was first restricted up to FL 260 and subsequently, but before the downing of Flight MH17, up to FL 320.
- In the NOTAMs in which Ukraine placed a partial restriction on airspace in the Dnepropetrovsk FIR, it did not provide any reasons for the restriction nor any reference to incidents involving military aircraft in the airspace.



## 5 | AIRSPACE RESTRICTIONS OVER AND AROUND EASTERN UKRAINE

- The DSB report on the crash of Flight MH17 provides information about the reasons the Ukrainian authorities restricted the airspace up to FL 260 promulgated with NOTAMs A1255/14 and A1256/14 issued on 05 June 2014. The provided reasons were not related to the security risk from attacks from the ground to civil aircraft overflying the area. The airspace was restricted to enable military aeroplanes to fly at an altitude that was considered safe from attacks from the ground and to eliminate the risk that they would encounter civil aeroplanes, which flew above FL 260, according to the DSB report.
- The reasons the Ukrainian authorities increased the upper limit of the restricted airspace to 32,000 ft (FL 320) were not provided in the respective NOTAMs (A1492/14 and A1493/14). The DSB report provided that increasing the upper limit of the restricted airspace “was intended to increase the altitude buffer between military and civil aircraft.”
- The Russian Federation, on the other hand, cited international flight safety as a reason when it closed its affected ATS routes up to FL 320. In two NOTAMs (V6158/14, A2681/14) published on 16 July 2014, the Russian Federation said that to ensure international flight safety, it was closing the ATS routes “*due to combat actions on the territory of Ukraine near the state border with the Russian Federation and the facts of firing from the territory of the Ukraine towards the territory of Russian Federation.*”
- Prior to the downing of Flight MH17 on 17 July 2014, the two referenced Russian Federation NOTAMs were the only identified, specific warnings related to the security of civil aviation in the Dnepropetrovsk and Rostov-on-Don FIRs.

## 6. Collecting and Analysing Information About Ukraine and Russian Federation Threat Awareness

### 6.1. Information Collection Framework

In order to discuss the airspace closure decisions made by authorities in Ukraine and the Russian Federation, the Foundation looked for information about the relevant authorities’ threat awareness for the referenced airspace that was not restricted.

The threat information is of different types. In respect to capability to attack, the threat information can be about what authorities said they knew about the weapons that could pose a potential threat to civil aviation above FL 320. Or it can consist of information about the weapons that appeared in the public space (such as on social media) without indications of whether relevant authorities knew about it. The source of information can be traditional and/or social media or it can be private information from intelligence services. These different types of information imply different degrees of confidence about authority awareness or the veracity of the information. For these reasons, the threat information is categorised conceptually in Figure 18 as follows:

- **Foresight knowledge of threat information: quadrant 1.** This is information that was known prior to the downing of Flight MH17 about the presence of weapons.
- **Hindsight knowledge of threat information: quadrant 2.** This is information that was made known after the downing of Flight MH17 about the presence of weapons. In general, this type of information gives less confidence about potential threat awareness of relevant authorities because it is information about what has

been seen, heard or otherwise discovered, but, in this case, it was made known only after the downing of Flight MH17.

- **Foresight knowledge of authorities’ awareness: quadrant 3.** This is information that was known prior to the downing of Flight MH17 about what the relevant authorities knew about the presence of weapons. In general, this type of information gives the most confidence about potential threat awareness because it is mainly self-reporting by relevant authorities about their knowledge prior to the downing of Flight MH17 — and therefore clear of any hindsight bias.
- **Hindsight public knowledge of authorities’ awareness: quadrant 4.** This is information that was made known after the downing of Flight MH17 about what the relevant authorities knew *before* the downing of Flight MH17 about the presence of weapons.

With the above-described four types of information, the Foundation looked at two main sources of information:

- Publicly available information from primarily online media, including Ukrainian and Russian news services and other news aggregation sites, internationally available aviation trade media, government announcements and news releases; and information available on social media, including Twitter and Facebook.
- The responses from Ukraine and the Russian Federation to the standard procedure and threat knowledge

Figure 18  
Information Collection Framework

	Information published (made available) prior to Flight MH17 downing	Information published (made available) after Flight MH17 downing
What did the responsible State (authorities) know before Flight MH17 downing about the presence of air defense equipment	<b>3</b> Foresight knowledge of authorities awareness	<b>4</b> Hindsight knowledge of authorities awareness
Information about presence of air defense equipment prior to Flight MH17 downing	<b>1</b> Foresight knowledge of threat information	<b>2</b> Hindsight knowledge of threat information

questionnaires that were specifically developed for this inquiry and to the subsequent responses to some clarifying questions. The Russian Federation and the Ukrainian governments were approached with and responded to the information collection template containing the questionnaires. Following the analysis of the information received, the Foundation concluded that there were a number of questions that remained open and formulated and received answers to some additional clarifying questions.

## 6.2. Public Information Collection and Analysis

### 6.2.1. Objective, Process and Structure

The objective of this part of the study was to perform an inquiry to establish an overview of what information was publicly available in Ukraine and the Russian Federation — prior to the moment of the downing of Flight MH17 — about the presence of air defence equipment that had a reach beyond that part of the airspace (above FL 320) that was closed to civil aviation and which therefore could pose a threat to civil aviation. That would mean that, because of the partial closure of the airspace by Ukraine, MANPADS were no longer a threat to civil airliners transiting the airspace, apart from the hypothetical case of an emergency landing.

To perform this inquiry, the Foundation analysed information available primarily in online media, including Ukrainian and Russian news services and other news aggregation sites, internationally available aviation trade media, government announcements and news releases, as well as information available on social media, including Twitter and Facebook. Where it was determined that certain articles or social media posts were duplicated or published by multiple outlets, efforts were made to access the article/post via the original media in which they were published.

Information that was not available in English was translated using Google Translate.

The timeframe for the analysis was early June 2014 until the moments just before the downing of Flight MH17. Post-Flight MH17 investigative media reports and post-event aggregations of social media posts made in the days before the downing of Flight MH17 also were reviewed to get a comprehensive picture of what was known publicly before the event. The analysis was conducted as objectively as possible and with an awareness that hindsight bias could impact the results of this analysis, or of the results of the post-event reporting and inquiries.

The Foundation conducted a review of what was publicly known in Ukraine and the Russian Federation about the threat to aircraft flying above FL 250. We first examined what information was in the public space about the conflict and then what information was in the public space

about the presence of air defence equipment in eastern Ukraine that had a capability to attack beyond that part of the airspace that was closed to civil aviation. Factual information gathering efforts focused specifically on the UKDV Dnipropetrovsk FIR, which covers the airspace in eastern Ukraine.

For the purposes of this study, the information collected about what was publicly known in Ukraine and the Russian Federation about the threat to aircraft is systematically covering the four threat information categories from Figure 18.

### 6.2.2. Sources of Information

Before the downing of Flight MH17, information about the conflict in eastern Ukraine was widely available publicly, both in traditional media outlets and on social media platforms. Military and diplomatic developments and the situation on the ground in eastern Ukraine were written about extensively in the international media as well as by national news services/websites in Ukraine and the Russian Federation. Articles, videos, photographs and other imagery appeared regularly in news outlets including the Guardian, Al Jazeera, Reuters, New York Times, BBC, Washington Post, TASS, Interfax News Agency, UN-IREX, 62.ua, Kyiv Post and Financial Times. Articles and other information also were published on nontraditional, news- and information-oriented media platforms, such as Mashable and BuzzFeed. Information, videos and photos related to the conflict in eastern Ukraine also were posted in social media platforms like Twitter and Facebook.

Aviation media, referred to as trade media, also published numerous articles about the conflict and its impact. Trade media focuses its coverage on specific industries and usually is consumed by people and organizations within the industry covered (in this case airlines, aviation and transportation regulators, air navigation service providers [ANSPs], aviation-related organizations such as ICAO and the International Air Transport Association [IATA], and by other aviation stakeholders) as well as by general media organisations looking for deeper insight into aviation issues and/or material for articles. Trade media outlets that published eastern Ukraine-related articles during the period under review included FlightGlobal, Aviation International News and Aviation Week.

### 6.2.3. Findings and Analysis: Publicly Available Conflict Information

The situation on the ground in eastern Ukraine in the weeks prior to 17 July was one of escalating military conflict that made attacks on military aviation likely and posed at least a nominal threat to local civil aviation. On 20 June 2014, the online Kyiv Post published an Interfax-Ukraine article under the headline “*Aviation Service revokes certificate from three airports in eastern Ukraine*”

until situation stabilizes.”<sup>22</sup> Interfax-Ukraine, a subsidiary of the Moscow-based Interfax News Agency, reported that the authority said the airports, which it did not identify, were closed by relevant NOTAM.

The brief article also reported the following: “At the same time, the airspace above Donbas is open. The service said that UkSATSE [Ukraine State Air Traffic Services Enterprise] fully ensures the safety of air traffic over the territory. There are restrictions on movement of aircraft in the border area of 100 km – flights at altitudes below 7,900 meters are banned.”

At the beginning of July, a reported 10-day truce in the region was ended, likely increasing tensions and military action in the area. In an editor’s note on 2 July 2014, the Kyiv Post said that Ukrainian President Petro Poroshenko had resumed, on 1 July, a military offensive against the armed non-state forces in eastern Ukraine, ending a 10-day declared truce that Ukrainian authorities said was violated more than 100 times by the irregular forces, who killed 27 Ukrainian troops.

Separately, Voice of America (VOA) reported on 7 July that Poroshenko had refused to extend what it described as a “unilateral cease-fire” and ordered troops to advance.<sup>23</sup> The Kyiv Post, VOA and other media outlets reported that Ukrainian forces were making progress in attempts to regain control of the region.

Airstrikes were a significant element of Ukraine’s military effort against the armed non-state forces. For example, on 13 July, the National Security and Defence Council of Ukraine (RNBO) said in a briefing that the “active phase” of the anti-terrorist operation (ATO) in eastern Ukraine was in process and that the day before the air force had made five airstrikes against the opposition. According to RNBO spokesman Andriy Lysenko: “The first airstrike was directed at a terrorist stronghold near Lysychansk. Several dozens of militants were struck, as well as their equipment. The second airstrike was fired at a militant base near Holmovskiyi, Horlivskiyraion. Up to 30 terrorists, 2 ‘Grad’ systems, 2 anti-aircraft installations and 6 military machines were destroyed. The third airstrike was fired at a concentration of militants near Rovenky; up to 10 terrorists were killed, a ‘Grad’ system was destroyed and several military machines taken out of order. The fourth strike was aimed at a militant base near Torez. Data on the amount of casualties is being ascertained. The fifth airstrike was

performed near the barrow of Savur-mohyla, near Donetsk. A stronghold with a group of terrorists, armored vehicles, munitions and weapons was struck. Data on the amount of their casualties is being ascertained.”<sup>24</sup>

At the same time, the armed non-state forces made clear through their statements and actions the intent to target Ukrainian military aircraft. Multiple Ukrainian military aircraft flying in eastern Ukraine were shot down by armed non-state forces and these events were widely reported. Aviation Week & Space Technology magazine reported in its 23 June 2014 issue that the Ukraine military had lost a mix of 10 fixed-wing and rotary-wing aircraft since early May 2014.<sup>25</sup>

The weapons used against the Ukrainian aircraft were variously reported to be rockets, rocket-propelled grenades, anti-aircraft weapons, a large calibre machine gun, shoulder-fired missiles, and surface-to-air missiles. It is unclear to the Foundation researchers whether references to surface-to-air missiles refer to SAM systems, to the smaller MANPADS, or a combination of the two. Reported events reviewed included the following:

- On 29 May 2014, CNN.com reported that acting Ukrainian President Oleksandr Turchynov told the country’s parliament that a Ukrainian military helicopter had been shot down near Slovyansk with a rocket-propelled grenade, that at least 14 people were killed and that armed non-state forces claimed responsibility.<sup>26</sup>
- In a mid-June article that referenced the reported downing of Ukrainian military helicopters, the New York Times said that the armed non-state forces first said they used rocket-propelled grenades “but later admitting to possessing guided missiles.”<sup>27</sup>
- On 3 June 2014, the Kyiv Post published a report from Russia’s Interfax News Agency that the self-proclaimed “people’s mayor” of Sloviansk said that armed non-state forces there had shot down a Ukrainian military Su-25, which is a single seat, twin engine jet aircraft used for close air support, and a helicopter.<sup>28</sup>
- On 14 June 2014, the Ukrainian Ministry of Defence released a statement that on the night of 13-14 June, armed non-state forces fired an anti-aircraft weapon and large calibre machine gun at an Air Force IL-76

<sup>22</sup> [https://www.rnbo.gov.ua/files/2014/RNBO\\_map\\_21\\_07\\_eng.jpg](https://www.rnbo.gov.ua/files/2014/RNBO_map_21_07_eng.jpg)

<sup>23</sup> <https://www.voanews.com/europe/retreating-ukraine-rebels-dig-donetsk>

<sup>24</sup> <http://mediarnbo.org/2014/07/15/nsc-news-analysis-center-briefing-at-12-00-july-13-2014/?lang=en>

<sup>25</sup> Aviation Week and Space Technology, p. 27, 23 June 2014.

<sup>26</sup> <https://www.cnn.com/2014/05/29/world/europe/ukraine-crisis/index.html>

<sup>27</sup> <https://www.nytimes.com/2014/06/15/world/europe/ukraine.html?>

<sup>28</sup> <https://www.kyivpost.com/article/content/ukraine-politics/heavy-fighting-in-eastern-ukraine-as-government-restarts-active-phase-of-anti-terror-operation-350453.html>

transport aircraft landing at Luhansk airport.<sup>29</sup> The Kyiv Post reported on 14 June that 49 servicemen were killed in the attack. It also reported that Ukrainian Foreign Minister Andriy Deshchysia wrote on Twitter that the plane had been hit by a rocket.<sup>30</sup> In its reporting on the attack, The New York Times said that the aircraft had been brought down by a “shoulder-fired missile,” but quoted the military wing of the Ukrainian prosecutor general’s office as saying the IL-76 was brought down with an “antiaircraft rocket system.”<sup>31</sup> The New York Times also reported that “[s]eparatists from the self-declared People’s Republic of Luhansk confirmed that they had shot down the jet and said that all military airplanes in the area, which is near the border with Russia, were targets.”

- On 24 June, a Ukrainian Mi-8 helicopter was shot down outside the “rebel-held” city of Solviansk when it was hit by a rocket shortly after takeoff, according to BBC and other reports.<sup>32</sup> In its reporting, the Kyiv Post said the helicopter had been brought down by armed non-state forces “using surface-to-air-missiles.”<sup>33</sup> According to the report, it was the third Ukrainian MI-8 to have been shot down since mid-April.
- On 12 July, Interfax-Ukraine reported that the self-proclaimed Donetsk People’s Republic claimed to have shot down a Ukrainian Su-25, but the Ukrainian government denied the report.<sup>34</sup>

For the purposes of this study, the most significant of the pre-Flight MH17 attacks on Ukraine’s military aircraft occurred on 14 July, when a twin-turboprop An-26 military transport was shot down near Luhansk. In a statement available on its website, the Ukrainian Ministry of Defence said the aircraft was flying at an altitude of 6,500 m (21,327 ft), that its defeat by a MANPADS was impossible, and that the aircraft “was shot down by another, more powerful missile weapon, which was probably used from the Russian Federation.” (Google Translate)<sup>35</sup>

The RNBO said in a 14 July briefing: “The airplane was apparently flying at 6,500 meters, a height at which no

portable Zenit rocket launcher that is available to the terrorists today could have hit the craft. That is, the AN-26 was hit from a more powerful weapon that was used most likely from inside Russian Federation territory. Based on available data provided by the Ukrainian pilots, two versions are possible: the shot came from a modern ground-to-air Pantsyr [Armor] gun or from a homing rocket of the X-24 air-to-air class from a Russian aircraft that could have taken off from Milierovo Airport.”<sup>36</sup>

However, a London-based defence analyst said in an Associated Press report on the An-26 downing that the aircraft likely was not flying at 6,500 meters, but a lower altitude, and that the An-26 probably was shot down by a MANPADS.<sup>37</sup>

In the “Review report arising from the crash of flight MH17” the Dutch Review Committee for the Intelligence and Security Services reported that, “According to the MIVD, the wreckage and the eyewitnesses supported the fact that the aircraft was shot out of the air by a MANPADS from Ukrainian territory. This would only have been possible if the Antonov were flying substantially lower than 6,200 or 6,500 metres. Another possibility was that a short-range, vehicle-borne anti-aircraft system had been used. The MIVD’s information does indicate the use of a powerful anti-aircraft system.” This report is published in the appendices of the Dutch Safety Board Flight MH17 investigation report.

On 15 July, the RNBO said in a briefing that the commission set up to determine why the AN-26 crashed had completed its investigation and would report the results separately. Significantly, during the same briefing, the RNBO said that because of the investigation, ATO flights were being temporarily halted.<sup>38</sup> The flights were resumed shortly thereafter.<sup>39</sup>

The Foundation found no information in the public space that would indicate intent to attack civilian aircraft.

#### 6.2.4. Statements from Ukraine and the Russian Federation

As the situation on the ground in eastern Ukraine intensified in the weeks before the downing of Flight MH17, the governments of Ukraine and the Russian Federation

<sup>29</sup> <https://www.mil.gov.ua/news/2014/06/14/vijskovo-transportnij-litak-povitryanij-sil-zbrojnih-sil-ukraini-il-76/>

<sup>30</sup> <https://www.kyivpost.com/article/content/war-against-ukraine/ukraines-politicians-and-foreign-diplomats-react-emotionally-to-the-bloodiest-day-in-war-against-separatism-351848.html>

<sup>31</sup> [https://www.nytimes.com/2014/06/15/world/europe/ukraine.html?\\_r=0](https://www.nytimes.com/2014/06/15/world/europe/ukraine.html?_r=0)

<sup>32</sup> <https://www.bbc.com/news/world-europe-28002993>

<sup>33</sup> <https://www.kyivpost.com/article/content/ukraine-politics/toll-rises-to-174-killed-with-deaths-of-23-servicemen-from-june-19-24-353645.html>

<sup>34</sup> <https://www.kyivpost.com/article/content/ukraine-politics/donetsk-separatists-say-they-shot-down-ukrainian-military-plane-kyiv-denies-claim-355767.html>

<sup>35</sup> <https://www.mil.gov.ua/news/2014/07/14/chleni-ekipazhu-litaka-povitryanij-sil-zs-ukraini-an-26-vijshli-na-zvyazok-z-generalnim-shtabom/>

<sup>36</sup> <http://mediarnbo.org/2014/07/15/nsc-news-analysis-center-briefing-at-17-00-july-14-2014/?lang=en>

<sup>37</sup> <https://www.usnews.com/news/world/articles/2014/07/14/fierce-fighting-near-rebel-held-city-in-ukraine>

<sup>38</sup> <http://mediarnbo.org/2014/07/15/nsc-news-analysis-center-briefing-at-17-00-july-15-2014/?lang=en>

<sup>39</sup> <https://www.kyivpost.com/article/content/ukraine-politics/ukrainian-air-force-flights-in-anti-terrorist-operation-area-resumed-356248.html>

made frequent statements, often blaming each other for the ongoing conflict.

The Ukraine government regularly released information about the conflict, such as which units were involved in combat and where, what progress was made against the armed non-state forces, the number of combat casualties among Ukraine's military and police forces, and sometimes names and photos of the dead and wounded. It also alleged that Russian weapons and other equipment was moving from the Russian Federation into eastern Ukraine.

On 9 July, Interfax-Ukraine reported (as published in the Kyiv Post) RNBO spokesman Andriy Lysenko saying Ukraine had "unquestionable evidence" that Russia was supporting illegal armed formations.<sup>40</sup> "In particular, yesterday during a press conference in Donetsk, the leaders of the militants confirmed that they receive armoured vehicles, artillery systems, antitank, anti-aircraft and small arms from Russia. We have reported this many times. Now the militants themselves have openly admitted it," he said at a briefing in Kyiv. On the same day, the Ukrainian Ministry of Defence said that armed non-state forces tried to deploy two BM-21 Grad multiple rocket launchers to attack ATO force positions.

On 11 July, six days before the downing of Flight MH17, the RNBO released a map on its website that showed "the situation in the Eastern regions of Ukraine."<sup>41</sup> The map purported to represent the situation on the ground in the Luhansk and Donetsk oblasts, with areas controlled by the government and areas under the control of armed non-state forces delineated. Also marked were airports, sites of battles and the general location of armed non-state forces. (An updated map released on 21 July 2014 showed the Flight MH17 crash site located within a section of the Donetsk Oblast that was under the control of armed non-state forces.<sup>42</sup>)

Ukraine also made a number of public statements about capturing weapons and munitions used by, or intended for use by, armed non-state forces operating in the region. On 11 July, the Ukrainian Defence Ministry said the ATO forces seized four armoured vehicles, three tanks, three Grad multiple rocket launchers and mortars, an IMR combat engineering vehicle, 31 MANPADS, 26 anti-tank guided missiles (ATGMs), 101 small arms and nearly 300,000

rounds of ammunition for them, as well as 27 anti-tank and anti-personnel mines.<sup>43</sup> While the report mentioned MANPADS it did not mention SAMs.

The UNIAN news agency reported on 13 July that a convoy of 100 units of equipment tried to enter Ukraine from Russia near the village of Izvarine in the Luhansk region.<sup>44</sup> The information was attributed to an RNBO spokesman at a press briefing.

Ukraine also passed information to observers. In a 15 July article in the Kyiv Post, it was reported that "a senior military Ukrainian officer speaking to the [Organization for Security and Co-operation in Europe (OSCE) Special Monitoring Mission (SMM)] on 13 July, stated that a column of tanks and other military hardware had entered Ukraine from the Russian Federation at the Zelenopillia border crossing point on that day."<sup>45</sup>

In a 15 July article about dozens of tanks, self-propelled artillery and two armoured personnel carriers moving from Luhansk to Donetsk, Zik reported that Ukraine's presidential administration deputy head Valery Chaly said the conflict looks increasingly like a Russian invasion of Ukraine.<sup>46</sup> On the same day, Interfax-Ukraine reported that an RNBO spokesman said that Russia continues to "concentrate its troops on the state border of Ukraine."

"The battle for control over the state border of Ukraine continues," the RNBO said on 17 July. "The situation has been deteriorating as the Russian Federation continues to build up its Armed Forces near the Ukrainian border. More and more attacks on the positions of Ukraine's border units and ATO forces are coming from within Russian territory."<sup>47</sup>

For its part, the Russian Federation issued a number of complaints about Ukrainian forces attacking customs and border checkpoints along the Ukraine-Russia border and Ukrainian artillery shells landing in the Russian Federation. Statements issued by the Federation's Ministry of Foreign Affairs (MFA) often included details on casualties among Ukraine and Russian civilians, as well as descriptions of damage to buildings and infrastructure.

On 28 June, the Russian Federation "expressed a decisive protest with regard to such provocations of Ukraine, which grossly violate the fundamental principles of international law" after a Russia border checkpoint purportedly was attacked by Ukrainian forces.<sup>48</sup> "We are especially concerned

<sup>40</sup> <https://www.kyivpost.com/article/content/war-against-ukraine/lysenko-security-council-has-more-evidence-of-russias-sponsoring-militants-355334.html>

<sup>41</sup> [https://www.rnbo.gov.ua/files/2014/RNBO\\_map\\_11\\_07\\_eng.jpg](https://www.rnbo.gov.ua/files/2014/RNBO_map_11_07_eng.jpg)

<sup>42</sup> [https://www.rnbo.gov.ua/files/2014/RNBO\\_map\\_21\\_07\\_eng.jpg](https://www.rnbo.gov.ua/files/2014/RNBO_map_21_07_eng.jpg)

<sup>43</sup> <https://www.kyivpost.com/article/content/war-against-ukraine/defense-ministry-ukrainian-forces-seize-large-amount-of-militants-arms-in-donetsk-region-355624.html>

<sup>44</sup> <https://www.unian.ua/politics/939080-kolona-zi-100-odinit-tsehniki-vnochi-namagalasya-prorvatis-v-ukrajinu-z-rosiji-rnbo.html>

<sup>45</sup> <https://www.kyivpost.com/article/content/war-against-ukraine/situation-in-luhansk-and-donetsk-regions-remains-volatile-osce-356153.html>

<sup>46</sup> [https://zik.ua/en/news/2014/07/15/34\\_tanks\\_34\\_spags\\_and\\_2\\_apcs\\_marched\\_from\\_luhansk\\_to\\_donetsk\\_eyewitness\\_report\\_506051](https://zik.ua/en/news/2014/07/15/34_tanks_34_spags_and_2_apcs_marched_from_luhansk_to_donetsk_eyewitness_report_506051)

<sup>47</sup> <http://mediarnbo.org/2014/07/17/nsc-news-analysis-center-briefing-at-17-00-july-17-2014/?lang=en>

<sup>48</sup> [https://www.mid.ru/tr/press\\_service/spokesman/official\\_statement/-/asset\\_publisher/t2GCdmD8RNlr/content/id/53734](https://www.mid.ru/tr/press_service/spokesman/official_statement/-/asset_publisher/t2GCdmD8RNlr/content/id/53734)

that there were Ukrainian refugees, nationals of that country there at that time,” the MFA said. “Missiles also hit the nearby populated areas in the territory of the Russian Federation.”

In a statement on 10 July about Ukrainian forces firing artillery at the Gukovo checkpoint on the border, the MFA said: “If such cases are repeated, all the responsibility for their consequences will be imposed on the Kiev authorities.”<sup>49</sup>

On 12 July, TASS reported the MFA as saying, “Russia demands Ukraine stop shelling of the Russian territory and violating the Russian border” after Russian border guards came under small arms fire.

The MFA issued a statement on 13 July alleging the Ukrainian army had shelled Donetsk in Russia’s Rostov region with high explosive shells, killing one Russian national and seriously injuring two others. In a protest lodged with a Ukrainian diplomat, the MFA said, “Russia insists again that Ukraine immediately takes decisive measures to stop any provocations of this kind.” The MFA also said the incident shows that tensions in the area of the Russia-Ukraine border “have dangerously escalated and may have irreversible consequences, for which Ukraine will be held responsible.”<sup>50</sup>

A tweet attributed to the MFA’s Twitter account (@mfa\_Russia) said, “Russia vows tough response to Ukraine’s military border shelling.”

On 14 July, Russia invited OSCE observers to the Donetsk and Gukovo checkpoints on the Russia-Ukraine border “in a show of good will and without waiting for ceasefire,” the MFA said in a statement.<sup>51</sup> “We are convinced that this step will contribute to the creation of favourable conditions for an end to the violence as soon as possible and the start of an inclusive and transparent Ukraine-wide dialogue according to the Geneva Statement of the 17 April and the Berlin Declaration of the 2 July,” the ministry said.

Russia also complained of attacks by Ukrainian forces on areas of eastern Ukraine controlled by armed non-state forces. “The approaches to the Nikolayevka Village, 15 km from Slavyansk, are subjected to massive shooting by Grad

multi-launch missile systems, tanks and mortars,” the MFA said on 2 July.<sup>52</sup> A day earlier, it had said, “Let us recall the criminal air strike on the 2 June by Ukrainian Air Forces on the building of the Lugansk regional administration, which killed 8 people and injured 28.”<sup>53</sup> On 5 July, the MFA referenced Ukrainian security forces using heavy armaments and military aviation, “as a result of which civilians, including children, die.”<sup>54</sup>

#### 6.2.5. Presence of Air Defence Systems in Eastern Ukraine

A variety of heavy weapons were reported to be present in eastern Ukraine.

The OSCE said in the 16 May OSCE Daily Report that the head of the regional police reported that armed non-state forces in the area comprised about 1,000 individuals armed with a variety of weapons, from Kalashnikov assault rifles to anti-aircraft missile launchers.

In late May 2014, it was reported that Ukrainian military aircraft attacked armed non-state forces that had seized Donetsk airport and that a combat helicopter had destroyed a “surface-to-air missile system at the airport that was being used by” the armed non-state forces.<sup>55</sup>

In early June 2014, then-U.K. Prime Minister David Cameron was reported to have said that armed non-state forces in eastern Ukraine were being supplied with sophisticated weapons, such as MANPADS.<sup>56</sup> “What I said to (Russian) President Putin is that ... it is noticeable that the so-called rebels have, for instance, very technical, hi-tech weapons such as MANPADS (portable surface-to-air missiles) and it is hard to believe that they can be coming from anywhere else,” Cameron said in the British Parliament.<sup>57</sup>

Also in June, The New York Times reported the U.S. State Department had said that three T-64 tanks, several BM-21 multiple rocket launchers and other military vehicles had been sent to the armed non-state forces from across the border with the Russian Federation near Luhansk, supporting accusations made by the Ukrainian government.<sup>58</sup>

The newspaper also reported that then-U.S. Secretary of State John Kerry called Russian Foreign Minister Sergey V. Lavrov to “complain about Russia’s arms shipments” to the non-state forces in eastern Ukraine. Also, the State

<sup>49</sup> [https://www.mid.ru/en/foreign\\_policy/news/-/asset\\_publisher/cKNonkJE02Bw/content/id/678085](https://www.mid.ru/en/foreign_policy/news/-/asset_publisher/cKNonkJE02Bw/content/id/678085)

<sup>50</sup> [https://www.mid.ru/tr/press\\_service/spokesman/official\\_statement/-/asset\\_publisher/t2GCdmD8RNlr/content/id/677956?p\\_p\\_id=101\\_INSTANCE\\_t2GCdmD8RNlr&\\_101\\_INSTANCE\\_t2GCdmD8RNlr\\_languageId=en\\_GB](https://www.mid.ru/tr/press_service/spokesman/official_statement/-/asset_publisher/t2GCdmD8RNlr/content/id/677956?p_p_id=101_INSTANCE_t2GCdmD8RNlr&_101_INSTANCE_t2GCdmD8RNlr_languageId=en_GB)

<sup>51</sup> [https://www.mid.ru/en/foreign\\_policy/news/-/asset\\_publisher/cKNonkJE02Bw/content/id/677907](https://www.mid.ru/en/foreign_policy/news/-/asset_publisher/cKNonkJE02Bw/content/id/677907)

<sup>52</sup> [https://www.mid.ru/en/foreign\\_policy/news/-/asset\\_publisher/cKNonkJE02Bw/content/id/679164](https://www.mid.ru/en/foreign_policy/news/-/asset_publisher/cKNonkJE02Bw/content/id/679164)

<sup>53</sup> [https://www.mid.ru/en/foreign\\_policy/news/-/asset\\_publisher/cKNonkJE02Bw/content/id/679741](https://www.mid.ru/en/foreign_policy/news/-/asset_publisher/cKNonkJE02Bw/content/id/679741)

<sup>54</sup> [https://www.mid.ru/en/foreign\\_policy/news/-/asset\\_publisher/cKNonkJE02Bw/content/id/678686](https://www.mid.ru/en/foreign_policy/news/-/asset_publisher/cKNonkJE02Bw/content/id/678686)

<sup>55</sup> <https://www.kyivpost.com/article/content/war-against-ukraine/ukraine-jets-bomb-gunmen-seized-donetsk-airport-349476.html>

<sup>56</sup> <https://uk.reuters.com/article/uk-ukraine-crisis-britain-russia/cameron-points-finger-at-russia-over-hi-tech-arms-in-ukraine-idUKKBN0EM17320140611>

<sup>57</sup> <https://uk.reuters.com/article/uk-ukraine-crisis-britain-russia/cameron-points-finger-at-russia-over-hi-tech-arms-in-ukraine-idUKKBN0EM17320140611>

<sup>58</sup> [https://www.nytimes.com/2014/06/15/world/europe/ukraine.html?\\_r=0](https://www.nytimes.com/2014/06/15/world/europe/ukraine.html?_r=0)

Department released photographs of three Russian tanks it said were sent from southwest Russia to Ukraine. In response to the call, Russia's MFA released a summary of the call, but it did not specifically the address subject of weapons crossing the border from Russia into Ukraine.

Around the same time, Al Jazeera America quoted a U.S. State Department spokesperson as saying, "*Ukraine's interior minister said three tanks crossed the border from Russia yesterday. ... Internet videos showed this same type of tank that departed southwest Russia moving through multiple cities in eastern Ukraine.*"<sup>59</sup>

In late June 2014, U.S. Air Force Gen. Philip M. Breedlove, at the time the supreme allied commander Europe of the North Atlantic Treaty Organization (NATO), said that the armed non-state forces in eastern Ukraine were being supplied with heavy anti-aircraft weapons.<sup>60</sup> He also said that training missions being carried out by forces from the Russian Federation along the eastern Ukraine border included the use of vehicle-borne anti-air missiles. The U.S. Naval Institute News, which reported Breedlove's comments on its website on 30 June 2014, also said, "*But despite the confirmed deliveries of the anti-aircraft weapons and training by Russian forces, Breedlove was wary of making the connection between the separatists' weapon stockpiles and the recent shootdown of Ukrainian military aircraft*"

In response to Breedlove's comments, the Russian Federation MFA said, "*We believe that it is absolutely inadmissible, when such a highly ranked military representative becomes drawn into the information and propaganda campaign, distributing false data about the situation on the Russian-Ukrainian border.*"<sup>61</sup>

The then-U.S. Ambassador to Ukraine Geoffrey Pyatt described the Russian frontier as "*a sieve for tanks and missile systems, and MANPADS and money and mercenaries and all kinds of instability.*"<sup>62</sup>

The Ukrainian military possessed SAM systems, including Buk M-1 missile launchers, and while the armed non-states forces did not operate aircraft, there was concern that Ukrainian anti-aircraft defence systems had been seized by the armed non-state forces. In late June, there was a report that a Ukrainian SAM system had been captured by armed non-state forces. The Kyiv Post reported on 30 June that armed non-state forces had seized control

of "*military unit No. A-1402*" in Donetsk.<sup>63</sup> The report described the unit as a surface-to-air missile regiment equipped with Buk self-propelled missile systems.

An ATO spokesman confirmed a "*partial capture*" of the military unit. The spokesman confirmed the Buk unit was located in the A-1402 unit, but said it was not working. When asked if the attackers could fix the unit, he said, "*I don't think they need it.*"<sup>64</sup>

On 13 July, the Kyiv Post reported, "*Columns of dozens of armoured personnel vehicles, artillery and Grad rocket systems were observed moving north from the seaside city of Mariupol and west from the direction of Krasnoarmiysk towards Donetsk this week.*"<sup>65</sup>

Between 13 July and 15 July, both the UNIAN News Agency (translated using Google Translate) and ZIK reported dozens of pieces of heavy equipment, including tanks, self-propelled artillery, and armoured personnel carriers in the Luhansk region.<sup>66, 67</sup>

After the An-26 was shot down on 14 July, a Kyiv Post journalist tweeted a link from the "*presidential website*" that the transport was shot down by an advanced missile system "*likely from Russia.*" On 15 July, Pyatt tweeted that Russia had transferred ex-USSR military equipment to fighters around Donetsk. Also on 15 July, Pyatt tweeted there was no evidence that Russian support for the armed non-state forces had ceased.

Information on weapons system in or near eastern Ukraine also could be found on Twitter. In late June, a journalist tweeting under the Twitter handle @Julian-Roepcke said, "*#Breaking #Russia moving the "9K37M1 Buk" (!?!?) system through #Stary\_Oskol towards #Ukraine.*" The tweet included a link to a YouTube video that no longer is available. The next day, @JulianRoepcke tweeted "*#BREAKINGNEWS THE "9K37M1 BUK CONVOY MADE IT TO THE #UKRAINIAN\_BORDER IN #BELGOROD OBLAST.*" On 16 July, he tweeted that the Russian army had moved "*high end #SAM systems to the Ukr. NORTHERN border.*"

Another Twitter source, @ostro\_v, as reported and translated into English during the Flight MH17 criminal prosecution in the court sessions of the District court of The Hague said, "*In Donetsk, at the Intersection of Ilyich Avenue at 9.15, there was a "Buk" on a tractor, surrounded*

<sup>59</sup> <http://america.aljazeera.com/articles/2014/6/13/ukraine-retakes-mariupol.html>

<sup>60</sup> <https://news.usni.org/2014/06/30/u-s-european-commander-russia-supplying-anti-aircraft-weapons-ukrainian-separatists>

<sup>61</sup> [https://www.mid.ru/en/foreign\\_policy/news/-/asset\\_publisher/cKNonkJE02Bw/content/id/679236](https://www.mid.ru/en/foreign_policy/news/-/asset_publisher/cKNonkJE02Bw/content/id/679236)

<sup>62</sup> <https://www.kyivpost.com/article/content/ukraine-politics/as-america-celebrates-pyatt-touts-us-ukraine-successes-354593.html>

<sup>63</sup> <https://www.kyivpost.com/article/content/ukraine-politics/militants-claim-control-over-air-defense-regiment-in-donetsk-353995.html>

<sup>64</sup> <https://www.62.ua/news/565758/zahvacennyj-v-donecke-boevikami-dnr-zenitnyj-raketnyj-kompleks-buk-v-nerabocem-sostoaniji>

<sup>65</sup> <https://www.kyivpost.com/article/content/ukraine-politics/civilians-caught-in-the-crossfire-as-rockets-rain-down-on-rebel-held-cities-355836.html>

<sup>66</sup> <https://www.unian.ua/politics/939080-kolona-zi-100-odinit-techniki-vnochi-namagalasya-prorvatis-v-ukrajinu-z-rosiji-rnbo.html>

<sup>67</sup> <https://www.kyivpost.com/article/content/war-against-ukraine/zik-34-tanks-and-34-spags-marched-from-luhansk-to-donetsk-eyewitness-says-356121.html>



by *militiamen*.” The tweet was posted at 12:34 on 17 of July 2014, a few hours before the downing of Flight MH17.<sup>68</sup>

Also available online on [Censor.net.ua](http://Censor.net.ua) was a video of Russian tanks at the Donbas arena, home of the Shakhtar Donetsk professional football club from Donetsk, Ukraine. According to [Censor.net](http://Censor.net), on July 15 there were three tanks and self-propelled artillery near the stadium.

On 28 September 2016, during the Joint Investigative Team (JIT) presentation of the first results of the Flight MH17 criminal investigation, it was revealed that more than 150,000 telephone calls were intercepted. The Foundation does not know if, in the period prior to the downing of Flight MH17, Ukrainian security services were equipped, prepared and directed to process these calls and identify potential threats.

One relevant intercepted conversation was shared during Flight MH17 criminal prosecution in the court sessions of the District court of The Hague:<sup>69</sup>

*“The next morning, 17 July 2014, at 09.23.13, Dubinskiy again called Semenov. Dubinskiy said his Buk-M had arrived that night and needed to be transported in Semenov’s convoy. Dubinskiy asked where the Buk should be taken so it could join the convoy.*

*“At 09.54.08, in a telephone conversation with Kharchenko, Dubinskiy told him to go to Pervomaiske and set himself up there. His orders were to guard ‘the thing’ which he would soon be ‘driving’ and, after that, to stay in reserve. Dubinskiy told him that Pulatov would also be coming to him.*

*“In a telephone conversation that followed this one, one minute later, Dubinskiy ordered Pulatov to go with Kharchenko and the others to the area around Pervomaiske and Pervomaiskiyi. His job was to guard and ‘organise’ the Buk which was now being ‘driven’ by Kharchenko. Pulatov was told to ensure the Buk was guarded and organised, and to keep an open corridor so as to ensure a smooth delivery.*

*“At 12.42.57 Pulatov called Kharchenko. Kharchenko told Pulatov that he and the ‘toy’ were near the Furshet, a supermarket in the centre of Snizhne. Pulatov asked him to wait there, saying that he would come to him.*

*“Shortly after flight MH17 was downed, at 16.48.44, Kharchenko called Dubinskiy, saying that they were ‘on the spot’ and had just downed a Sushka. Dubinskiy ordered Kharchenko to come ‘here’ and to leave a company in charge of guarding the Buk.*

*“Kharchenko: We are on the spot. We’ve already brought down one Sushka.*

*“Dubinskiy: Well done! Attaboys! Well... You’ve brought down one Sushka. Well done! Lionia, tell me...”*

#### 6.2.6. Post Flight MH17 Assessments

##### *Evidence of a Buk Battery in Donetsk*

In the hours and days after the downing of Flight MH17 on 17 July, there were multiple reports about a Buk missile system or systems being seen in eastern Ukraine. An advisor to Ukraine’s minister of internal affairs said on the 112 Ukraine television channel that the Ukrainian military had “*recorded the fact*” of the missile’s launch. He also said there was a large amount of military equipment in the region, “*including the Buk missile system, which was spotted today in the morning in the area of Ternovoye.*”<sup>70</sup> Interfax Ukraine also cited a Ukrainian official as saying that in the morning of 17 July, before Flight MH17 was shot down, local residents had seen the Buk being transferred to Torez to Snezhnoe.<sup>71</sup>

Immediately after the downing, one of the leaders of the Donetsk’s People’s Republic, said through his VK account, “*We did warn you, do not fly in our sky,*” according to a 17 July article on Mashable.<sup>72</sup> The post was deleted when word began to circulate that the plane shot down was an airliner and not a Ukrainian military aircraft. Another DPR leader denied his forces had a weapon capable of bringing down an airliner.<sup>73</sup>

In its early articles on the Flight MH17 downing, The Guardian reported that a military specialist who monitors social media in Ukraine said an armed non-state force had been sighted with a Buk system at Torrez just hours before the event.<sup>74</sup> The Guardian article also said an Associated Press reporter reported seeing a Buk in Snizhne. In the same article, The Guardian reported that armed non-state forces “*based in eastern Ukraine are said to have been shooting at planes and helicopters with Buk missiles over the last week in an attempt to achieve mastery of the airspace.*”

Three days after the downing, U.S. Secretary of State John Kerry said that social media reports and U.S. surveillance put the missile system in question in the vicinity of the crash before the downing. “*It is pretty clear that this was a system from Russia, transferred to separatists. We know with confidence that the Ukrainians did not have such*

<sup>68</sup> <https://www.prosecutionservice.nl/topics/mh17-plane-crash/prosecution-and-trial/court-sessions-june-2020/investigation-on-the-main-scenario>

<sup>69</sup> <https://www.prosecutionservice.nl/topics/mh17-plane-crash/prosecution-and-trial/court-session-26-june-2020>

<sup>70</sup> [https://interfax.by/news/policy/v\\_mire/1161813/](https://interfax.by/news/policy/v_mire/1161813/)

<sup>71</sup> Ibid

<sup>72</sup> <https://mashable.com/2014/07/17/malaysia-airlines-ukraine-russia-rebel/>

<sup>73</sup> Ibid

<sup>74</sup> <https://www.theguardian.com/world/2014/jul/17/malaysian-airlines-plane-buk-missile>

a system anywhere near the vicinity at that point of time,” Kerry was quoted as saying.<sup>75</sup>

On 19 July 2014, at a news conference in Kiev, Vitaly Nayda, the head of counterintelligence for the Ukrainian State Security Service, showed a photograph of Buk system on a street in Torez, Ukraine. He also showed photos of a Buk system and other military vehicles heading to the Ukraine border with the Russian Federation. In response to a question, he said the armed non-state forces operating in eastern Ukraine possessed at “least three Buk M-1” missile systems because three systems crossed back across the border into the Russian Federation early on the morning of 18 July. In response to another question, Nayda said the first information “hinting” at a Buk launcher in the possession of the armed non-state forces was received on 14 July and came from counterintelligence units who got the information from the field. “But we could not confirm directly that it was Buk missile launcher that trespassed illegally [in] Ukrainian territory,” he said.<sup>76, 77</sup>

On 22 July, The Guardian reported: “[A]s several witnesses told the Guardian, they had seen what appeared to be a Buk missile launcher in the vicinity of the crash site last Thursday (17 July). ... The sightings back up a number of photographs and videos posted online that put the Buk system close to the crash site on the day of the disaster. Just before lunchtime last Thursday, prior to the Malaysia Airlines plane’s takeoff, a Buk was driven through Gagarin Street, one of the central thoroughfares of Torez, witnesses said.”<sup>78</sup>

The Financial Times said the background to the downing included “a concerted anti-aircraft campaign waged by rebel militias in eastern Ukraine.” The article also said that on 29 June, an official account of the Donetsk armed non-state group tweeted a picture of Buk missile launcher accompanied by text that said the launch was in their possession.<sup>79</sup> The website Vesti.ru published an article on 29 June under the headline “The sky over Donetsk will be protected by Buk anti-missile systems” about the capture of the A-1402 air defence unit previously referenced.<sup>80</sup> At his 19 July news briefing, Nayda said the captured Buk system was not operational, having been disabled in March 2014.

### Bellingcat Investigation

Before the official accident investigation was completed by the Dutch Safety Board, the most compelling investigative

report was published by Bellingcat, which describes itself as an “independent international collective of researchers, investigators and citizen journalists using open source and social media investigation to probe a variety of subjects.” Bellingcat’s 35-page investigative report, which was released on 8 November 2014, concluded:

“It is the opinion of the Bellingcat MH17 investigation team that there is undeniable evidence that separatists in Ukraine were in control of a Buk missile launcher on July 17th and transported it from Donetsk to Snizhne on a transporter. The Buk missile launcher was unloaded in Snizhne approximately three hours before the downing of MH17 and was later filmed minus one missile driving through separatist-controlled Luhansk.”<sup>81</sup>

“The Bellingcat MH17 investigation team also believes the same Buk was part of a convoy travelling from the 53rd Anti-Aircraft Missile Brigade in Kursk to near the Ukrainian border as part of a training exercise between June 22nd and July 25th, with elements of the convoy separating from the main convoy at some point during that period, including the Buk missile launcher filmed in Ukraine on July 17th. There is strong evidence indicating that the Russian military provided separatists in eastern Ukraine with the Buk missile launcher filmed and photographed in eastern Ukraine on July 17th.”<sup>82</sup>

The Bellingcat report, “Origin of the Separatists’ Buk, A Bellingcat Investigation,” traces the Buk system’s movements in Donetsk on 17 July using photographs and videos posted on social media sites. Bellingcat said its investigators used a variety of tools to establish where the images were recorded and the approximate time.

“Along with these eyewitness reports [social media postings], journalists have since visited the city and received confirmation of the convoy sightings on July 17. Journalists from the Guardian and BuzzFeed visited Torez on July 22nd and interviewed locals who confirmed both the time and route the Buk missile launcher took through Torez on the way to Snizhne along the H21 motorway,” the report said.<sup>83</sup>

Much of the Bellingcat report was dedicated to tracking the Buk launcher, then part of a larger convoy, as it moved from Kursk, Russia, to the Ukrainian border as part of a training exercise in the latter half of June 2014. “Using a wide variety of open sources, it has been possible for the Bellingcat MH17 investigation team to collect evidence of the movements of the convoy, the purpose of the convoy,

<sup>75</sup> <https://www.theguardian.com/world/2014/jul/20/mh17-kerry-evidence-ukrainian-separatists>

<sup>76</sup> <https://www.youtube.com/watch?v=PWtH8AA42Fc&feature=share>

<sup>77</sup> <https://www.wsj.com/articles/ukraine-knew-of-separatists-air-defense-capabilities-say-officials-1405781508>

<sup>78</sup> <https://www.theguardian.com/world/2014/jul/22/ukraine-sightings-missile-launcher-mh17>

<sup>79</sup> <https://www.ft.com/content/7efea166-0e68-11e4-b1c4-00144feabd0>

<sup>80</sup> <https://www.vesti.ru/article/1850793>

<sup>81</sup> <https://www.bellingcat.com/news/uk-and-europe/2014/11/08/origin-of-the-separatists-buk-a-bellingcat-investigation/>

<sup>82</sup> Ibid

<sup>83</sup> Ibid

*its links to the 53rd Brigade, and evidence that confirms that one of the Buk missile launchers in the convoy was the same Buk missile launcher filmed and photographed in Ukraine on July 17, 2014, travelling from Donetsk to Luhansk through separatist-controlled territory in eastern Ukraine.*<sup>84</sup>

Again, Bellingcat investigators pieced together videos, photos and other social media posts to track and verify the movements of the convoy and of the specific Buk launcher that has been implicated in the downing of Flight MH17.

The videos of the convoy moving from Kursk to the border with Ukraine were available online before the shootdown. The same missile launcher reportedly was later transported back to the Russian Federation with a missile missing.

#### **Dutch Safety Board**

In its accident report, the Dutch Safety Board noted reports that circulated in the media, including social media, in the months prior to 17 July, about the presence of weapons, including surface to air missiles, in the possession of the armed non-state forces fighting the Ukraine government in the eastern part of the country. The DSB report also noted the concerns expressed by Western diplomats, politicians and military leaders about weapons possibly being supplied by the Russian Federation to armed non-state forces in eastern Ukraine.

*“The precise nature, scope and operational level of the military capacities of the various parties involved in the conflict around 17 July 2014 are not easy to establish by the Dutch Safety Board, even in retrospect. Although various media reported on the possible weapons capability in the area in the months prior to the crash, they do not constitute validated and verified information. In addition, based on open sources it is not possible to establish with certainty what equipment was involved and to what extent this equipment was operational,”* the DSB report says.

#### **Flight MH17 Joint Investigation Team (JIT)**

The JIT, comprised of representatives from the Netherlands, Australia, Malaysia, Belgium and Ukraine, is conducting a criminal investigation into the crash. As a result of the investigation, the Dutch Prosecution Service is prosecuting four individuals for their involvement in bringing down Flight MH17.<sup>85</sup>

The JIT has concluded that Flight MH17 was brought down by a missile launched from a Buk Telar transported from the Russian Federation to a farm field in eastern Ukraine and that, at the time of the downing, was

controlled by the armed non-state forces. After firing, the Buk was transported back to Russia missing a missile.

The JIT investigation verified a number of the Bellingcat findings regarding the source of the Buk Telar in Kursk and its ultimate destination in Ukraine.

*“After an extensive and labor-intensive comparative investigation, in which many BUK-TELARs were involved, the JIT has come to the conclusion that the BUK-TELAR that shot down flight MH17 comes from the 53rd Anti Aircraft Missile Brigade, or the 53rd Brigade from Kursk in the Russian Federation. This 53rd Brigade is a unit of the Russian armed forces. In 2014, the 53rd Brigade consisted of three operational battalions. It employs several hundred people in staff, supporting and operational units,”* the JIT said.<sup>86</sup> *“Earlier, the investigation collective Bellingcat came up with the same conclusion.”*

The JIT investigation determined through intercepted telephone conversations that during the days prior to 17 July, *“the pro-Russian fighters mentioned that they needed better air defence systems to defend themselves against these [Ukrainian military] air strikes. In this respect, a BUK was discussed explicitly. Fact is that a BUK has a higher range than the air defence systems in use by the separatists at that moment, such as the Strela and Iglu.”*<sup>87</sup>

#### **6.3. Standard Procedures Questionnaire**

To ensure systematic coverage and comprehensive information collection, we identified the need to use certain standard or good process descriptions when drafting the information collection questionnaires. For that purpose, we used the Foundation best process description that is based on our accumulated experience and analyses up to the moment of this inquiry.

Namely, the Foundation’s integrated standard for air-space security risk assessment, as illustrated in Figure 19 (p. 68), addresses the five main functions to be assigned to one or more different authorities, organised as an integrated process and performed within a given sovereign state:

- A. Threat watch — roles, responsibilities, procedures and processes for monitoring for potential threats to civil aviation.
- B. Threat analysis — roles, responsibilities, procedures and processes for threat analysis, including capability of attack, intent to attack, risk factors for unintentional attack, and for validating the information.
- C. Risk analysis — roles, responsibilities, procedures and processes for analysing the security risk including potential consequences.

<sup>84</sup> Ibid

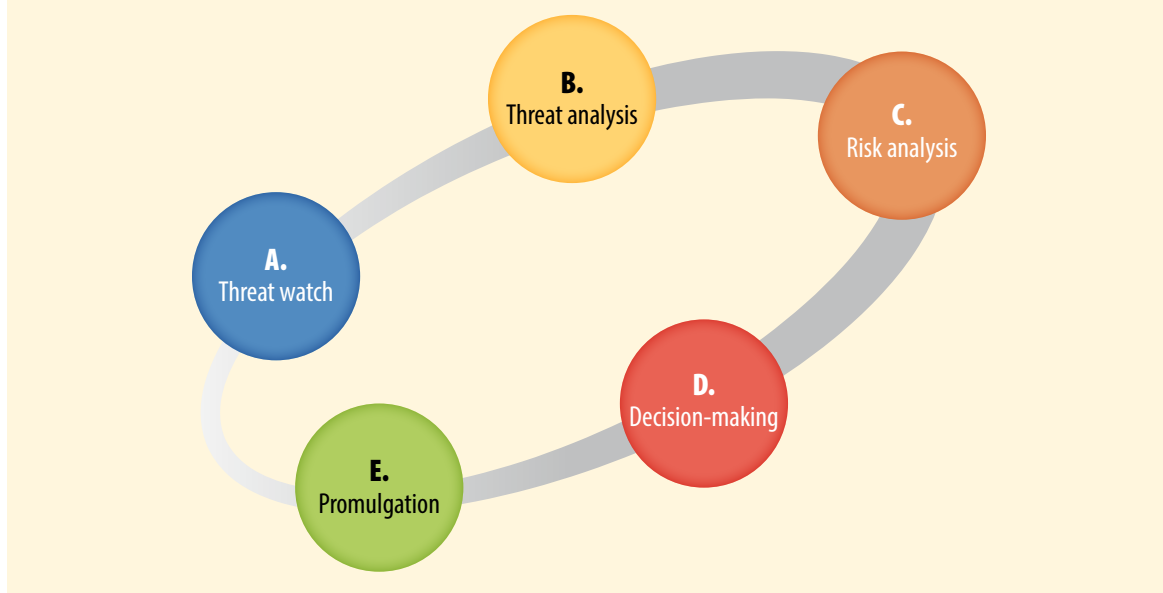
<sup>85</sup> <https://www.prosecutionservice.nl/topics/mh17-plane-crash/criminal-investigation-jit-mh17>

<sup>86</sup> <https://www.prosecutionservice.nl/topics/mh17-plane-crash/criminal-investigation-jit-mh17/speakers-text-jit-mh17-press-meeting-24-5-2018>

<sup>87</sup> <https://www.prosecutionservice.nl/topics/mh17-plane-crash/criminal-investigation-jit-mh17/jit-presentation-first-results-mh17-criminal-investigation-28-9-2016>

Figure 19

## Flight Safety Foundation Integrated Standard for Airspace Security Risk Assessment



D. Decision-making — roles, responsibilities, procedures and processes for airspace management in relation to security threats to civil aviation, including deciding airspace restrictions and closure of airspace.

E. Promulgation — roles, responsibilities, procedures and processes for communicating airspace management decision-making, including decisions on the communication tools (e.g., NOTAMs) used, composition of the communication message and verification of adherence to international standards and procedures for aeronautical information.

The Foundation standard defines a statewide process for airspace security risk management that is distributed around different authorities and organisations yet functional from end to end. In this way, the organisational scope of the process is not restricted to the more traditional perspective of civil-military aviation coordination (e.g., some state intelligence functions may not be attributed to military authorities).

Each of the five functions of the integrated standard for airspace security risk assessment targets a particular step from the risk assessment process and contains three or four specific sub-functions that are formulated as questions in the Foundation questionnaires.

The questions used in the inquiry are:

**A. Threat watch:**

- **Q1 — Social media:** Is information in social media including information about capability of attack and/

or intent to attack civil aircraft, used as a trigger for security threat analysis for civil aviation?

- **Q2 — Public and private sources:** What are the sources of public and private threat information and what are the processes for gathering information relative to civil aviation security (including in a conflict zone)?
- **Q3 — Other actors' information:** What is the level of involvement of airlines, air navigation service providers (ANSPs), the military, adjacent states and/or other states publishing advisories in gathering information about aviation security (including information for conflict zones)?

**B. Threat analysis:**

- **Q4 — Adjacent airspace:** What are the procedures for routine review and analysis of NOTAMs, security warnings and airspace restrictions for adjacent FIRs to ensure civil aircraft security?
- **Q5 — Verifying the information:** What is the process for deciding on source credibility and for verifying information, including information on capability of attack and intent to attack, relative to an active armed conflict that could impact civil aviation?
- **Q6 — Unintentional attack factors:** What are the determining risk factors for unintentional attack that may result in civil aviation not being allowed to fly over a conflict zone? For example, scale of the conflict, military air transport or air combat activities, previous attacks against aircraft, level of training and

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experience of SAM operators, level of robustness of command and control mechanism for authorising launch, civil aviation flight proximity to strategic assets, technical capability of SAMs to distinguish between civil and military aircraft.

#### C. Risk analysis:

- **Q7 — Coordination and analysis:** What organizations are involved, how do they coordinate, and what is the process for determining acceptable security risk levels in civil aviation airspace over a conflict zone? Note: These are general security level targets to be met, if specified, that are not specific to an event or situation.
- **Q8 — Potential consequences:** What is the process of determining how civil aviation can be affected based on threat information in a conflict zone? For example, what part of the airspace, what altitudes or types of aircraft?
- **Q9 — Risk methodology:** What analysis methodology or risk matrix is used to assess the likelihood of a threat presenting itself and the potential consequences for civil aircraft flying over the conflict zone?
- **Q10 — Risk mitigations:** What is the process to determine security mitigations that would permit civil aviation to overfly a conflict zone?

#### D. Decision-making:

- **Q11 — Normal times decision-making:** What are your normal (not during conflict) criteria for establishing restriction or segregation of airspace and what are the coordination procedures both internally and externally?
- **Q12 — Conflict zone decision-making:** What are the decision processes for security of airspace, including establishing restriction or segregation of airspace in a conflict zone? What are the ANSP and military coordination procedures for active civil flights and their safety?
- **Q13 — Adjacent FIR coordination:** What organisations are involved and what are the procedures for coordinating airspace restrictions in the conflict zone among adjacent FIRs?

#### E. Promulgation:

- **Q14 — Publish or not, and how:** What is the process to decide if there is a need for aeronautical information publication and to choose the communication tool for it (e.g., NOTAMs, AIC)?
- **Q15 — Verify and validate:** What organisations are involved in and what are the processes used to prepare,

verify if ICAO Aeronautical Information Service procedures and terminology are used, validate for correctness and transmit aeronautical information to its users (e.g., airlines and ANSPs)?

- **Q16 — Special advisories and threat information:** What are the procedures for disseminating civil aviation security threat information to operators within and outside the conflict zone FIR?

In total, 16 question groups (as listed above) were formulated in the questionnaire. In addition, five detailed questions were asked for each of the 16 question groups:

- **Answer:** Provide a brief overall answer to the question.
- **Responsible:** Describe which authorities/organisations are responsible for the activities associated with the respective question.
- **References:** Provide specific references to legislation, requirements and other provisions that define the responsibilities and the process.
- **Process and timeline:** Describe the process (including its inputs/outputs) to perform the associated activities, including the processing time.
- **Changes after 17 July 2014<sup>88</sup>:** Describe the changes, if any, to the requirements and the process that took place after 17 July and the reasons for the change.

#### 6.4. Threat Knowledge Questionnaire

To perform the inquiry into whether Ukraine and the Russian Federation knew of the presence of air defence equipment in eastern Ukraine that had a reach beyond the part of the airspace that was closed for civil aviation and therefore could pose a threat to civil aviation, we developed a questionnaire similar to the one described above. While the standard procedures questionnaire described above probed the statewide airspace security risk assessment process in general, the threat knowledge questionnaire described below asked how the integrated airspace security risk assessment actually worked from 01 March 2014 until just prior to the Flight MH17 downing. The questions used in the threat knowledge questions are as follows:

- Describe what civil aviation threat information on social media about the presence of air defence equipment or intent to attack was identified by which authority.
- Describe what other sources of civil aviation threat information about the presence of air defence equipment and intent to attack were identified by which authority.

<sup>88</sup> After the downing of Flight MH17

- Describe specifically what airlines, ANSPs, the military, adjacent states, or other states publishing advisories were used as a source for what information about security risk for civil aircraft.
- Describe what civil aviation security threat information was identified by which authority based on the NOTAMs, security warnings and airspace restrictions for adjacent FIRs.
- How was the security threat information verified, how was the source judged for credibility, and by what authority/organisation? What were the results of the credibility decision and the verification?
- Describe what risk factors for unintentional attack were identified by what authority/organisation.
- Describe what organisations determined the acceptable security risk levels for civil aircraft. How this was determined and what were the determined acceptable security levels?
- Describe the impact analysis results, if any — how civil aviation can be affected based on threat information — for airspace, altitudes or type of aircraft.
- Describe if and how risk was assessed and what levels of security risk were determined for what airspace, what altitudes or what type of aircraft.
- Describe if and what security mitigations were determined that would permit civil aviation to overfly the conflict zone.
- Describe who made what decisions for security of airspace, including establishing restriction or segregation of airspace.
- Describe what coordination took place between the ANSP and the military regarding the security threats.
- Describe if and how the airspace restrictions were coordinated with the adjacent FIRs and what organisations were involved in the coordination.
- Describe how it was decided if there was a need for aeronautical information publication and how the communication tool (e.g., NOTAMs, aeronautical information circular) was chosen.
- Describe what organisations were involved in the aeronautical information preparation, verification of whether ICAO AIS procedures and terminology were used, and validation for correctness and transmission of aeronautical information to users.
- Describe if and how civil aviation security threat information, apart from the AIS, was disseminated to operators within and outside the conflict zone FIR.

### 6.5. Inquiry Into Ukraine Standard Procedures and Threat Knowledge

For the purpose of information collection, the Ukrainian government identified a focal point within its Ministry of Foreign Affairs. An information collection template was sent to the identified focal point. The information collection template integrated in one table both the standard procedures questionnaire and the threat knowledge questionnaire.

Ukraine responded to the questionnaire, and the responses as received are included in Appendix D. Hereafter, we provide a question-by-question discussion about the responses received.

#### Q1 — Social media threat watch

The response confirms that information from “*open sources, including social media*” is used in the assessment of threats to civil aviation “*in accordance with relevant regulatory documents.*”

The document provided by Ukraine as Annex 3 to the responses says that the input information for the State Aviation Administration and Integrated Civil-Military System “*for detection of possible threats for civil aircraft operation is the information provided by the Military Force Operation HQ [headquarters] and/or appropriate command/control military units.*” The document further says that information received from open sources is “*verified by intelligence.*” The response does not explicitly answer the question about whether the information in social media is used as a trigger for analysis of threats to civil aviation.

Many organisations are identified as responsible for the process. Apart from the Security Service, Ministry of Defence and Ministry of Internal Affairs, the response also identifies as responsible the State Aviation Administration, airport operators, aircraft operators and ANSPs. The response does not explain how all these organisations are responsible for social media monitoring and identification of potential threat information.

According to the response, the State Aviation Administration of Ukraine “*constantly conducts a general assessment of threats to civil aviation security on the basis of information received from the Security Service of Ukraine; Ministry of Ukraine; Ministry of Internal Affairs of Ukraine; Foreign Intelligence Service of Ukraine; airport operators; aircraft operators; air navigation service providers; and other sources, social media included.*”

In respect to the situation prior to the downing of Flight MH17, the response notes that the State Aviation Administration of Ukraine “*used information on threats to civil aviation security from the Ministry of Defence of Ukraine, law enforcement and intelligence agencies of Ukraine, and other sources.*” The response says that the “*information is the one marked ‘For official use (restricted)’*”

but also notes that the information “*is specified in the final report on the investigation of the air crash of Malaysia Airlines’ Boeing 777-200.*”

There is no information provided in the answer regarding what social media civil aviation threat information about the presence of air defence equipment or intent to attack was identified by which authority.

For this report, it is of specific interest what social media threat information was available to which organisation prior to the downing of Flight MH17, including social media posts about Buk missile systems being seen. For example, @ostro\_v, as reported and translated into English during the Flight MH17 criminal prosecution in the court sessions of the District court of The Hague, said, “*In Donetsk, at the Intersection of Ilyich Avenue at 9.15, there was a “Buk” on a tractor, surrounded by militiamen.*” The tweet was posted at 12:34 on 17 of July 2014, a few hours before the downing of Flight MH17.<sup>89</sup>

Additionally, it is of interest what and when the social media threat information was analysed, validated and propagated to those responsible for threat analysis in the State Aviation Administration of Ukraine.

Based on the analysis of the response, it was decided to ask a clarifying question seeking information about what social media threat information was identified by which organisation prior to the downing of Flight MH17.

#### Q2 — Public and private sources threat watch

The response states that “*Information from all available sources is used to assess threats to civil aviation security in accordance with relevant regulatory document.*” The response provides a list of many organisations, including “*international civil aviation organisations*” but does not elaborate on which organisation is responsible for collecting what type of public and private information.

In respect to the situation prior to the downing of Flight MH17, the response repeats the answer to Q1 while adding the “*civil aviation authorities of foreign states [and] international civil aviation organizations*” as sources of threat information used by the State Aviation Administration of Ukraine. The response notes again that that the information “*is specified in the final report on the investigation of the air crash of Malaysia Airlines’ Boeing-777-200.*”

The document provided by Ukraine as Annex 3 to the responses says, “*Military Force Operation HQ and/or appropriate command/control military units obtain information from intelligence and combat units. It is able to detect the threats stemming from weapon involved in the conflict.*” As reported in the document, the obtained information is validated “*by intelligence*” and used by the State Aviation

Administration and Integrated Civil-Military System as input in the detection of possible threats.

For this report, it is of specific interest what information was available to which organisation prior to the downing of Flight MH17, including:

- Information about what weapon was used in the attack on a Ukraine An-26 military transport aircraft that occurred on 14 July.
- Threat information contained in 150,000 intercepted telephone conversations mentioned on 28 September 2016 during the JIT presentation of the first results of the Flight MH17 criminal investigation, namely the exchange in the morning of 17 July 2014 between Dubinskiy, Semenov, Kharchenko and Pulatov about the presence in eastern Ukraine of a Buk-M.<sup>90</sup>
- Threat information described by Vitaly Nayda, the head of counterintelligence for the Ukrainian State Security Service, on 19 July 2014 at a news conference in Kiev that the first information “*hinting*” at a Buk launcher in the possession of the armed non-state forces was received on 14 July.

Based on the analysis of the response, it was decided to ask a clarifying question seeking information on what public and private sources of threat information were identified by which organisation prior to the downing of Flight MH17.

#### Q3 — Other actors’ information threat watch

The response states, “*National airlines, air navigation service providers, the military and law enforcement agencies are involved in gathering information about aviation security.*” The response does not elaborate on the actual process and timeline but says again that the “*State Aviation Administration of Ukraine constantly conducts a general assessment of threats to civil aviation security.*”

In respect to the situation prior to the downing of Flight MH17, the response notes again that the information “*is specified in the final report on the investigation of the air crash of Malaysia Airlines’ Boeing 777-200.*”

#### Q4 — Adjacent airspace threat analysis

The response states, “*Information pertaining to NOTAMs, security warnings and airspace restrictions for adjacent flight information regions (FIRs) is constantly reviewed and analyzed in accordance with relevant regulatory documents.*”

The response says that the “*State Aviation Administration of Ukraine; Security Service of Ukraine; Ministry of Defense of Ukraine; aircraft operators; air navigation service providers constantly review and analyze NOTAMs, security*

<sup>89</sup> <https://www.prosecutionservice.nl/topics/mh17-plane-crash/prosecution-and-trial/court-sessions-june-2020/investigation-on-the-main-scenario>

<sup>90</sup> <https://www.prosecutionservice.nl/topics/mh17-plane-crash/prosecution-and-trial/court-session-26-june-2020>

warnings and airspace restrictions for adjacent flight information regions.”

In respect to the situation prior to the downing of Flight MH17, the response notes again that the information “is specified in the final report on the investigation of the air crash of Malaysia Airlines’ Boeing-777-200.”

#### Q5 — Threat analysis: Verifying the information

The response states that “information on threats to civil aviation security is analyzed, verified and assessed in accordance with relevant regulatory documents.”

The document provided by Ukraine as Annex 3 to the responses says that the information obtained by the Military Force Operation HQ and/or appropriate command/control military units is verified “by intelligence.” As the responses identify more actors that can be potential sources of threat information, including airport operators, ANSPs and aircraft operators, it is not clear if all the information is verified “by intelligence” before the State Aviation Administration of Ukraine performs threat and risk analysis.

The response notes that the information on possible threats “to aircraft flights in areas of military conflicts is intelligence one” and that the procedure for determining the reliability of the source of information depends on the method of obtaining such information and the type of information source. It is further noted that this information is classified.

In respect to the situation prior to the downing of Flight MH17, the response notes that the information was analysed, verified and assessed by the “Security Service of Ukraine, the ministry of Defence of Ukraine, and the Foreign Intelligence Service of Ukraine.” It is further noted that this information is classified.

For this report, and without prejudice to the classified information, it is of specific interest what information was transmitted to the State Aviation Administration of Ukraine for threat analysis and when.

**Based on the analysis of the response, it was decided to ask a clarifying question seeking to understand what verified and unverified threat information became known by the State Aviation Administration of Ukraine.**

#### Q6 — Threat analysis: Risk factors for unintentional attack

The response says, “According to relevant regulatory documents, all factors that pose a potential threat to civil aviation security are taken into account when establishing restrictions, prohibitions and terms on the use of airspace over or near areas of military conflicts.”

Many organisations are identified as responsible for the process. Apart from the Security Services, Ministry of Defence, Foreign Intelligence Service of Ukraine and Ministry of Internal Affairs, the response also identifies as responsible the State Aviation Administration and ANSPs.

The response does not provide information on what risk factors for unintentional attack were identified by what authority/organisation prior to the downing of Flight MH17. The response only notes, “According to the established procedures, on the basis of available information, appropriate restrictions and prohibitions on the use of airspace were established.”

For this report, it is of specific interest if the State Aviation Administration of Ukraine, within the process of “constantly conducting a general assessment of threats,” also assesses the risk factors of unintentional attack and what specifically this assessment was prior to the downing of Flight MH17.

**Based on the analysis of the response, it was decided to ask a clarifying question seeking information on what risk factors for unintentional attack became known by the State Aviation Administration of Ukraine and how the associated security risk was assessed?**

#### Q7 — Risk analysis: Coordination and analysis of acceptable security risk levels

Much like previous questions, the response notes that “the State Aviation Administration of Ukraine constantly conducts a general assessment of threats to civil aviation security in coordination with the Security Service of Ukraine; Foreign Intelligence Service of Ukraine; Ministry of Defence of Ukraine; Ministry of Internal Affairs of Ukraine [and] air navigation service providers” and that the detailed information is specified in the final report of the investigation of the Flight MH17 crash.

In respect to the situation prior to the downing of Flight MH17, the response notes again that the information “is specified in the final report on the investigation of the air crash of Malaysia Airlines’ Boeing-777-200.” The same statement is provided by Ukraine as an answer to the detailed question about how the process actually worked prior to the downing of Flight MH17 in all the next question groups and is not repeated in the following discussion.

#### Q8 — Risk analysis: Potential consequences

The response states that “the State Aviation Administration of Ukraine constantly conducts a general assessment of threats to civil aviation security on the basis of information received from the Security Service of Ukraine, Foreign Intelligence Service of Ukraine; Ministry of Defence of Ukraine; Ministry of Internal Affairs of Ukraine [and] air navigation service providers, and makes a decision on establishing restrictions, prohibitions and terms on the use of airspace.”

The document provided by Ukraine as Annex 3 to the responses notes, while referring to the threat information provided from military units, that “the nature of the threat, the volume of the airspace which is hazardous to civil aircraft, and the expected period of the threat existence are



*indicated.*” This information implies that part of the potential consequences is determined already by the military units as threat information provider.

#### **Q9 — Risk analysis: Risk methodology**

The response notes that *“an analysis methodology or risk matrix used to assess the likelihood of a threat and potential consequences for civil aircraft has been developed and approved in accordance with relevant regulatory documents.”*

In respect to the situation prior to the downing of Flight MH17, the specific question is if and how the risk was assessed and what levels of security risk were determined. As reported previously, the State Aviation Administration of Ukraine was responsible to *“constantly conduct a general assessment of threats to civil aviation security.”*

Additionally, the information provided by the Ukraine as Annex 3 says that the information about the identified threats or potential threats for civil aircraft operations *“arising from armed conflict zone is immediately to be provided”* to the State Aviation Administration of Ukraine and Integrated Civil Military System *“by Military Force Operation HQ and/or appropriate command/control military units.”*

#### **Q10 — Risk analysis: Risk mitigations**

The response notes, *“In accordance with the legislation, the State Aviation Administration of Ukraine constantly conducts a general assessment of threats to civil aviation security on the basis of information received from the Security Service of Ukraine; Foreign Intelligence Service of Ukraine; Ministry of Defense of Ukraine; Ministry of Internal Affairs of Ukraine, air navigation service providers, and makes a decision on establishing restrictions, prohibitions and terms on the use of airspace.”*

#### **Q11 — Decision-making: Normal times decision-making**

The response notes, *“Prohibitions or restrictions on the use of airspace are established by the State Aviation Administration of Ukraine or the authorities involved in the Joint Civil-Military System at the request of the competent authorities and users of airspace.”*

#### **Q12 — Decision-making: Conflict zone decision-making**

The response notes, *“Procedures for decision-making and civil- military coordination in the introduction of bans, restrictions and terms on the use of airspace are established in accordance with relevant regulatory documents”* The response further notes that the *“prohibitions or restrictions on the use of airspace are established by the State Aviation Administration of Ukraine or the authorities involved in the Joint Civil-Military System at the request of the competent authorities and users of airspace.”*

Additionally, the document provided by Ukraine as Annex 3 to the responses says that, based on the information received from Military Force Operation HQ and/or appropriate command/control military units, the State Aviation Administration of Ukraine and the Joint Civil-Military System *“will urgently set an appropriate restriction, where the civil aircraft flights are prohibited.”*

Further, the *“area which is hazardous to civil aircraft”* is defined through:

- *“assessment of type of military operations;*
- *“determination the geographical area of the conflict;*
- *“determination of weapon that has been identified in the area of the conflict;”*
- *“location of the Ukrainian military combat units and its[their] weapon that are involved in armed conflict;*
- *“determination of the maximum vertical and horizontal measures of effective range of the weapon;*
- *“determination the area which is affected by weapon as sum of determined geographical conflict area dimensions and affected vertical and horizontal range of weapon;*
- *“determination of buffer taking into consideration national requirements regarding segregation dangerous activity from civil aircraft operations, possible changes of military operations and time needed for proper modification of airspace restriction;*
- *“permanent analysis and assessment of information regarding situation near and within area of conflict to ensure that established restriction protects civil aircraft operations.”*

#### **Q13 — Decision-making: Adjacent FIR coordination**

The response notes that the information *“pertaining to restrictions on the use of airspace is published in aeronautical information documents and provided to the competent authorities of adjacent states.”*

#### **Q14 — Promulgation: Publish or not, and how**

The response notes that *“Aeronautical information is published by the decision of the State Aviation Administration of Ukraine in coordination with the state authorities concerned.”*

#### **Q15 — Promulgation: Verify and validate**

The response notes that the State Aviation Administration of Ukraine, the Ministry of Defence of Ukraine, and air navigation service providers *“in accordance with their competence, check draft documents of aeronautical information published by the Aeronautical Information Service (AIS) according to the decision of the State Aviation Administration of Ukraine and provided to airspace users.”*

**Q16 — Promulgation: Special advisories and threat information**

The response notes, “*The procedure for conveying information on threats to civil aviation security to airspace users is determined and carried out by the State Aviation Administration of Ukraine [and] the Ministry of Defense of Ukraine, including via air navigation service providers.*”

Following the analysis of the information received from Ukraine, we concluded that a number of questions remain open. However, to respect the timeline of our inquiry, we decided to concentrate only on specific clarifying questions.

All questions refer to:

- Information, knowledge or decisions immediately prior to the downing of Flight MH17.
- The airspace of eastern Ukraine in the Dnipropetrovsk FIR (UKDV).
- The following clarifying questions (CQs) were formulated and subsequently communicated to Ukraine. By the time this report was finalised, a response to the clarifying questions from Ukraine had not been received.

The answers from Ukraine to the clarifying questions were received after the requested time for providing a response and when the content of this report had been already finalised. Therefore, the responses to the clarifying questions were only cross-checked against the findings of the report but no discussion or other content in respect of the clarifying questions to Ukraine were provided in this report. The responses from Ukraine as received are included in Appendix E.

**CQ1** — On 17 July 2014, before the downing of Flight MH17, a post from @ostro\_v (as reported and translated into English during the Flight MH17 criminal prosecution court sessions at The Hague) said, “*In Donetsk, at the Intersection of Ilyich Avenue at 9.15, there was a “Buk” on a tractor, surrounded by militiamen.*” Was that Twitter post known about prior to the downing of Flight MH17 and by which state authorities?

**CQ2** — Apart from what is referred to in CQ1, what other social media threat information about the presence in eastern Ukraine of air defence equipment that was not controlled by government forces and which could have reached the respective airspace in UKDV FIR above Flight Level 250 was identified, when and by which authority? This includes social media posts about a BUK missile system being seen.

**CQ3** — What weapon was used in the attack on a Ukraine An-26 military transport aircraft that occurred on 14 July? What knowledge of this weapon did the authorities responsible for security risk analysis have prior to the downing of the Flight MH17?

**CQ4** — What authority or authorities knew prior to the downing of Flight MH17 about the threat information contained in the 150,000 intercepted telephone conversations mentioned on 28 September 2016, during the Joint Investigative Team (JIT) presentation of the first results of the Flight MH17 criminal investigation, namely the exchange in the morning of 17 July 2014 between Dubinskiy, Semenov, Kharchenko and Pulatov about [the] presence in eastern Ukraine of Buk-M?

**CQ5** — What authority or authorities knew prior to the downing of Flight MH17 about the threat information described by Vitaly Nayda, the head of counterintelligence for the Ukrainian State Security Service, on 19 July 2014 at a news conference in Kiev, that the first information “*hinting*” at a Buk launcher in the possession of the armed non-state forces was received on 14 July? Did State Aviation Administration of Ukraine know prior to the downing of Flight MH17 about this information?

**CQ6** — Apart from what is referred to in CQ1, CQ3, CQ4 and CQ5, what other threat information about the presence in eastern Ukraine of air defence equipment that was not controlled by government forces and which could have reached the respective airspace in UKDV FIR above Flight Level 250 was identified, when and by which authority prior to the downing of Flight MH17?

**CQ7** — What intent to attack aircraft in eastern Ukraine with air defence equipment that was not controlled by government forces and which could have reached the respective airspace in UKDV FIR above Flight Level 250 was identified, when and by which authority prior to the downing of Flight MH17?

**CQ8** — What threat information about the presence of air defence equipment in eastern Ukraine that was not controlled by government forces and which could have reached the respective airspace in UKDV FIR above Flight Level 250 was known and how did it become known by the State Aviation Administration of Ukraine prior to the downing of Flight MH17? How was the associated security risk assessed and what airspace management decision was taken?

**CQ9** — What risk factors for unintentional attack became known by the State Aviation Administration of Ukraine prior to the downing of Flight MH17 and how did this information affect their security risk assessment?

**CQ10** — The Netherland DSB investigation report notes that, “*After an emergency beacon was activated at around 1320, indicating that flight MH17 had crashed, UkSATSE made the decision at 1500, at the tactical level, to also restrict the airspace above FL 320.*” It could be deduced that UkSATSE was responsible for threat and risk analysis, but the responses received notes that “*the State Aviation Administration of Ukraine constantly conducts a general assessment of threats to civil aviation security.*” In that respect, which authority was responsible prior to the

downing of Flight MH17 for the threat and risk analysis and assessment?

### 6.6. Inquiry into Russian Federation Standard Procedures and Threat Knowledge

For the purpose of information collection and in a manner similar to the approach with Ukraine, the Russian Federation government was approached with the information collection template.

The Russian Federation responded with a letter with responses to the questionnaire. The responses from the Russian Federation as received are included in Appendix B. Hereafter, we provide a question-by-question discussion on the received responses. The following discussion on the received responses is based on analysis of the responses provided in Russian and on the unofficial translation in English.

#### Q1 — Social media threat watch

The response highlights, and basically repeats ICAO guidance and notes some documentation but does not directly answer the question. The referenced ICAO documents are manuals that in the ICAO nomenclature of documents contain guidance material, which is advisory in nature. This study is not a normative analysis of compliance but, as some of the references used in the answers from the Russian Federation are ICAO documents, we have used content from these documents as a context in our discussion of the responses.

ICAO Doc 9554, Manual Concerning Safety Measures Relating to Military Activities Potentially Hazardous to Civil Aircraft Operations and Guidance on Civil/Military Cooperation in Air Traffic Management, deals with safety measures relating to military activities potentially hazardous to civil aircraft operations. Its focus is on coordination between military authorities and ATS authorities and units, identification of civil aircraft, warnings and navigational assistance and air traffic restrictions. One part in the document deals with special measures in the event of armed conflicts or the potential of armed conflicts. It includes a provision that *“the responsibility for instituting special measures to ensure the safety of international civil aircraft operations remains with the States responsible for providing air traffic services in the airspace affected by the conflict, even in cases where co-ordination is not initiated or completed.”* The reference is to *“airspace affected by the conflict”* and not only restricted to the airspace above the conflict. Although the *“responsibility for initiating the co-ordination process rests with the States whose military forces are engaged in the conflict”* it is clearly outlined that action should be taken *“...even in cases where co-ordination is not initiated or completed.”* The fact that the Russian Federation issued NOTAMs restricting Russian Federation airspace referenced ongoing conflict in the neighbouring

state is an indication that a threat originating from neighbouring state territory was identified.

ICAO Doc 9554 further provides that, *“Based on the information which is available, the State responsible for providing air traffic services should identify the geographical area of the conflict, assess the hazards or potential hazards to international civil aircraft operations, and determine whether such operations in or through the area of conflict should be avoided or may be continued under specified conditions.”* This text is used verbatim from the Russian Federation response to the question.

It is clear that the State affected by the conflict should use the information that it is available. However, there is no information provided in the answer regarding if and what social media civil aviation threat information about the presence of air defence equipment or intent to attack was identified by which authority. Also, no information was provided in the answer about if, in general, information in social media is used as a trigger for security threat analysis, which authority is responsible for it and how the process works. In terms of responsible authority, the answer only provides that these are *“[c]ompetent authorities that exchange information related to aviation security.”*

#### Q2 — Public and private sources threat watch

The response highlights ICAO guidance. Information was provided by the Russian Ministry of Foreign Affairs, noting that information about the presence of air defence systems in the region should have been provided by the competent authorities of Ukraine on whose territory an armed conflict took place. It was stated as a response to Q2 that there were threats to civil aviation safety in the Rostov-on-Don FIR that originated from *“hazardous activities in the area of responsibility of the adjacent Dnepropetrovsk FIR.”*

The sources of the threat information used by Rosaviatsiya, the Federal Air Transport Agency *“when taking a decision to issue NOTAMs V6158/14 and A2681/14 on 16 July, 2014”* are identified by the answers as *“information provided by the Russian Ministry of Foreign Affairs, according to which it was possible to conclude that the rules for the use of airspace of the Russian Federation had been violated.”* Three specific statements of the Ministry of Foreign Affairs of the Russian Federation were identified in the response as sources — statement No. 1570 of 28 June 2014, statement No. 1678 of 10 July 2014 and statement No. 1688 of 13 July 2014. When examining the content of the referenced statements, it was observed that the threats described in the statements were about low altitude artillery and high explosive shell shootings. However, the restrictions introduced by the Russian Federation were up to FL 320, not commensurate to the referenced low altitude threat.

There is also no information provided in the answer about which authority is responsible for the public and private sources threat watch and how the process works. In terms of responsible authority, the answer only provides that these are “[c]ompetent authorities that exchange information related to aviation security.”

### Q3 — Other actors’ information threat watch

The information provided yields little about the actual process, but states clearly that airlines, ANSPs, and adjacent States have no role in the production of information. It was reported that Rosaviatsiya produces information based on receiving information on military activity hazardous to flight safety.

It was stated that Rosaviatsiya promulgated restriction while “Airlines, military or other organizations were not involved in the issuance of NOTAMs V6158/14 and A2681/14.” This does not correspond to provisions in the referenced ICAO Doc 9554, which says, “If the necessary information is not forthcoming from the States whose military authorities are engaged in the armed conflict, the State responsible for providing air traffic services should ascertain the nature and scope of the hazards or potential hazards from other sources, such as aircraft operators, the International Air Transport Association (IATA) and the International Federation of Air Line Pilots’ Associations (IFALPA), adjacent States or in some cases the relevant ICAO regional office.”

### Q4 — Adjacent airspace threat analysis

The Federal State Unitary Enterprise “State Air Traffic Management Corporation of the Russian Federation” manages the process, and there are several documents driving the process for routine review and analysis of NOTAMs. The rules are reported to be contained in the document “Organization of Planning the Use of Airspace of the Russian Federation.” The answer highlighted again that the only threats identified “to air traffic safety in the Rostov-on-Don FIR originated from hazardous activities in the area of responsibility of the adjacent FIR of Dnepropetrovsk.” The reason for restricting the Russian airspace with NOTAMs V6158/14 and A2681/14 was “[b]ased on the available reliable information.” There are no further explanations about what this “reliable information” was, but there is a reference to the statements from Russian Federation Ministry of Foreign Affairs that were quoted above in the answer to Q2.

### Q5 — Threat analysis: Verifying the information

The response notes that there is no reason to doubt the information coming from the Russian Ministry of Foreign Affairs.

Rosaviatsiya was identified in the response as the responsible authority for threat information verification and for deciding on the source credibility.

There is an important addition to the already quoted statements of the Ministry of Foreign Affairs. The addition points to the actual decision-making process to restrict the airspace, namely, “The initiative to issue NOTAMs V6158/14 and A2681/14 concerning the Rostov-on-Don FIR came on July 12, 2014 from the Rosaviatsiya Southern Interregional Territorial Administration (responsible for the Rostov-on-Don FIR) due to the aggravated situation in the areas bordering on Ukraine, the use of various types of weapons by the Ukrainian armed forces.”

### Q6 — Threat analysis: Risk factors for unintentional attack

The response highlights that “[a]ll possible risk factors for an unintended attack should be considered” and that “[s]uch preparations should include an assessment of the risk to civil aircraft operations due to a military conflict or incidents of unlawful interference with civil aviation.”

The response does not provide information about which authority in the Russian Federation is responsible for determining the risk factors for unintentional attack for the (adjacent to the conflict zone) airspace that is affected by the conflict. Instead, the response states that this should be “[t]he state responsible for compliance with the rules for the introduction of restrictions on the use of airspace over an armed conflict zone (Ukraine, in relation to the MH17 crash).”

The response notes that adherence by Ukraine to ICAO rules in force at the time of the crash “would have allowed the aviation authorities of Ukraine to come to a decision on the need to stop civil aviation flights over the conflict zone and avoid the crash of flight MH17.”

Further, the response notes that “[i]nformation, including the official one, about the presence of a certain type of weapons in the conflict zone, as well as incidents with the use of these weapons, should have been considered sufficient by Ukraine to make decisions.” This implies that there was available and “sufficient” threat information for Ukraine to make a decision “on the need to stop civil aviation flights over the conflict zone and avoid the crash of flight MH17.” A question arises about whether such information was known by the Russian Federation. This was raised in the set of clarifying questions submitted after the analysis of the questionnaire responses and described later in this report. Clarifying questions were asked about knowledge of both capability and intent to attack.

### Q7 — Risk analysis: Coordination and analysis of acceptable security risk levels

Much like the answer to Q6, the response notes that the “responsibility for initiating the coordination process lies with the State on whose territory an armed conflict is taking place.” Further, information is provided again about the reasons for airspace restriction: “NOTAMs V6158/14 and

A2681/14 with restrictions on the use of the airspace of the Rostov-on-Don FIR were issued due to the hostilities on the territory of Ukraine near the state border with the Russian Federation, as well as the shelling of Russian territory from the territory of Ukraine.”

#### Q8 — Risk analysis: Potential consequences

The response refers to ICAO documents and notes that Rosaviatsiya used information from the Russian Foreign Ministry to develop the NOTAM “[d]ue to the hostilities ongoing on the territory of Ukraine near the state border with the Russian Federation.”

There is no actual response as to the “process” used or as to the responsible authorities.

#### Q9 — Risk analysis: Risk methodology

The response notes that it is not known what process Ukraine used, further accentuating its position to point to Ukraine for many parts of the airspace security risk assessment process without considering the role of the adjacent states with airspace affected by the conflict. There are notes that information can be found in the answers to question Q7 and Q8.

#### Q10 — Risk analysis: Risk mitigations

The response repeats reference to ICAO and notes that information can be found in the answers to question Q5 and Q12.

#### Q11 — Decision-making: Normal times decision-making

The response notes the presence of several documents that should contain the information requested including, but not limited to, “*Organization of Planning the Use of Airspace of the Russian Federation.*” Some high-level information is provided regarding the general process for “*organisation of the use of airspace.*”

As responsible authorities, the response names Rosaviatsiya and Federal State Unitary Enterprise “State Air Traffic Management Corporation of the Russian Federation.” Additionally, “*A user of airspace whose activity poses a threat to the safety of airspace use*” is also identified with the responsible authorities.

#### Q12 — Decision-making: Conflict zone decision-making

The response again drives responsibility to Ukraine, noting that there were no armed conflicts in the Rostov-on-Don Flight Information Region (FIR). It was stated that the conflict zone decision-making process “*has no differences from the one specified in the answer to question Q11.*”

The threat from the proximate conflict zone was again established as a legitimate reason to close the airspace: “*the*

*imposition of restrictions ... was motivated by the reaction to hazardous activities for flights in the neighboring State.*”

Further, it is stated that the “*initiative to issue NOTAMs V6158/14 and A2681/14 related to the Rostov-on-Don FIR came from the Southern Interregional Territorial Administration of Rosaviation on July 12, 2014, due to the aggravated situation in the border areas with Ukraine, the use of various types of weapons by the Ukrainian armed forces (statements of the Ministry of Foreign Affairs of Russia No. 1570 dated June 28, 2014, No. 1678 dated July 10, 2014, No. 1688 dated July 13, 2014).*”

Based on the analysis of the response, it was decided to ask a clarifying question seeking information on the precise threat that required airspace restriction over the territory of the Russian Federation up to FL 320 but not above.

The consideration for the clarifying question is based on the references to the statements (1570-28-06-2014, 1678-10-07-2014 and 1688-13-07-2014) of the Ministry of Foreign Affairs of the Russian Federations that refer to low-altitude artillery shootings.

#### Q13 — Decision-making: Adjacent FIR coordination

The response notes the area of flight information in which the armed conflict was taking place was not in the Russian Federation. Therefore, it reiterates the position that Russia had no responsibility for “*safe passage*” through an FIR outside its jurisdiction. There is a long argument about the Ukrainian restriction of airspace above FL 320 while reserving the airspace underneath for military aviation operations. The argument provided by the Russian Federation is that FL 320 and FL 330 are separated by 1,000 ft, which in reduced vertical separation airspace (RVSM) is not sufficient vertical separation between non-RVSM and RVSM-equipped and certified aircraft. This argument is not related to the subject and the scope of this study.

#### Q14 — Promulgation: Publish or not, and how

The response repeats the reference to various documents and answers in Q11 and Q12.

Responsible authorities are identified as:

- Federal Air Transport Agency (Rosaviatsiya);
- Federal State Unitary Enterprise “State Air Traffic Management Corporation of the Russian Federation”; and,
- Federal State Unitary Enterprise “Aeronautical Information Centre” Airspace user, whose activities create a hazard to the safe use of airspace.

#### Q15 — Promulgation: Verify and validate

The response notes that information is contained in various referenced documents. In terms of verification and validation, it was only stated that “*after receiving raw*

*aeronautical data and raw aeronautical information, the aeronautical information authority shall verify, register and process them” and that “[i]f the raw aeronautical data and raw aeronautical information do not meet the requirements, the aeronautical information authority shall send them back to the providers (compilers) of raw aeronautical data and raw aeronautical information for refinement.”*

#### **Q16 — Promulgation: Special advisories and threat information**

The response references ICAO guidance and other documentation and notes the process for producing NOTAMs. It mentions that the Russian aircraft operators are responsible for collecting and disseminating information.

Following the analysis of the information received from the Russian Federation, we concluded that there are a number of questions that remain open. However, to respect the timeline of our inquiry, we decided to concentrate only on some CQs. The CQs were formulated and subsequently communicated to the Russian Federation.

The Russian Federation replied with a letter containing responses to the clarifying questions. The responses from the Russian Federation as received are included in Appendix C. Hereafter, we provide a question-by-question discussion of the received responses. The discussion is based on analysis of the responses provided in Russian and on the unofficial translation in English.

#### **CQ1 — What threat information about the presence of air defence equipment in eastern Ukraine that was not controlled by government forces and which could have reached the respective airspace in URVV FIR above Flight Level 250 was identified, when and by which authority?**

The response clearly answers that *“Russian authorities did not have any information regarding the presence of air defence equipment on the territory of Ukraine that was not controlled by the armed forces of the Ministry of Defence of Ukraine and which could hit targets in the Rostov-on-Don FIR above FL 250.”*

The response also notes that *“Rosaviatsiya identified a threat to flight safety itself due to Ukraine’s regular shooting of the Russian border areas.”*

Additionally, the response provides that *“it is incorrect to focus only on threats posed exclusively by air defence systems capable of hitting targets at high altitudes.”* However, security risk for civil aviation at low altitude is outside the scope of this inquiry.

The response also provides discussion, in the same manner as the answers to the questionnaire mentioned earlier, that the way the buffer zone for protecting the military operations has been defined by Ukraine would, in accordance with the relevant Ukrainian provisions for RVSM airspace, require 600 m (2,000 ft) separation

between the upper limit of the reserved airspace and aircraft above it. However, this issue is outside the scope of the present inquiry. Moreover, air defence equipment that can reach FL 330 would be reasonably expected to be able to reach FL 340 as well.

#### **CQ2 — What intent to attack with air defence equipment in eastern Ukraine that was not controlled by government forces and which could have reached the respective airspace in URVV FIR above Flight Level 250 was identified, when and by which authority?**

The response says, *“When taking a decision to issue NOTAM V6158/14, the Russian airspace authorities did not have information that governmental or non-governmental entities on the territory of Ukraine deployed air defence equipment capable of downing aircraft at high altitudes in the conflict zone and could use it in the armed conflict by mistake or negligence.”*

The answer does not respond to the question about known intent but provides an answer to another question — about knowledge of air defence equipment deployment.

What can also be seen in the answer is that it is not referring to the defined time period in the request to the Russian Federation, namely *“for the period of 1 March 2014 and up to and including the moment of complete closure of the airspace subsequent to the downing of MH17.”* Instead, the answer restricts the referenced time to *“[w]hen taking a decision to issue NOTAM V6158/14.”* That NOTAM was issued on 16 July 2014 and it is not known when exactly the decision to issue it was taken.

Additionally, the question asks about knowledge of any authority and the answer refers only to *“the Russian airspace authorities.”*

In summary, it can be concluded that the question about Russian authorities’ knowledge of intent to attack was not answered.

#### **CQ3 — What were the specific reasons for restricting the airspace with NOTAM V6158/14, why were there several restrictions in one NOTAM, and to which of the restrictions in the NOTAM apply the items F) and G), specifying surface as lower height limit and FL 530 as upper height limit?**

As a reason for airspace closure, the response references the Russian Ministry of Foreign Affairs *“information concerning the risks to people and objects on the territory of the Russian Federation.”* This information as provided in the answers to the other questions is on the basis of some statements from the Russian Ministry of Foreign Affairs, where the threat is identified as low-level artillery shootings. For the specific reason to close the airspace, the answer refers again to the reasons provided in NOTAM V6158/14: *“Due to combat actions on the territory of the Ukraine near the state border with the Russian Federation*

*and the facts of firing from the territory of the Ukraine towards the territory of the Russian Federation.”*

In respect to the altitude restrictions in NOTAM V6158/14, the response provides that the relevant airway restriction for Flight MH17’s planned trajectory was from ground surface to FL 320 as provided in item E) of the NOTAM. The response answers that the information in the NOTAM items Q), F) and G) for restriction from ground to FL 530 is “*concerning the use of the arrival/exit routes to and from the Rostov-on-Don airport*” that are not related to Flight MH17’s planned trajectory. The Russian language version of the answer provides explanation about the upper limit of FL 530 as the maximum available Flight Level as per the Russian Federation Aeronautical Information Publication (AIP).

**CQ4 — NOTAM V6158/14 promulgated, among other things, a restriction with an upper height limit of FL 320, referring to “the facts of firing from the territory of the Ukraine towards the territory of Russian Federation.” What was the precise threat that required airspace restriction over the territory of the Russian**

**Federation up to FL 320 but not above, considering that in the references you provided the statements (1570-28-06-2014, 1678-10-07-2014 and 1688-13-07-2014) of the Ministry of Foreign Affairs of the Russian Federations refer to low-altitude artillery shootings?**

The answer highlights that the Ukrainian NOTAMs used to restrict the airspace did not provide the reason for it.

The answer highlights some instances of GPS signal jamming over eastern Ukraine, reported by “*Russian air companies*” and reported airspace violations.

The answer points again to the Russian Ministry of Foreign Affairs statements about low-level threats as a reason for airspace closure.

The answer explained the selection of FL 320 as an upper limit to the airspace restriction, “*same as in the Ukrainian NOTAMs A1492/14 and A1493/14,*” because “*Rosaviatsiya did not have any other, more or less credible information provided by the Ukrainian side, which would allow [it] to forecast the vertical limit of the hazard zone for civil aviation flights.*”

## 7. Discussion on Ukraine and Russian Federation Threat Awareness

### 7.1. Discussion Framework

This section discusses the Foundation’s observations regarding Ukraine and Russian Federation threat awareness prior to the downing of Flight MH17. The threat was associated with the presence of air defence equipment in eastern Ukraine that could reach civil aircraft operating above the airspace that was closed to them. Discussion of the publicly available information about the capability to attack which could have contributed to threat awareness for the relevant authorities is related mainly to quadrants 1 and 2 from Figure 18 and discussion regarding what relevant Ukrainian and Russian Federation authorities knew about the threat is related to quadrants 3 and 4.

One important part of our inquiry was identifying when information about the threat reached:

- Those responsible for analysing security risk levels in civil aviation airspace over a conflict zone, and
- Those establishing restrictions of airspace in a conflict zone.

This is illustrated in Figure 20, where the respective stages from the Foundation’s Integrated Standard for Airspace Security Risk Assessment are outlined.

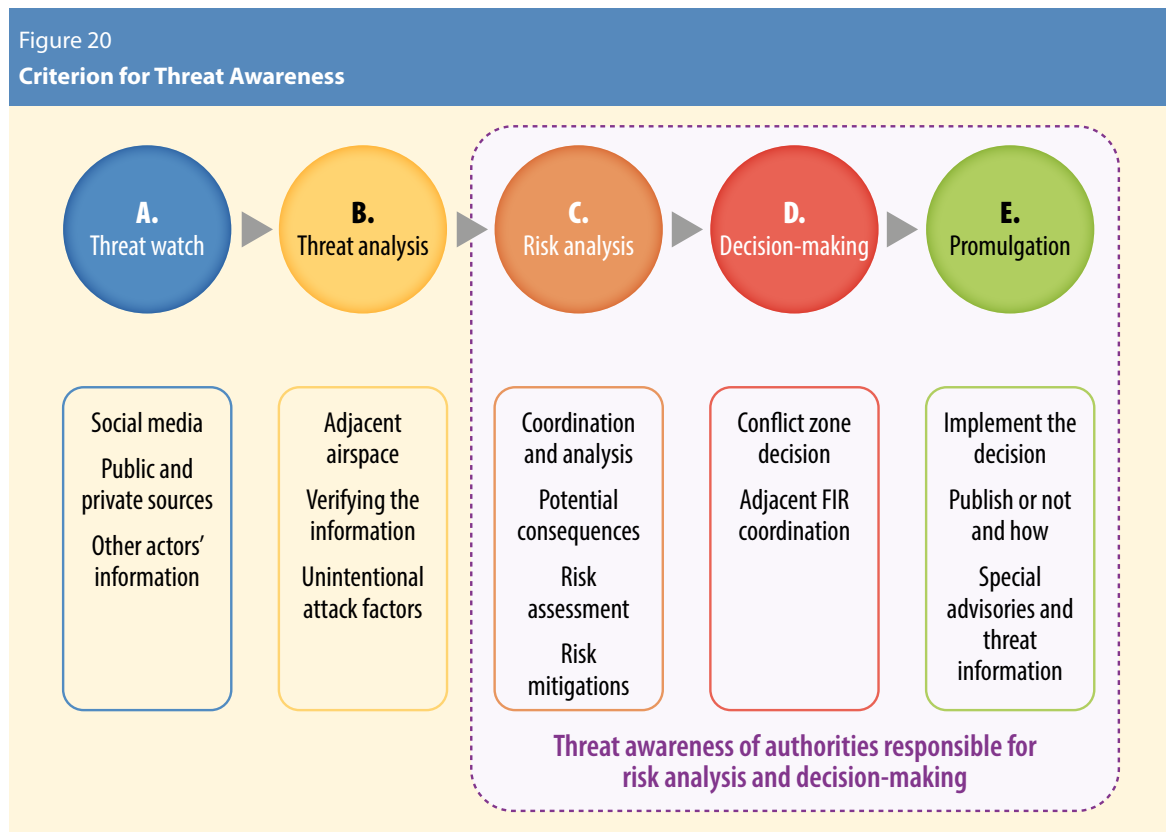
Threat information reaching the Risk Analysis and Decision-Making steps (C and D) in the process is the Foundation’s criterion for threat awareness at the level of the statewide process. Using this criterion, unverified social media posts, other media reports or the potential presence of information in intercepted but unprocessed communications do not represent sufficient facts for realistic threat awareness. This is because verified threat awareness is not available to those responsible for risk analysis and decision-making.

### 7.2. Risk Analysis and Decision-Making Responsibilities

To use the criterion for threat awareness at the level of the statewide process in a reliable manner, it is necessary to identify which authorities are responsible for assessing security risk levels in civil aviation airspace and which are responsible for establishing restrictions or segregations of airspace in a conflict zone.

With respect to Ukraine, UkSATSE and SASU, as stated in the DSB Investigation report section 6.1, are responsible for airspace management at the tactical, pre-tactical and strategic levels. As noted in 6.2 of the DSB report — the process for threat analysis and coordination for

Figure 20  
Criterion for Threat Awareness





the airspace below FL 260 involved discussion between Ukrainian military authorities and UkSATSE about the accidents involving military aeroplanes being shot down and a request on 5 June 2014 from the military authorities “...to restrict civil aviation’s use of the airspace below FL260 to protect military aircraft from these attacks and to be able to give priority to air force operations...”

In summary, the overall process as described in the DSB report was “...that the Ukrainian Air Force submitted the request to UkSATSE for further processing of the temporary airspace restriction below FL260. UkSATSE processed this request and sent it to the military authorities for verification. Once the General Staff agreed to the details, it sent the request to the Ukrainian aviation authority, SASU.”

It is important to note that the process referenced in the DSB report did not describe any analysis of the threat to civil aviation but instead considered the military authorities’ analysis of the threat to military aviation. “[T]hose responsible at UkSATSE stated that they had no influence on the decision to restrict the use of airspace,” the report said.

In the responses Ukraine provided to the standard procedure and decision-making questionnaire, SASU was clearly identified as the authority that “constantly conducts a general assessment of threats to civil aviation security on the basis of information received from the Security Service of Ukraine; Ministry of Defence of Ukraine; Ministry of Internal Affairs of Ukraine; Foreign Intelligence Service of Ukraine; airport operators; aircraft operators; air navigation service providers; and other sources, social media included.”

From the statement in the DSB report that “[a]fter an emergency beacon was activated at around 13.20, indicating that flight MH17 had crashed, UkSATSE made the decision at 15.00, at the tactical level, to also restrict the airspace above FL320.” It could be deduced that UkSATSE was among the authorities responsible for the airspace closure decision-making related to civil aircraft security risk. This was confirmed<sup>91</sup> through answers to our directed questions — “Prohibitions or restrictions on the use of airspace are established by the State Aviation Administration of Ukraine or the authorities involved in the Joint Civil-Military System at the request of the competent authorities and users of airspace.”

Additionally, the DSB report said that “UkSATSE has the mandate to close or restrict parts of the airspace for brief periods of time at the tactical level. Airspace closures and restrictions at the strategic or pre-tactical levels are coordinated by Ukraerocenter and the State Aviation Administration (SASU) in close cooperation with the General Staff of the Armed Forces. SASU exercises decisive authority with regard to airspace closures.”

With respect to the Russian Federation, the risk analysis and decision-making authorities have been identified

from the responses received to the standard procedure and decision-making questionnaire. No answer was provided relative to the responsible authorities for risk analysis.

For the security of airspace decision processes in the Russian Federation, including establishing restriction or segregation of airspace in a conflict zone, the identified authorities are:

- The Federal Agency for Air Transport (Rosaviatsiya). Rosaviatsiya is the Russian government agency responsible for overseeing the civil aviation industry in Russia. It is also called the Russian Federation Civil Aviation Administration.
- Federal State Unitary Enterprise “State Air Traffic Management Corporation of the Russian Federation.”
- As reported in the response: “A user of airspace whose activity poses a threat to the safety of airspace use.”

### 7.3. Risk Assessment

As part of a systemic assessment of threat awareness, the intent of this analysis is to understand if it was theoretically possible for the risk to commercial aviation to be assessed in the specific circumstances leading up to the downing of Flight MH17.

Threat, as per the Foundation methodology, is composed of four distinct factors (that collectively may give rise to threat to civil aviation): capability, intent, possibility for an unintentional attack and the conflict parties’ command and control. Capability includes weapon technical means and human capacity and capability to operate the technical system. Without the intent to use the capability, there is no threat unless the use of the capability is accidental. Whilst the use of a weapon system can be deliberate at the operator level, this may be contrary to the true intent at a political-military strategic level.

It is key to note that the continuous assessment of the security risk for civil aviation defined in the Foundation’s Integrated Standard for Airspace Security Risk Assessment uses as inputs information about the four distinct factors of the threat and not only information about capability to attack. Indeed, one may not have information about capability to attack but all the other factors may combine in a way that increases the assessed risk levels to close to critical. In other words, a state may not be aware of a capability to attack and still can perform a meaningful risk analysis.

It follows also that awareness of a capability is not sufficient in itself to fully inform a judgment about the risk of an attack. Without indications of intent, such as unconstrained hostilities (e.g. war) or political statements, any judgment of risk must consider other factors, including whether the capability is under suitable control.

<sup>91</sup> Considering that the DSB report identified Integrated Civil-Military ATM System of Ukraine “... as part of the UkSATSE air traffic control service”

Lack of suitable control would be a significant aggravating factor and, similarly, poor operator training would arguably increase the risk of a possibility of unintentional attack. The question then arises as to how a controlling authority could come to a valid conclusion on risk without access to sophisticated and timely intelligence.

To understand the risk, Table 6 (p. 83) provides an overview of the indicators of likelihood of attack for the airspace of Ukraine and the Russian Federation in the same format the other conflict zones were investigated. This presentation can also allow those interested to compare the different assessments.

There are some important caveats to be introduced here.

Two assessments were made — one with hindsight knowledge and one with foresight knowledge.

The assessment made with hindsight knowledge is a reflection after the fact, in which the results of how the situation evolved are known and many of the associated factors have surfaced over time. This is not the same as the situation seen in foresight from the perspective of a reasonable person that:

- Detects many weak signals that are shaping countless possibilities on how the situation may evolve in the future, and
- Needs to make a decision under pressure of time and with limited information.

Another caveat relates to the Foundation's use of a contemporary risk assessment methodology and algorithms that were not available at the time. The hindsight caveat is the most crucial. Because the hindsight analysis was performed after the event, it relies on the view of a knowledgeable person who possessed all the information. However, much of the most relevant information only became available after the downing of Flight MH17, and that knowledge would at the time have been distributed amongst several authorities. For example, because it is now known that Flight MH17 was downed by a missile, the capability to attack clearly existed at the time whether this was known to the authorities or not.

The hindsight assessment describes the risk that would have been assessed had all the information detection, processing and coordination functioned perfectly. This understanding will allow the reader to assess the now exposed gaps against an ideally functioning process.

With this hindsight in mind, the situation in each airspace (Ukrainian and Russian Federation) was reviewed relative to the set of 10 pre-determined "*indicators of likelihood of attack*."

In the specific case of the Russian Federation assessment, apart from the risk factors in the adjacent Ukrainian airspace, the physical proximity and the range of the threat indicates that the conflict zone was close enough to affect Russian Federation airspace.

In the Foundation algorithm, the capability to attack by at least one party is used as the primary indicator of likelihood of attack, because the presence of an air defence system that can target aircraft above FL 250 is the key enabling risk factor. As mentioned above, it is considered that long-range SAMs capable of hitting an aircraft at cruising level were present

The next indicator of likelihood of attack relates to civil aircraft operations over or close to a conflict zone at high altitude; based on the information provided in the DSB investigation report, it is accepted that there was substantial traffic volume, including international overflights.

Another key indicator of likelihood of attack in the algorithm sequence involves known intent to attack. It is clear from reviewing publicly available information that armed non-state forces operating in eastern Ukraine had the motivation and intent to target Ukrainian military aircraft operating in the region. Those forces also repeatedly demonstrated their capability to successfully attack helicopters and low-flying fixed-wing military aircraft with an assortment of weapons, including MANPADS and other anti-aircraft defence systems. There were no known attacks on civilian aircraft in the region and no publicly available information about intent to attack civil aviation.

The next indicator of likelihood of attack involves military aviation activities, and more specifically, the fact that military aviation was being operated by Ukrainian government forces and there was more than occasional use of military aircraft to transport ground troops or military equipment.

There was a widely reported conflict between a state (Ukraine) and armed non-state forces. The armed conflict involved medium to large scale military activities and heightened political tension.

The risk assessment algorithm subsequently examines the risk factors for unintentional attack. The studied situation shown in Table 6, apart from the already mentioned indicators, assesses SAM operators' experience and the chain of command and capability to differentiate between civil and military aircraft. When in the algorithm we assess the scenario of an unintentional attack, and considering that the attack actually took place, these factors with hindsight are assessed to be to be low level of control and marginal capability to differentiate between civil and military aircraft.

Finally, it seems unlikely that there were large or medium scale military air combat activities above FL 250 in the airspace above eastern Ukraine.

In the hindsight assessment, the analysed set of risk factors for unintentional attack, in their aggregation, point to a very high likelihood for unintentional attack and high risk at high altitudes without airspace restriction. This resultant risk is illustrated in the Table 6 column "Overall indication of likelihood of attack above FL 320" in the sub-column "Without airspace restrictions."

Table 6

Overview of the Conflict Zone Hindsight and Foresight Analyses

		Command and control factors		Risk factors for an unintentional attack											
		No information		Capability to attack					Intent to attack						
High likelihood indication		Medium likelihood indication		Low likelihood indication		A. Parties	B. Armed conflict scale and/or tensions	H. SAM operators' experience and chain of command	C. Military air transport activities	J. Civil aircraft operations (with airspace restrictions)	D. Military air combat activities	G. Capability to differentiate between civil and military aircraft	F. Capability to attack by at least one party	E. Known attacks	I. Known intent to attack (civil a/c)
Airspace Restrictions above FL 320	With actual airspace restrictions	Without airspace restrictions	Overall likelihood of attack above FL 320												
<b>Hindsight Assessment</b>															
Assessment of the likelihood of attack in eastern Ukraine airspace	No restrictions														
Assessment of the likelihood of attack in Russian Federation airspace	No restrictions														
<b>Foresight Assessment with low indication of capability to attack</b>															
Assessment of the likelihood of attack in eastern Ukraine airspace	No restrictions														
Assessment of the likelihood of attack in Russian Federation airspace	No restrictions														
<b>Foresight Assessment with medium indication of capability to attack</b>															
Assessment of the likelihood of attack in eastern Ukraine airspace	No restrictions														
Assessment of the likelihood of attack in Russian Federation airspace	No restrictions														
<b>Foresight Assessment with medium indication of capability to attack</b>															
Assessment of the likelihood of attack in eastern Ukraine airspace	No restrictions														
Assessment of the likelihood of attack in Russian Federation airspace	No restrictions														

In the assessment scenario that includes the actual airspace restrictions, the aggregated likelihood for unintentional attack is still very high and the overall likelihood of attack is high because the actual airspace restrictions are up to FL 320 and the overflying aircraft are still exposed to the threat. This resultant risk is illustrated in the Table 6 column “Overall indication of likelihood of attack above FL 320” in the sub-column “With actual airspace restrictions.”

Knowing that Flight MH17 was downed, in hindsight, it is no surprise that the risk assessment algorithms concluded that the likelihood of attack was high and there was a need for Ukrainian and Russian Federation authorities to close the airspace.

Therefore, the Foundation performed a second assessment — a foresight assessment — from the perspective of the reasonably available information prior to the downing of Flight MH17. The indicators about SAM operators’ experience and the chain of command and capability to differentiate between civil and military aircraft are assessed to be to be low level of control and marginal capability to differentiate between civil and military aircraft. As described in the analysis of conflict zones during the 1990–2014 period, even without the hindsight knowledge of the attack, and to be conservative in the risk assessment, we could consider the indicator to be associated with irregular forces that do not have an organised specific reporting channel, a protocol for authorising SAM attack or a capability to differentiate between civil and military aircraft as regular military forces would have.

The main difference from the already described assessment with hindsight knowledge using the set of 10 pre-determined “*indicators of likelihood of attack*” is the information available about the capability to attack civil aviation above FL 320.

As shown in Table 6, the aggregated risk factors for an unintentional attack and command and control factors (that are the same for the hindsight and for the foresight assessments) are almost at the maximum possible level. In such a situation, the assessed risk is therefore extremely sensitive to any information about capability to attack.

In such a situation, following the Foundation’s methodology, the indicator of capability to attack should not be considered as a binary choice of “*present*” or “*not present*.” Instead, the indicator of capability to attack should be considered as a likelihood range. If the capability to attack indicator is assessed as low, then the overall risk would be also low. But if the indicator of capability to attack is assessed as medium or high, then (considering that almost all the other factors are high) the resultant overall likelihood of attack will also be high — see Table 6. This makes

the discussion about threat awareness very crucial for understanding the risk management.

In summary, the Foundation finds that in a situation in which risk is highly dependent on an uncertain factor such as capability to attack, the risk assessment should take the side of caution when there is information about capability to attack that is not necessarily certain and validated but that is characterised to be above a pre-defined threshold level of certainty — e.g. unverified intelligence reports.

#### 7.4. Ukraine Awareness of Threat to Civil Aircraft

The discussion on the threat awareness is twofold — a discussion on reported threat awareness (concerning Quadrants 3 and 4 in Figure 18) and a discussion on the potential threat awareness (concerning Quadrants 1 and 2 in Figure 18).

The discussion on the reported threat awareness is about what authorities said they knew about the threat at an altitude above FL 320. We studied what authorities said in public (both before and after the downing of Flight MH17) and their responses to our questionnaires. This discussion is different from what information was available in the public and private space about a threat (social media, other publications and intelligence).

The Foundation’s research did not find any instances *before* (quadrant 3 in Figure 18) the downing of Flight MH17 in which Ukrainian authorities publicly acknowledged the presence in eastern Ukraine of air defence systems capable of reaching an altitude greater than FL 320.

The Foundation identified from information made publicly known *after* (quadrant 4 in Figure 18) the downing of Flight MH17 that some Ukrainian authorities (counterintelligence services) suspected the presence of air defence equipment that could reach high altitudes — “*first information ‘hinting’ at a Buk launcher in the possession of the non-state forces was received on 14 July and came from counterintelligence units.*”<sup>92</sup> This information corresponds to Group A from the Foundation Standard, namely threat watch as shown in Figure 20.

However, no facts were found that this information had been verified per the functions in Group B from the Foundation Standard — “*But we could not confirm directly that it was Buk missile launcher that trespassed illegally [in] Ukrainian territory.*”<sup>93</sup> Similarly, no facts were found by the Foundation that the information was disseminated through the statewide process to reach the authorities responsible for risk assessment and decision-making regarding airspace closure.

**Finding 6: This inquiry did not find sufficient facts that Ukrainian authorities responsible for analysing security risk levels in civil aviation airspace and those**

<sup>92</sup> <https://www.youtube.com/watch?v=PWtH8AA42Fc&feature=share>

<sup>93</sup> <https://www.youtube.com/watch?v=PWtH8AA42Fc&feature=share>

**establishing restriction of airspace in a conflict zone<sup>94</sup> were aware of a threat to civil aviation before the downing of Flight MH17.**

The discussion on the potential threat awareness is about what information existed in the public and private space about a weapon. This discussion is not about the reported threat awareness of relevant authorities (already discussed previously).

It is clear from publicly available information that the conflict in eastern Ukraine was in an active combat phase in the weeks prior to the downing of Flight MH17.

Both the Ukrainian military and armed non-state forces were using small arms, heavy calibre machine guns, artillery, anti-tank weapons, tanks, and various air defence systems. In addition, Ukraine was employing rotary- and fixed-wing aircraft for transport and attack purposes; Ukraine alleged that Russian aircraft also had been used to attack Ukraine aircraft. Ukraine apparently had some success attacking non-state ground forces with aircraft and also suffered a number of aircraft losses.

There was a widespread belief among Ukraine and Western states that the Russian Federation was supplying weapons, including heavy weapons, and personnel to support armed non-state forces in the conflict area. But as the DSB report stated, *“despite the Western political and military focus on the conflict, its escalation and its air component, none of the politicians or authorities quoted publicly made a connection between the military developments in the eastern part of Ukraine and risks to civil aviation.”*

There were numerous reports about the presence of heavy weapons in the region, such as tanks, MANPADS, artillery and large calibre machine guns. However, there were relatively few reports in the public space about armed non-state forces possessing weapons with a capability to attack above FL 320. For example, there are conflicting accounts relating to the altitude at which a Ukrainian An-26 was flying when it was shot down on 14 July, although the aircraft was thought by some to have been brought down with a SAM system.

The most notable publicly available information about the capability to attack at high altitudes before the downing of Flight MH17 was from social media posts about Buk missile systems. Some of these posts were about the movement of Buk batteries in Russian territory bordering Ukraine and some were about Buk missile systems being observed in eastern Ukraine a few hours before the downing of Flight MH17. The Foundation acknowledges that these were just a few instances of published social media

posts out of probably millions of posts from the region at that time. It should also be stressed that it is difficult to establish the veracity of published social media accounts.

In addition, the Foundation did not identify any information available in the public space that would have verified the reports about the capability to attack above FL 320 prior to the Flight MH17 attack taking place. The identified number of cases of publicly available information indicating the potential presence of capability to attack above FL 320 were occasional relative to the volume of all the publicly available information about the conflict zone at the time.

With hindsight, some facts made available after the downing of Flight MH17 pointed to the possibility for some authorities to have processed information and understood that there may have been a threat to civil aviation. Namely, these are some of the 150,000 telephone conversations<sup>95</sup> intercepted and the counterintelligence field information discussed previously.

However, without knowing the actual technological capabilities, preparedness and direction to process on time these intercepted telephone conversations and social media posts, it is not possible for the Foundation to conclude that the Ukrainian authorities had the means to verify the intelligence and coordinate dissemination of the information so as to form a more accurate assessment of the risk to civil aviation and to have completely closed the airspace in time to prevent the attack on Flight MH17.

**Finding 7: This inquiry did not find sufficient facts that Ukrainian authorities responsible for analysing security risk levels in civil aviation airspace and those establishing restriction of airspace in a conflict zone<sup>96</sup> could have had a proper awareness of the high-altitude threat.**

### 7.5. Russian Federation Awareness of Threat to Civil Aircraft

Some of the western part of the Rostov-on-Don FIR airspace of the Russian Federation was near the conflict zone in the eastern Ukraine. Because of its close proximity to the conflict zone, the airspace could have been affected by a threat to civil aviation originating from a potential presence in the conflict zone of long-range air defence equipment not controlled by government forces.

The possibility of a threat to civil aviation was acknowledged in NOTAMs (V6158/14 and A2681/14) issued by the Russian Federation that closed the airspace up to FL 320. It should be noted that an air defence equipment threat reaching FL 320 could also reach the airspace immediately above FL 320.<sup>97</sup>

<sup>94</sup> Responsible authorities are defined in detail in Section 7.2.

<sup>95</sup> On 28 September 2016, during the Joint Investigative Team (JIT) presentation of the first results of the Flight MH17 criminal investigation, it was revealed that more than 150,000 telephone calls were intercepted.

<sup>96</sup> Responsible authorities are defined in detail in Section 7.2.

<sup>97</sup> For example, as reported in the DSB report *“The Buk surface-to-air missile system is able to engage targets at altitudes up to 70,000 or 80,000 feet.”*

The reasons for restricting their airspace, reported by the Russian Federation in an answer to a Foundation directed question, cited statements made by the country's Ministry of Foreign Affairs prior to the downing of Flight MH17. These statements refer only to low altitude threats from artillery.

Responding to a Foundation query regarding the reason for selecting the upper limit for the airspace restriction, the Russian Federation acknowledged that the airspace was closed up to FL 320 and that this altitude limit was the same as the one indicated in the Ukrainian NOTAMs A1492/14 and A1493/14 and that “*Rosaviatsiya did not have any other, more or less credible information provided by the Ukrainian side, which would allow to forecast the vertical limit of the hazard zone for civil aviation flights.*”

In response to the Foundation's query on this matter, the Russian Federation indicated that authorities did not have any information regarding the presence of air defence equipment on the territory of Ukraine that was not controlled by the armed forces of the Ministry of Defence of Ukraine and which could strike targets in the Rostov-on-Don FIR above FL 250.

The Foundation did not obtain satisfactory clarifications from the Russian Federation about any of the Russian authorities' knowledge of intent to attack with air defence equipment that was not controlled by government forces and which could have reached the respective airspace in Rostov-on-Don FIR above FL 250 in eastern Ukraine.

The Foundation's research did not find any other instances where Russian Federation authorities publicly acknowledged before or after the downing of Flight MH17 the presence in eastern Ukraine of air defence systems capable of reaching an altitude of greater than FL 320.

**Finding 8: This inquiry did not find sufficient facts that Russian Federation authorities responsible for analysing security risk levels in civil aviation airspace and those establishing restriction of airspace in a conflict zone<sup>98</sup> were aware of a threat to civil aviation before the downing of Flight MH17.**

With regard to any Russian Federation potential threat awareness, the information identified in the public space, and already listed in the discussion about Ukraine, was also available to the Russian Federation, including the social media posts. However, it is assumed in this study that the Russian Federation did not have access to intercepted telephone conversations and intelligence information available to the Ukrainian authorities.

<sup>98</sup> Responsible authorities are defined in detail in Section 7.2.

<sup>99</sup> The JIT, comprised of representatives from the Netherlands, Australia, Malaysia, Belgium and Ukraine, is conducting a criminal investigation into the crash.

<sup>100</sup> <https://www.prosecutionservice.nl/topics/mh17-plane-crash/criminal-investigation-jit-mh17/speakers-text-jit-mh17-press-meeting-24-5-2018>

<sup>101</sup> Responsible authorities are defined in detail in Section 7.2.

Another set of facts from the public information is associated with the JIT<sup>99</sup> that points to a request by the armed non-state forces for a Buk and to the movement of a Buk in the Russian Federation and Ukraine. The JIT reported<sup>100</sup>: “*After an extensive and labor-intensive comparative investigation, in which many BUK-TELARs were involved, the JIT has come to the conclusion that the BUK-TELAR that shot down flight MH17 comes from the 53rd Anti Aircraft Missile Brigade, or the 53rd Brigade from Kursk in the Russian Federation. This 53rd Brigade is a unit of the Russian armed forces.*” This JIT conclusion has been disputed and denied by the Russian Federation.

However, the purpose of the present analysis is to identify if the relevant authorities responsible for risk analysis and decision-making could have had a proper threat awareness irrespective of the origin of the of the weapon system. The Foundation did not identify sufficient facts that such threat awareness existed to relevant authorities.

Apart from the discussion on the accessibility of the information, another important aspect of the Russian Federation risk analysis and decision-making can be deduced from the Russian Federation standard procedure and decision-making protocols. In response to a Foundation inquiry relating to standard procedures and threat knowledge, the Russian Federation stated: “*Threats to air traffic safety in the Rostov-on-Don FIR stemmed from the dangerous activities in the area of responsibility of the adjacent Dnepropetrovsk FIR.*” Further, it was stated that “[a]ll possible risk factors for an unintended attack should be considered” and that “[s]uch preparations should include an assessment of the risk to civil aircraft operations due to a military conflict or incidents of unlawful interference with civil aviation”

After acknowledging the source of the threat in the neighbouring territory and, in general the need to consider all risk factors, the Russian Federation did not acknowledge the responsibility to determine the risk factors for an unintentional attack in Russian Federation airspace originating from the close proximity to the conflict zone in the eastern Ukraine. With respect to the issue of which authorities were responsible, the response was: “*The state responsible for compliance with the rules for the introduction of restrictions on the use of airspace over an armed conflict zone (Ukraine, in relation to the MH17 crash).*”

**Finding 9: This inquiry did not find sufficient facts that Russian Federation authorities responsible for analysing security risk levels in civil aviation airspace and those establishing restriction of airspace in a conflict zone<sup>101</sup> could have had a proper awareness of the high-altitude threat.**

## Appendix A

### Conflict zones case studies

#### Bosnian war 1992–1997

##### Likelihood of attack indicators

<p><b>A. Parties:</b></p> <ol style="list-style-type: none"> <li>1. Conflict between states.</li> <li>2. Conflict between non-state armed groups and state(s) or civil wars.</li> <li>3. Conflict between non-state armed groups.</li> </ol>	<p><b>Conflict between non-state armed groups and state(s) or civil wars.</b></p> <p><b>Conflict between states.</b></p> <p><i>The conflicting parties in the Bosnian war were: Croatia, Bosnia and Herzegovina, Herzeg-Bosnia, Republika Srpska, Serbian Krajina, Western Bosnia, FR Yugoslavia. NATO Operation Deny Flight and Operation Deliberate Force.</i></p>
<p><b>B. Armed conflict scale and/or tensions:</b></p> <ol style="list-style-type: none"> <li>1. Terrorism and/or international political tension.</li> <li>2. Insurgency (small-scale military activities) and/or medium increasing political tension.</li> <li>3. Large-scale military activities and/or heightened international political tension.</li> </ol>	<p><b>Large-scale military activities and/or heightened international political tension.</b></p> <p><i>There were more than 20 large military operations or battles during the war, including the siege of Sarajevo.</i></p> <p><i>On 29 August 1995 Operation Deliberate Force was launched by NATO involving 400 aircraft and over 3,515 sorties. It continued until 20 September 1995.</i></p>
<p><b>C. Military air transport activities:</b></p> <ol style="list-style-type: none"> <li>1. Military air transport activities not reported.</li> <li>2. Occasional use of aircraft to transport ground troops or military equipment.</li> <li>3. More than occasional use of aircraft to transport ground troops or military equipment by at least one party.</li> </ol>	<p><b>More than occasional use of aircraft to transport ground troops or military equipment by at least one party (such aircraft may be more difficult to distinguish from civil aircraft, particularly where operating near airways and close to civil aircraft cruising altitudes).</b></p> <p><i>In 1992 the United States recognized the independence of Bosnia and Herzegovina and soon after began airlifting food and supplies from Italy.</i></p> <p><i>United Nations forces took control of the Sarajevo airport and authorized an international airlift of humanitarian supplies.</i></p> <p><i>United States launched Operation Provide Promise on 3 July 1992 to provide airlift.</i></p>
<p><b>D. Military air combat activities:</b></p> <ol style="list-style-type: none"> <li>1. No military air combat activities.</li> <li>2. Small-scale (occasional) military air combat activities and/or some activities above FL 250.</li> <li>3. Large- to medium-scale military air combat activities and/or regular activities above FL 250</li> </ol>	<p><b>Large- to medium-scale military air combat activities.</b></p> <p><i>Military combat activities involving multiple regional parties and NATO.</i></p>
<p><b>E. Known attacks:</b></p> <ol style="list-style-type: none"> <li>1. Conflict area without publicly reported security incidents involving military and civil aviation.</li> <li>2. Conflict area with single security-related reported incident/accident involving military (or civil) aviation.</li> <li>3. Conflict area with multiple reported security-related incidents/accidents involving military (or civil) aviation.</li> </ol>	<p><b>Conflict area with multiple reported security-related incidents/accidents involving military (or civil) aviation.</b></p> <p><i>On 3 September 1992 an Italian Air Force (Aeronautica Militare Italiana) G.222 was shot down when approaching Sarajevo airfield while conducting a United Nations relief mission. It crashed 18 miles (29 km) from the airfield.</i></p> <p><i>On 28 February 1994, six Republika Srpska Air Force J-21 Jastreb jets were engaged, and four of them shot down, by NATO warplanes from the U.S. Air Force</i></p> <p><i>On 16 April 1994 a Sea Harrier of the UK Royal Navy 801 Naval Air Squadron, operating from the aircraft carrier HMS Ark Royal, was brought down by a Igla-1 surface-to-air missile fired by the Army of Republika Srpska while attempting to bomb two Bosnian Serb tanks over Gorazde.</i></p> <p><i>On 28 May 1995 a Mi-17 was shot down by a missile from an 2K12 Kub mobile SAM launcher. The attack killed the Bosnian Minister Irfan Ljubijankić, a few other politicians, and the helicopter's Ukrainian crew.</i></p> <p><i>On 2 June 1995 a US Air Force F-16C was shot down at 6000 meters altitude by a missile launch from an 2K12 Kub mobile SAM launcher.</i></p> <p><i>On 30 August 1995 a French Air Force Dassault Mirage 2000N was shot down by SAM-14 or DCA after bomb release on munition storage — Deny Flight mission.</i></p>
<p><b>F. Capability to attack by at least one party:</b></p> <ol style="list-style-type: none"> <li>1. No information for capability to attack with range above FL 250.</li> <li>2. Air-to-air missiles launched from fighter aircraft (and no SAMs).</li> <li>3. Long-range surface-to-air missiles (SAMs) that can hit an aircraft at cruising level.</li> </ol>	<p><b>Long-range surface-to-air missiles (SAMs) that can hit an aircraft at cruising altitude.</b></p> <p><i>2K12 Kub mobile SAM. The 2K12 "Kub" (NATO reporting name: SA-6 "Gainful") mobile surface-to-air missile system is a Soviet low to medium-level air defence system designed to protect ground forces from air attack.</i></p>

**Bosnian war 1992–1997 (continued)**

<p><b>G. Capability to differentiate between civil and military aircraft:</b></p> <ol style="list-style-type: none"> <li>1. Differentiation supported by radar, electronic identification and non-cooperative target recognition systems measuring signature using acoustic and thermal radiation, radio emissions, radar techniques.</li> <li>2. Differentiation supported by radar and electronic identification (e.g., identification, friend or foe (IFF), secondary surveillance radar (SSR).</li> <li>3. Differentiation supported only by radar tracks.</li> </ol>	<p><b>Differentiation supported only by radar tracks — for some of the armed forces.</b></p>
<p><b>H. SAM/AAM operators' experience and chain of command:</b></p> <ol style="list-style-type: none"> <li>1. Regular forces.</li> <li>2. SAMs in the possession of irregular military forces OR an absence of robust SAM/AAM command and control procedures for authorizing launch.</li> <li>3. SAMs in the possession of irregular military forces AND an absence of robust SAM/AAM command and control procedures for authorizing launch.</li> </ol>	<p><b>SAMs in the possession of poorly trained, inexperienced personnel OR an absence of robust command and control procedures for authorizing launch.</b></p> <p><i>The SAMs (2K12 Kub mobile SAM) were in possession of the Army of Republika Srpska forces.</i></p>
<p><b>I. Known intent to attack:</b></p> <ol style="list-style-type: none"> <li>1. Known intent to attack military aircraft.</li> <li>2. Known intent to attack civil aircraft.</li> <li>3. Communication of intent and a plan to attack civil aircraft or actual attack against civil aircraft.</li> </ol>	<p><b>Known intent to attack military aircraft.</b></p> <p><i>See the incidents and accidents reported in section E.</i></p>
<p><b>J. Civil aircraft operations over or close to conflict zone (with and without the airspace restrictions if any):</b></p> <ol style="list-style-type: none"> <li>1. No or occasional traffic.</li> <li>2. Small to moderate traffic volume (for example restricted to arrivals and departures to airports).</li> <li>3. Considerable traffic volume, including international overflights.</li> </ol>	<p><b>No or occasional traffic after the restrictions.</b></p> <p><i>Before the airspace closure the airspace of Bosnia and Herzegovina was characterized by considerable overflight traffic volume, with overflights from Turkey, Greece, Middle East and Asia Pacific to Central and Western Europe.</i></p>
<p><b>Airspace Closure</b></p>	
<p><b>Airspace restrictions</b></p> <p>Describes when airspace restrictions were introduced, what airspace they affected and how they evolved over time including:</p> <ul style="list-style-type: none"> <li>• Restrictions by the responsible for the airspace sovereign authority (the state).</li> <li>• Restrictions by others — third parties and/or neighboring states.</li> </ul>	<p><b>1. Restrictions by the responsible for the airspace sovereign authority (the state)</b></p> <p><i>None</i></p> <p><b>2. Others</b></p> <p><i>Note:</i></p> <p><i>Closure of the whole airspace for civil flights occurred in 1992.</i></p> <p><i>Airspace below FL285 was closed from 1997.</i></p>
<p><b>Reasons for airspace restrictions</b></p> <p>Describes the reasons for airspace restrictions, weapons known to be in the area and their range/capabilities, what traffic was vulnerable, known or suspected intent to attack civil aviation and whether there was concern about unintentional attack.</p>	<p><i>Reason for airspace closure of Bosnia and Herzegovina was the war, which started in Bosnia and Herzegovina 6 April 1992. Bosnia and Herzegovina independence was proclaimed in March 1992. There were no aviation authorities in Bosnia and Herzegovina who would issue any official document.</i></p> <p><i>The former Yugoslavia had SAMs and there was threat of their use. In addition, NATO was in the air.</i></p> <p><i>Signing of the Dayton peace accord in November 1995 enabled negotiation on limited opening of Bosnia and Herzegovina airspace — upper airspace above FL 285 in 1997. Lower airspace was closed at NATO's request. NATO used this airspace for their operations.</i></p>



**Bosnian war 1992–1997** *(continued)***Decision-making**

Describes the source(s) of the threat information; who made the decision regarding the restrictions and with whom was the decision coordinated; was the decision-making process different from the normal or standard airspace decision-making process.

*The first step in the closure of airspace was done indirectly. Namely, the two neighboring states, the former Federal Republic of Yugoslavia (FRY) (successor Serbia), and Croatian aviation authorities stopped the traffic to/from Bosnia and Herzegovina. This essentially closed the airspace for international traffic.*

*In March 1993, the United Nations passed Resolution 816, which banned all flights over Bosnia-Herzegovina not authorized by the United Nations. It also authorized NATO to enforce the ban on military flights by shooting down violators. At the request of UN Security Council, NATO declared 'Operation Deny Flight' and a 'no fly zone'.*

*In 1997 FRY, Croatia, Bosnia and Herzegovina and NATO signed agreement on the opening of the airspace above FL285 for commercial air traffic. It was agreed that ATM would be provided by Belgrade and Zagreb ACCs, while Search and Rescue was provided by Bosnia and Herzegovina. Operational boundary for the traffic above FL285 was on the old FIR boundary between Belgrade and Zagreb FIR. It was 40NM west of Sarajevo and Mostar. The whole airspace below FL 285 was controlled by NATO Stabilization Forces (SFOR).*

**Promulgation**

Describes how the restrictions were published, number of the NOTAMs if available, AIS.

*FRY and Croatia published NOTAMs (references not available).*

*NATO published information as well (references not available).*

*Opening of the airspace above FL285 was done by the NOTAM coordinated between FRY, Croatia and supported by the assistance of EUROCONTROL (references not available).*

**Notes**

Other relevant information

*LOAs were signed between all actors in the opening of Bosnia and Herzegovina airspace for civilian traffic.*

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## Croatian war 1991–1995

## Likelihood of attack indicators

<p><b>A. Parties:</b></p> <ol style="list-style-type: none"> <li>1. Conflict between states.</li> <li>2. Conflict between non-state armed groups and state(s) or civil wars.</li> <li>3. Conflict between non-state armed groups.</li> </ol>	<p><b>Conflict between non-state armed groups and state(s) or civil wars.</b></p> <p><i>The conflicting parties in the Croatian war from 1991 until 1995 were Croatia, Federal Republic of Yugoslavia, Serbian Autonomous Oblast of Krjina, Serbian Autonomous Oblast of Eastern Slavonia, Baranja and Western Sylvania, Republika Srpska, Serbian Autonomous Oblast of Western Slavonia.</i></p> <p><i>The war lasted from 31 March 1991 until 12 November 1995.</i></p> <p><i>This conflict was fought by the defence forces of the Croatian government initially against the Yugoslav Army (JNA) until 1992 and local Serbian forces formed as the self-declared Republic of Serbian Krajina (RSK) until 1995.</i></p>
<p><b>B. Armed conflict scale and/or tensions:</b></p> <ol style="list-style-type: none"> <li>1. Terrorism and/or international political tension.</li> <li>2. Insurgency (small-scale military activities) and/or medium increasing political tension.</li> <li>3. Large-scale military activities and/or heightened international political tension.</li> </ol>	<p><b>Insurgency or small-scale military activities.</b></p> <p><i>The Yugoslav People's Army tried to keep Croatia within Yugoslavia by occupying all of Croatia.</i></p> <p><i>After this was unsuccessful self-proclaimed proto-state Republic of Serbian Krajina (RSK) was established within Croatia.</i></p> <p><i>After the ceasefire of January 1992 and international recognition of the Republic of Croatia as a sovereign state the United Nations Protection Force (UNPROFOR) was deployed.</i></p> <p><i>The military activities became largely intermittent in the following three years.</i></p> <p><i>In 1995, Croatia launched two major offensives known as Operation Flash and Operation Storm, and effectively the war was ended.</i></p>
<p><b>C. Military air transport activities:</b></p> <ol style="list-style-type: none"> <li>1. Military air transport activities not reported.</li> <li>2. Occasional use of aircraft to transport ground troops or military equipment.</li> <li>3. More than occasional use of aircraft to transport ground troops or military equipment by at least one party).</li> </ol>	<p><b>Occasional use of aircraft to transport ground troops or military equipment.</b></p>
<p><b>D. Military air combat activities:</b></p> <ol style="list-style-type: none"> <li>1. No military air combat activities.</li> <li>2. Small-scale (occasional) military air combat activities and/or some activities above FL 250.</li> <li>3. Large- to medium-scale military air combat activities and/or regular activities above FL 250</li> </ol>	<p><b>Small-scale (occasional) military air combat activities.</b></p>
<p><b>E. Known attacks:</b></p> <ol style="list-style-type: none"> <li>1. Conflict area without publicly reported security incidents involving military and civil aviation.</li> <li>2. Conflict area with single security-related reported incident/accident involving military (or civil) aviation.</li> <li>3. Conflict area with multiple reported security-related incident/accident involving military (or civil) aviation.</li> </ol>	<p><b>Conflict area with multiple reported security-related incidents/accidents involving military (or civil) aviation.</b></p> <p><i>On 23 August 1991 Croatian forces shot down two Yugoslav G-2 Galeb fighter aircraft using shoulder-launched anti-aircraft missiles.</i></p> <p><i>On 27 December 1991, the Croatian An-2 was shot down during a bombing mission by a SA-6 SAM missile by Republika Srpska.</i></p> <p><i>On 7 January 1992, an Italian Army Agusta-Bell AB-206L LongRanger helicopter, operating as a European Community Monitor Mission and carrying five European Community observers was downed by a Yugoslav Air Force Mikoyan-Gurevich MiG-21,</i></p> <p><i>On 31 July 1994 Air Ukraine An-26 was shot down and crashed.</i></p>

## Croatian war 1991–1995 (continued)

<p><b>F. Capability to attack by at least one party:</b></p> <ol style="list-style-type: none"> <li>1. No information for capability to attack with range above FL 250.</li> <li>2. Air-to-air missiles launched from fighter aircraft (and no SAMs).</li> <li>3. Long-range surface-to-air missiles (SAMs) that can hit an aircraft at cruising level.</li> </ol>	<p><b>Long-range surface-to-air missiles (SAMs) that can hit an aircraft at cruising altitude.</b></p> <p><b>Federal Republic of Yugoslavia:</b></p> <p><i>At the start of the war, the Yugoslav national air defence force possessed more than 100 search radars, eight battalions of SA-2s, six battalions of SA-3s, one battalion of SA-5s, four battalions of SA-6/11s, and 15 regiments of antiaircraft guns. For support of army, there were also SA-9, SA-13 mobile IR-guided SAMs, and thousands of SA-7 and SA-16 shoulder-fired SAMs.</i></p> <p><i>S-75 Dvina (NATO reporting name SA2) is a Soviet-designed, high-altitude air defence system with engagement altitude of 82,000ft.</i></p> <p><i>S-125 Neva/Pechora (NATO reporting name SA3) mobile surface-to-air missile system is a Soviet-made SAM system with engagement altitude of 59,000 ft.</i></p> <p><i>S-200 (NATO reporting name SA-5) is a very long range, medium-to-high altitude SAM system to defend large areas from bomber attack or other strategic aircraft. It has an engagement altitude of 130,000 ft.</i></p> <p><i>2K12 Kub mobile SAM. The 2K12 "Kub" (NATO reporting name: SA-6 "Gainful") low- to medium-level air defence system designed to protect ground forces from air attack with engagement altitude, depending on the modification, of up to 46,000ft.</i></p> <p><i>Other capabilities for lower altitudes: 9K32 Strela-2 (SA-7), 9K31 Strela-1 (SA-9), 9K35 Strela-10 (SA-13), 9K34 Strela-3 (SA-14), 9K310 Igla-1 (SA-16) and mobile AAA batteries (multiple types).</i></p> <p><b>Republika Srpska</b></p> <p><i>2K12 Kub mobile SAM. The 2K12 "Kub" (NATO reporting name: SA-6 "Gainful") mobile surface-to-air missile system is a Soviet low to medium-level air defence system designed to protect ground forces from air attack.</i></p> <p><b>Croatian Army:</b></p> <p><i>The Croatian Army was developed and equipped during the war.</i></p>
<p><b>G. Capability to differentiate between civil and military aircraft:</b></p> <ol style="list-style-type: none"> <li>1. Differentiation supported by radar, electronic identification and non-cooperative target recognition systems measuring signature using acoustic and thermal radiation, radio emissions, radar techniques.</li> <li>2. Differentiation supported by radar and electronic identification (e.g., identification, friend or foe (IFF), secondary surveillance radar (SSR)).</li> <li>3. Differentiation supported only by radar tracks.</li> </ol>	<p><b>Differentiation supported only by radar tracks.</b></p>
<p><b>H. SAM/AAM operators' experience and chain of command:</b></p> <ol style="list-style-type: none"> <li>1. Regular forces.</li> <li>2. SAMs in the possession of irregular military forces OR an absence of robust SAM/AAM command and control procedures for authorizing launch.</li> <li>3. SAMs in the possession of irregular military forces AND an absence of robust SAM/AAM command and control procedures for authorizing launch.</li> </ol>	<p><b>SAMs in the possession of poorly trained, inexperienced personnel OR an absence of robust command and control procedures for authorizing launch.</b></p>
<p><b>I. Known intent to attack:</b></p> <ol style="list-style-type: none"> <li>1. Known intent to attack military aircraft.</li> <li>2. Known intent to attack civil aircraft.</li> <li>3. Communication of intent and a plan to attack civil aircraft or actual attack against civil aircraft.</li> </ol>	<p><b>Known intent to attack military aircraft.</b></p> <p><i>See the incidents and accidents reported in section E.</i></p>

**Croatian war 1991–1995 (continued)**

**J. Civil aircraft operations over or close to conflict zone (with and without the airspace restrictions if any):**

1. No or occasional traffic.
2. Small to moderate traffic volume (for example restricted to arrivals and departures to airports).
3. Considerable traffic volume, including international overflights.

**Small to moderate traffic volume.**

*Considerable traffic volume before the restrictions.*

**Airspace Closure****Airspace restrictions**

Describes when airspace restrictions were introduced, what airspace they affected and how they evolved over time including:

- Restrictions by the responsible for the airspace sovereign authority (the state).
- Restrictions by others — third parties and/or neighboring states.

**1. Restrictions by the responsible for the airspace sovereign authority (the state)**

**None**

**2. Others**

*Partial restriction.*

*Croatian airspace was closed for eight months, starting from August 1991 preceded on 25 June 1991 by a declaration of independence by Croatia.*

**Reasons for airspace restrictions**

Describes the reasons for airspace restrictions, weapons known to be in the area and their range/ capabilities, what traffic was vulnerable, known or suspected intent to attack civil aviation and whether there was concern about unintentional attack.

*References not found.*

**Decision-making**

Describes the source(s) of the threat information; who made the decision regarding the restrictions and with whom was the decision coordinated; was the decision-making process different from the normal or standard airspace decision-making process.

*References not found.*

**Promulgation**

Describes how the restrictions were published, number of the NOTAMs if available, AIS.

*References not found.*

**Notes**

Other relevant information

**References:**

*U.S. Central Intelligence Agency, Yugoslavia: Military Dynamics of a Potential Civil War, March 1991*

*Adria Airways Kronika 1991*

*U.S. Central Intelligence Agency, Combat forces in former Yugoslavia, July 1993*

*Daniel L. Haulman, Air Force historical Research Agency, MANNED AIRCRAFT LOSSES OVER THE FORMER YUGOSLAVIA, 1994–1999, October 2009*

Democratic Republic of the Congo (DRC)	
Likelihood of attack indicators	
<p><b>A. Parties:</b></p> <ol style="list-style-type: none"> <li>1. Conflict between states.</li> <li>2. Conflict between non-state armed groups and state(s) or civil wars.</li> <li>3. Conflict between non-state armed groups.</li> </ol>	<p><b>Conflict between non-state armed groups.</b></p> <p><i>Second Congo War, pitting Congolese forces against rebels and soldiers backed by Uganda and Rwanda, ended in 2002/2003. In 2013, a UN offensive force and Congolese army defeated rebel group M23 Movement. However, more than 100 armed groups, such as the Allied Democratic Forces (ADF), which was driven out of Uganda in the late 1990s, are believed to operate in the eastern region of the DRC. ADF has pledged allegiance to ISIL (ISIS) but researchers say there is no evidence of close collaboration. More than 16,000 UN peacekeepers are stationed in the country as part of what is described as a stabilization mission. There also is tension with neighbouring Rwanda.</i></p>
<p><b>B. Armed conflict scale and/or tensions:</b></p> <ol style="list-style-type: none"> <li>1. Terrorism and/or international political tension.</li> <li>2. Insurgency (small-scale military activities) and/or medium increasing political tension.</li> <li>3. Large-scale military activities and/or heightened international political tension.</li> </ol>	<p><b>Insurgency or small-scale military activities.</b></p> <p><i>DRC military is primarily ground-based. DRC military and UN Peacekeepers are battling insurgent groups in eastern DRC.</i></p>
<p><b>C. Military air transport activities:</b></p> <ol style="list-style-type: none"> <li>1. Military air transport activities not reported.</li> <li>2. Occasional use of aircraft to transport ground troops or military equipment.</li> <li>3. More than occasional use of aircraft to transport ground troops or military equipment by at least one party).</li> </ol>	<p><b>Occasional use of aircraft to transport ground troops or military equipment.</b></p> <p><i>DRC military currently has about a dozen transport aircraft. UN peacekeeping force has 11 fixed wing and 30 rotary wing aircraft.</i></p>
<p><b>D. Military air combat activities:</b></p> <ol style="list-style-type: none"> <li>1. No military air combat activities.</li> <li>2. Small-scale (occasional) military air combat activities and/or some activities above FL 250.</li> <li>3. Large- to medium-scale military air combat activities and/or regular activities above FL 250</li> </ol>	<p><b>No military air combat activities.</b></p> <p><i>Insurgents not known to have aircraft. DRC forces have six fixed wing and eight rotary wing attack aircraft, but most combat activities seem restricted to ground operations.</i></p>
<p><b>E. Known attacks:</b></p> <ol style="list-style-type: none"> <li>1. Conflict area without publicly reported security incidents involving military and civil aviation.</li> <li>2. Conflict area with single security-related reported incident/accident involving military (or civil) aviation.</li> <li>3. Conflict area with multiple reported security-related incident/accident involving military (or civil) aviation.</li> </ol>	<p><b>Conflict area with single reported security-related incident/accident involving military (or civil) aviation.</b></p> <p><i>In Oct. 1998, a 727 crashed after reportedly being struck by a MANPADS while in-flight. Various accounts put death toll at 40 or 41. (In a 1999 incident, a Fokker F27 was struck by gunfire and a possible RPG while parked at an airport.)</i></p>
<p><b>F. Capability to attack by at least one party:</b></p> <ol style="list-style-type: none"> <li>1. No information for capability to attack with range above FL 250.</li> <li>2. Air-to-air missiles launched from fighter aircraft (and no SAMs).</li> <li>3. Long-range surface-to-air missiles (SAMs) that can hit an aircraft at cruising level.</li> </ol>	<p><b>No information about capability to attack with range above FL 250</b></p> <p><i>DRC military has 53 "rocket projectors," which are most likely RPGs.</i></p>
<p><b>G. Capability to differentiate between civil and military aircraft:</b></p> <ol style="list-style-type: none"> <li>1. Differentiation supported by radar, electronic identification and non-cooperative target recognition systems measuring signature using acoustic and thermal radiation, radio emissions, radar techniques.</li> <li>2. Differentiation supported by radar and electronic identification (e.g., identification, friend or foe (IFF), secondary surveillance radar (SSR)).</li> <li>3. Differentiation supported only by radar tracks.</li> </ol>	<p>NA</p>

## Democratic Republic of the Congo (DRC) (continued)

<p><b>H. SAM/AAM operators' experience and chain of command:</b></p> <ol style="list-style-type: none"> <li>1. Regular forces.</li> <li>2. SAMs in the possession of irregular military forces OR an absence of robust SAM/AAM command and control procedures for authorizing launch.</li> <li>3. SAMs in the possession of irregular military forces AND an absence of robust SAM/AAM command and control procedures for authorizing launch.</li> </ol>	<p>Regular forces, primarily ground forces, and no evidence of SAMs.</p>
<p><b>I. Known intent to attack:</b></p> <ol style="list-style-type: none"> <li>1. Known intent to attack military aircraft.</li> <li>2. Known intent to attack civil aircraft.</li> <li>3. Communication of intent and a plan to attack civil aircraft or actual attack against civil aircraft.</li> </ol>	<p><b>Know intent to attack military aircraft.</b></p> <p><i>Assume that insurgents/rebels would attack DRC military aircraft if opportunity presented itself.</i></p>
<p><b>J. Civil aircraft operations over or close to conflict zone (with and without the airspace restrictions if any):</b></p> <ol style="list-style-type: none"> <li>1. No or occasional traffic.</li> <li>2. Small to moderate traffic volume (for example restricted to arrivals and departures to airports).</li> <li>3. Considerable traffic volume, including international overflights.</li> </ol>	<p><b>Moderate traffic volume, mainly restricted to arrivals and departures.</b></p> <p><i>Most traffic seems to be internal or with other countries in the region.</i></p>
<p><b>Airspace Closure</b></p>	
<p><b>Airspace restrictions</b></p> <p>Describes when airspace restrictions were introduced, what airspace they affected and how they evolved over time including:</p> <ul style="list-style-type: none"> <li>• Restrictions by the responsible for the airspace sovereign authority (the state).</li> <li>• Restrictions by others — third parties and/or neighboring states.</li> </ul>	<ol style="list-style-type: none"> <li><b>1. Restrictions by the responsible for the airspace sovereign authority (the state)</b></li> </ol> <p><b>None.</b></p> <ol style="list-style-type: none"> <li><b>2. Others</b></li> </ol> <p><b>None.</b></p> <p><b>Note:</b></p> <p><i>DRC has not issued any NOTAMs referring to the conflict.</i></p> <p><i>FAA previously has issued warnings to U.S. operators advising them to make sure they are informed about the current situation before flying in that area, but there are no current (June 2020) warnings active.</i></p> <p><i>EASA does not currently have any Conflict Zone Information Bulletins active regarding the DRC.</i></p>
<p><b>Reasons for airspace restrictions</b></p> <p>Describes the reasons for airspace restrictions, weapons known to be in the area and their range/capabilities, what traffic was vulnerable, known or suspected intent to attack civil aviation and whether there was concern about unintentional attack.</p>	<p><i>References not found.</i></p>
<p><b>Decision-making</b></p> <p>Describes the source(s) of the threat information; who made the decision regarding the restrictions and with whom was the decision coordinated; was the decision-making process different from the normal or standard airspace decision-making process.</p>	<p><i>References not found.</i></p>
<p><b>Promulgation</b></p> <p>Describes how the restrictions were published, number of the NOTAMs if available, AIS.</p>	<p><i>References not found.</i></p>
<p><b>Notes</b></p> <p>Other relevant information</p>	<p><i>In 2015, DRC signed an agreement with Harris Corp. to upgrade the country's ATC system.</i></p>

## Egypt (Sinai)

## Likelihood of attack indicators

<p><b>A. Parties:</b></p> <ol style="list-style-type: none"> <li>1. Conflict between states.</li> <li>2. Conflict between non-state armed groups and state(s) or civil wars.</li> <li>3. Conflict between non-state armed groups.</li> </ol>	<p><b>Conflict between non-state armed groups and state(s) or civil wars.</b></p> <p><i>Ongoing conflict pitting Egyptian armed forces, including army, air force and police, against IS of Iraq and Levant (ISIL) and Wilayah Sinai. Wilayah Sinai emerged as a terrorist organization in the Sinai Peninsula following a popular uprising and subsequent overthrow of President Hosni Mubarak in 2011.</i></p> <p><i>In November 2014, Wilayah Sinai declared its allegiance to the Islamic State and has since claimed responsibility for numerous attacks, including an attack on a mosque that killed more than 300 people, the April 2017 attack on Coptic churches that killed at least 44 people, the December 2016 attack on a Coptic chapel in Cairo that killed at least 25 people, and the October 2015 downing (with a planted IED) of a Russian A321 that killed all 224 people aboard.</i></p>
<p><b>B. Armed conflict scale and/or tensions:</b></p> <ol style="list-style-type: none"> <li>1. Terrorism and/or international political tension.</li> <li>2. Insurgency (small-scale military activities) and/or medium increasing political tension.</li> <li>3. Large-scale military activities and/or heightened international political tension.</li> </ol>	<p><b>Insurgency (small-scale military activities) and/or medium increasing political tension.</b></p> <p><i>In addition to attacks referenced in A., two coordinated attacks in one day in Oct. 2014 killed 33 Egyptian security personnel in the Sinai Peninsula. Rocket propelled grenades were used in one of the attacks.</i></p> <p><i>Scale and pace of operations increased in 2018 during government offensive prior to presidential election.</i></p> <p><i>Scale of conflict has been influenced by pressure from other States, including the U.S. and Israel.</i></p>
<p><b>C. Military air transport activities:</b></p> <ol style="list-style-type: none"> <li>1. Military air transport activities not reported.</li> <li>2. Occasional use of aircraft to transport ground troops or military equipment.</li> <li>3. More than occasional use of aircraft to transport ground troops or military equipment by at least one party).</li> </ol>	<p><b>More than occasional use of aircraft to transport ground troops or military equipment</b></p> <p><i>Egypt has a more than 40 C-130Hs and C-295 cargo transports, as well as smaller utility aircraft. Use likely dictated by launching of govt. offensives and/or in response to attacks by insurgents.</i></p>
<p><b>D. Military air combat activities:</b></p> <ol style="list-style-type: none"> <li>1. No military air combat activities.</li> <li>2. Small-scale (occasional) military air combat activities and/or some activities above FL 250.</li> <li>3. Large- to medium-scale military air combat activities and/or regular activities above FL 250</li> </ol>	<p><b>Large- to medium-scale military air combat activities and/or regular activities above FL 250</b></p> <p><i>Egyptian AF has a range of fighters (including F-16s, Mirages, Rafales and MiG-29s) and attack helicopters and has been accused of using air launched cluster bombs in Sinai.</i></p> <p><i>Media reports include a number of references to air attacks, including one that killed eight Mexican tourists.</i></p> <p><i>There also have been reports of Israeli warplanes attacking ISIL in Sinai with the secret approval of Egypt; Egypt has denied the reports.</i></p>
<p><b>E. Known attacks:</b></p> <ol style="list-style-type: none"> <li>1. Conflict area without publicly reported security incidents involving military and civil aviation.</li> <li>2. Conflict area with single security-related reported incident/accident involving military (or civil) aviation.</li> <li>3. Conflict area with multiple reported security-related incident/accident involving military (or civil) aviation.</li> </ol>	<p><b>Conflict area with multiple reported security-related incidents/accidents involving military (or civil) aviation.</b></p> <p><i>In addition to claimed IED attack on a Russian airliner in 2015, current FAA background information says in June 2015 ISIS fired rockets toward El Gora Airport (HEGR) in northern Sinai, fired at Egyptian military aircraft with small arms and used MANPADS to shoot down a military helicopter flying at low altitude.</i></p> <p><i>In late 2013, the Dutch government informed Dutch carriers about a threat specifically targeting civil aviation.</i></p> <p><i>Although MANPADS have not been used to target civil aircraft in the Sinai, extremists/militants could potentially do so at any time with little or no warning, says FAA.</i></p>
<p><b>F. Capability to attack by at least one party:</b></p> <ol style="list-style-type: none"> <li>1. No information for capability to attack with range above FL 250.</li> <li>2. Air-to-air missiles launched from fighter aircraft (and no SAMs).</li> <li>3. Long-range surface-to-air missiles (SAMs) that can hit an aircraft at cruising level.</li> </ol>	<p><b>Long-range surface-to-air missiles (SAMs) that can hit an aircraft at cruising level.</b></p> <p><i>Egyptian navy has ships equipped with French-made VL (vertically launched)-MICA SAMs that can reach 30,000 ft</i></p> <p><i>Egyptian military also has long-range, Russian-made SAMs and a large fleet of a fighter aircraft, including F-16s, Mirages, Rafales and MiG-29s.</i></p>

Egypt (Sinai) (continued)	
<p><b>G. Capability to differentiate between civil and military aircraft:</b></p> <ol style="list-style-type: none"> <li>1. Differentiation supported by radar, electronic identification and non-cooperative target recognition systems measuring signature using acoustic and thermal radiation, radio emissions, radar techniques.</li> <li>2. Differentiation supported by radar and electronic identification (e.g., identification, friend or foe (IFF), secondary surveillance radar (SSR).</li> <li>3. Differentiation supported only by radar tracks.</li> </ol>	<p><b>Differentiation supported by radar, electronic identification and non-cooperative target recognition systems measuring signature using acoustic and thermal radiation, radio emissions, radar techniques.</b></p> <p><i>Egyptian military has differential capability. Unknown for ISIL.</i></p>
<p><b>H. SAM/AAM operators' experience and chain of command:</b></p> <ol style="list-style-type: none"> <li>1. Regular forces.</li> <li>2. SAMs in the possession of irregular military forces OR an absence of robust SAM/AAM command and control procedures for authorizing launch.</li> <li>3. SAMs in the possession of irregular military forces AND an absence of robust SAM/AAM command and control procedures for authorizing launch.</li> </ol>	<p><b>Regular forces</b></p> <p><i>Egypt has a modern, well-equipped military. Scattered media reports allege that ISIS/ISIL may possess a few SAMs, but that has not been confirmed.</i></p>
<p><b>I. Known intent to attack:</b></p> <ol style="list-style-type: none"> <li>1. Known intent to attack military aircraft.</li> <li>2. Known intent to attack civil aircraft.</li> <li>3. Communication of intent and a plan to attack civil aircraft or actual attack against civil aircraft.</li> </ol>	<p><b>Communication of intent and a plan to attack civil aircraft or actual attack against civil aircraft.</b></p> <p><i>ISIL laid claim to the Oct. 2015 downing of a Russian airliner with an IED planted on board, which, if true, demonstrates an intent to attack civil aircraft.</i></p>
<p><b>J. Civil aircraft operations over or close to conflict zone (with and without the airspace restrictions if any):</b></p> <ol style="list-style-type: none"> <li>1. No or occasional traffic.</li> <li>2. Small to moderate traffic volume (for example restricted to arrivals and departures to airports).</li> <li>3. Considerable traffic volume, including international overflights.</li> </ol>	<p><b>No information available</b></p>
Airspace Closure	
<p><b>Airspace restrictions</b></p> <p>Describes when airspace restrictions were introduced, what airspace they affected and how they evolved over time including:</p> <ul style="list-style-type: none"> <li>• Restrictions by the responsible for the airspace sovereign authority (the state).</li> <li>• Restrictions by others — third parties and/or neighboring states.</li> </ul>	<p><b>1. Restrictions by the responsible for the airspace sovereign authority (the state)</b></p> <p><i>None</i></p> <p><b>2. Others</b></p> <p><i>None</i></p> <p><b>Note:</b></p> <p><i>Airspace restrictions and warnings regarding the Cairo FIR (below FL 250/260), particularly involving the northern Sinai region, have been issued since 2014 by Egypt, EASA, Germany the U.S. and U.K.</i></p> <p><i>EASA Conflict Zone Information Bulletin current in effect (June 2020)</i></p> <p><i>FAA KICZ NOTAM A0040/20 in effect until March 2021</i></p>
<p><b>Reasons for airspace restrictions</b></p> <p>Describes the reasons for airspace restrictions, weapons known to be in the area and their range/capabilities, what traffic was vulnerable, known or suspected intent to attack civil aviation and whether there was concern about unintentional attack.</p>	<p><i>A since cancelled EASA SIB advised against operating lower than 25,000 ft AGL because of a threat from "dedicated aircraft weaponry." Germany advised operators not to plan and conduct flights below FL260 "due to potentially hazardous situation within FIR Cairo; also warned of potential risk during takeoff/landing at all north Sinai airports within FIR Cairo.</i></p> <p><i>Current FAA NOTAM says: "plan to exercise extreme caution during flight operations due to ongoing fighting between military forces and extremist/militant elements and the continuing extremist threat to civil aviation, which involves a variety of anti-aircraft-capable weapons, including MANPADS, anti-tank missiles, small-arms fire, and indirect fire weapons, such as mortars and rockets targeting aircraft and Sinai airports. "</i></p>



**Egypt (Sinai)** *(continued)***Decision-making**

Describes the source(s) of the threat information; who made the decision regarding the restrictions and with whom was the decision coordinated; was the decision-making process different from the normal or standard airspace decision-making process.

**Promulgation**

Describes how the restrictions were published, number of the NOTAMs if available, AIS.

*FAA KICZ NOTAM A0040/20*

*EASA CZIB-2017-09R5*

## Georgia-Russia 2008

## Likelihood of attack indicators

<p><b>A. Parties:</b></p> <ol style="list-style-type: none"> <li>1. Conflict between states.</li> <li>2. Conflict between non-state armed groups and state(s) or civil wars.</li> <li>3. Conflict between non-state armed groups.</li> </ol>	<p><b>Conflict between non-state armed groups and state(s) or civil wars.</b></p> <p><i>The conflicting parties in the Georgia-Russia war in 2008 were Georgia, Russia and the Russian-backed self-proclaimed republics of South Ossetia and Abkhazia.</i></p> <p><i>The war lasted from 7 until 12 of August 2008.</i></p> <p><i>This conflict took place in the Transcaucasia region.</i></p>
<p><b>B. Armed conflict scale and/or tensions:</b></p> <ol style="list-style-type: none"> <li>1. Terrorism and/or international political tension.</li> <li>2. Insurgency (small-scale military activities) and/or medium increasing political tension.</li> <li>3. Large-scale military activities and/or heightened international political tension.</li> </ol>	<p><b>Large scale military activities.</b></p> <p><i>In July and August 2008 there was growing tension between Georgian and South Ossetian Forces. On 8 August Georgia launched an air and land assault on Tskhinvali. The Russians responded with air attacks on Georgian forces and Russian forces entered South Ossetia.</i></p>
<p><b>C. Military air transport activities:</b></p> <ol style="list-style-type: none"> <li>1. Military air transport activities not reported.</li> <li>2. Occasional use of aircraft to transport ground troops or military equipment.</li> <li>3. More than occasional use of aircraft to transport ground troops or military equipment by at least one party).</li> </ol>	<p><b>Occasional use of aircraft to transport ground troops or military equipment.</b></p>
<p><b>D. Military air combat activities:</b></p> <ol style="list-style-type: none"> <li>1. No military air combat activities.</li> <li>2. Small-scale (occasional) military air combat activities and/or some activities above FL 250.</li> <li>3. Large- to medium-scale military air combat activities and/or regular activities above FL 250</li> </ol>	<p><b>Large- to medium-scale military air combat activities and/or regular activities above FL 250.</b></p> <p><i>After initial use Georgian forces almost completely withdrew their aircraft.</i></p>
<p><b>E. Known attacks:</b></p> <ol style="list-style-type: none"> <li>1. Conflict area without publicly reported security incidents involving military and civil aviation.</li> <li>2. Conflict area with single security-related reported incident/accident involving military (or civil) aviation.</li> <li>3. Conflict area with multiple reported security-related incident/accident involving military (or civil) aviation.</li> </ol>	<p><b>Conflict area with multiple reported security-related incidents/accidents involving military (or civil) aviation.</b></p> <p><i>Russia lost six planes in Georgia. Friendly forces likely shot down three or four of the six aircraft Russia lost in the war. "Identify Friend or Foe" (IFF) systems didn't work.</i></p> <p><i>On 8 August 2008 Russian Su-25 was shot down after it came under friendly fire from a MANPADS as it was overflying the positions of Russian troops in South Ossetia.</i></p> <p><i>On 9 August 2008 Russian Tu-22M3 heavy bomber was shot down by Georgian Air Defenses (possibly by Buk-M1 SAM).</i></p> <p><i>On 9 August 2008 Russian Su-24M frontline bomber was shot down from a Georgian Air Defenses.</i></p> <p><i>On 9 August 2008 Russian Su-25 was hit by a Georgian MANPADS that hit the left engine; subsequently, while returning to base at an altitude of 1000 meters, a second MANPADS missile struck the right engine, leaving the plane without thrust and the aircraft crashed.</i></p> <p><i>On 9 August 2008 Russian Su-25 attack aircraft was shot down by friendly fire. It was hit from a Russian ZSU-23-4 Shilka self-propelled air defense artillery system covering the Gufti bridge.</i></p> <p><i>On 9 August 2008 Russian Su-24M frontline bomber aircraft was shot down by friendly fire.</i></p> <p><i>On 11 August 2008 Russian Su-25 attack aircraft was shot by friendly fire. SU-25 attacked by mistake Russian forces and Russian soldiers returned fire from man-portable SAM systems. One of the missiles damaged the plane's right engine, which burst into flames. The aircraft was barely able to return to its base.</i></p>

## Georgia-Russia 2008 (continued)

<p><b>F. Capability to attack by at least one party:</b></p> <ol style="list-style-type: none"> <li>1. No information for capability to attack with range above FL 250.</li> <li>2. Air-to-air missiles launched from fighter aircraft (and no SAMs).</li> <li>3. Long-range surface-to-air missiles (SAMs) that can hit an aircraft at cruising level.</li> </ol>	<p><b>Long-range surface-to-air missiles (SAMs) that can hit an aircraft at cruising altitude.</b></p> <p><i>Russian Federation possess multiple types of surface-to-air missiles (SAMs) that can hit an aircraft at cruising altitude. However, there were reports that Russian military forces in the war did not have long-range surface-to-air missiles that could be fired beyond the air-defence zones of an adversary.</i></p> <p><i>At least one 9K37 Buk was captured by Russian and Russian backed forces during the war.</i></p> <p><b>Georgia:</b></p> <p><i>9K37 Buk (NATO reporting name SA-11 Gadfly, SA-17 Grizzly) is a Soviet medium-range SAM designed to counter cruise missiles, smart bombs, fixed- and rotary-wing aircraft, and unmanned aerial vehicles. It has an engagement altitude of 20,000ft.</i></p> <p><i>9K330 Tor (NATO reporting name SA-15 "Gauntlet") is a Soviet all-weather low to medium altitude, short-range surface-to-air missile system designed for destroying airplanes, helicopters, cruise missiles, precision guided munitions, unmanned aerial vehicles and short-range ballistic threats. It has an engagement altitude of 46,000ft.</i></p> <p><i>SPYDER (Surface-to-air Python and DERby) is an Israeli short and medium range mobile air defence system. It has an engagement altitude of 30,000 ft or 52,000 ft depending on the modification.</i></p> <p><i>S-125 Neva/Pechora (NATO reporting name SA3) is Soviet-made a mobile SAM system with engagement altitude of 59,000 ft.</i></p> <p><i>Other capabilities include up to three Osa-AK/AKM SAM system batteries, a large number of man-portable SAM systems, as well as a few C-60 57-mm anti-aircraft guns, ZU-23-2 twin 23-mm anti-aircraft guns, and ZSU-23-4 Shilka quad 23-mm self-propelled anti-aircraft gun systems.</i></p>
<p><b>G. Capability to differentiate between civil and military aircraft:</b></p> <ol style="list-style-type: none"> <li>1. Differentiation supported by radar, electronic identification and non-cooperative target recognition systems measuring signature using acoustic and thermal radiation, radio emissions, radar techniques.</li> <li>2. Differentiation supported by radar and electronic identification (e.g., identification, friend or foe (IFF), secondary surveillance radar (SSR)).</li> <li>3. Differentiation supported only by radar tracks.</li> </ol>	<p><b>Differentiation supported by radar and electronic identification (e.g. identification, friend or foe (IFF), SSR).</b></p> <p><i>The Georgian air-defence early-warning and command-control tactical system was linked via Turkey to a NATO Air Situation Data Exchange (ASDE), which provided Georgia with intelligence during the conflict.</i></p>
<p><b>H. SAM/AAM operators' experience and chain of command:</b></p> <ol style="list-style-type: none"> <li>1. Regular forces.</li> <li>2. SAMs in the possession of irregular military forces OR an absence of robust SAM/AAM command and control procedures for authorizing launch.</li> <li>3. SAMs in the possession of irregular military forces AND an absence of robust SAM/AAM command and control procedures for authorizing launch.</li> </ol>	<p><b>SAMs in the possession of irregular military forces OR an absence of robust command and control procedures for authorizing launch.</b></p> <p><i>At least one 9K37 Buk was captured by Russian and Russian-backed forces during the war.</i></p>
<p><b>I. Known intent to attack:</b></p> <ol style="list-style-type: none"> <li>1. Known intent to attack military aircraft.</li> <li>2. Known intent to attack civil aircraft.</li> <li>3. Communication of intent and a plan to attack civil aircraft or actual attack against civil aircraft.</li> </ol>	<p><b>Known intent to attack military aircraft.</b></p> <p><i>See the incidents and accidents reported in section E.</i></p>

**Georgia-Russia 2008** (continued)

<p><b>J. Civil aircraft operations over or close to conflict zone (with and without the airspace restrictions if any):</b></p> <ol style="list-style-type: none"> <li>1. No or occasional traffic.</li> <li>2. Small to moderate traffic volume (for example restricted to arrivals and departures to airports).</li> <li>3. Considerable traffic volume, including international overflights.</li> </ol>	<p>Moderate traffic volume, mainly restricted to arrivals and departures.</p>
<p><b>Airspace Closure</b></p>	
<p><b>Airspace restrictions</b> Describes when airspace restrictions were introduced, what airspace they affected and how they evolved over time including:</p> <ul style="list-style-type: none"> <li>• Restrictions by the responsible for the airspace sovereign authority (the state).</li> <li>• Restrictions by others — third parties and/or neighboring states.</li> </ul>	<p><b>1. Restrictions by the responsible for the airspace sovereign authority (the state)</b> None</p> <p><b>2. Others</b> No information found No NOTAMs issued by Georgia regarding the conflict were identified. It is assumed that airspace above FL 250 was not restricted to civil aviation.</p>
<p><b>Reasons for airspace restrictions</b> Describes the reasons for airspace restrictions, weapons known to be in the area and their range/ capabilities, what traffic was vulnerable, known or suspected intent to attack civil aviation and whether there was concern about unintentional attack.</p>	<p>n/a</p>
<p><b>Decision-making</b> Describes the source(s) of the threat information; who made the decision regarding the restrictions and with whom was the decision coordinated; was the decision-making process different from the normal or standard airspace decision-making process.</p>	<p>n/a</p>
<p><b>Promulgation</b> Describes how the restrictions were published, number of the NOTAMs if available, AIS.</p>	<p>n/a</p>
<p><b>Notes</b> Other relevant information</p>	<p><b>References:</b> "Air power in Russia's Georgian campaign August 2008," Pathfinder, Air power development centre bulletin, October 2008 Pukhov R., The Tanks of August, Centre for Analysis of Strategies and Technologies Moscow, Russia, 2010 Cohen A., Hamilton R., The Russian military and the Georgian war: lessons and implications, Strategic Studies Institute, US Army War College, June 2011</p>

## Iraq war 1991

## Likelihood of attack indicators

<p><b>A. Parties:</b></p> <ol style="list-style-type: none"> <li>1. Conflict between states.</li> <li>2. Conflict between non-state armed groups and state(s) or civil wars.</li> <li>3. Conflict between non-state armed groups.</li> </ol>	<p><b>Conflict between non-state armed groups and state(s) or civil wars.</b></p> <p><i>The Persian Gulf War, also known as "The Gulf War," was a conflict between Iraq and 34 other countries, led by the United States. The conflicting parties were: The Allied Coalition Forces consisting of 34 nations and the Iraqi Armed Forces (Army, Air Force, Navy, Iraqi Republican Guard).</i></p> <p><i>The conflict started with the invasion of Kuwait by Iraq on August 2, 1990, with the Allied Coalition military offensive beginning January 16, 1991. The official ceasefire was declared February 28, 1991.<sup>102</sup></i></p>
<p><b>B. Armed conflict scale and/or tensions:</b></p> <ol style="list-style-type: none"> <li>1. Terrorism and/or international political tension.</li> <li>2. Insurgency (small-scale military activities) and/or medium increasing political tension.</li> <li>3. Large-scale military activities and/or heightened international political tension.</li> </ol>	<p><b>Large-scale military activities.</b></p> <p><i>The Allied Coalition's Operation Desert Storm involved approximately 750,000 troops. The coalition aerial strike-force comprised over 2,250 combat aircraft (including 1,800 US aircraft). By contrast, the Iraqi Forces were estimated to be 1,000,000 personnel, having 934 combat-capable aircraft (including trainers) of which 550 were operational.</i></p> <p><i>The air campaign of the Gulf War was an extensive aerial bombing campaign. The Coalition of the Gulf War flew over 100,000 sorties, dropping 88,500 tons of bombs, widely destroying military and civilian infrastructure.<sup>103</sup></i></p>
<p><b>C. Military air transport activities:</b></p> <ol style="list-style-type: none"> <li>1. Military air transport activities not reported.</li> <li>2. Occasional use of aircraft to transport ground troops or military equipment.</li> <li>3. More than occasional use of aircraft to transport ground troops or military equipment by at least one party).</li> </ol>	<p><b>Use of aircraft to transport ground troops or military equipment by at least one party (such aircraft may be more difficult to distinguish from civil aircraft, particularly where operating near airways and close to civil aircraft cruising altitudes).</b></p> <p><i>More than 145 C-130 aircraft deployed in support of Desert Shield/Desert Storm. The C-130s flew 46,500 sorties and moved more than 209,000 people and 300,000 tons of supplies within the theater. C-141 aircraft operated 8,536 strategic airlift missions, followed by the C-5 with 3,770; the KC-10 with 379 and the C-9 with 209. UK C-130, VC10 and L1011 Tristar also operated across the operational area.</i></p>
<p><b>D. Military air combat activities:</b></p> <ol style="list-style-type: none"> <li>1. No military air combat activities.</li> <li>2. Small-scale (occasional) military air combat activities and/or some activities above FL 250.</li> <li>3. Large- to medium-scale military air combat activities and/or regular activities above FL 250</li> </ol>	<p><b>Military air combat activities.</b></p> <p><i>Military combat activities involving the Allied Coalition and the Iraqi Air Force.</i></p>
<p><b>E. Known attacks:</b></p> <ol style="list-style-type: none"> <li>1. Conflict area without publicly reported security incidents involving military and civil aviation.</li> <li>2. Conflict area with single security-related reported incident/accident involving military (or civil) aviation.</li> <li>3. Conflict area with multiple reported security-related incident/accident involving military (or civil) aviation.</li> </ol>	<p><b>Conflict area with multiple reported incidents/accidents involving military (or civil) aviation.</b></p> <p><i>Military armed conflict existed throughout the airspace. UNSCR 678 authorised use of all necessary means to force Iraqi forces out of Kuwait after 15 Jan 1991. Widely reported by international media.</i></p>
<p><b>F. Capability to attack by at least one party:</b></p> <ol style="list-style-type: none"> <li>1. No information for capability to attack with range above FL 250.</li> <li>2. Air-to-air missiles launched from fighter aircraft (and no SAMs).</li> <li>3. Long-range surface-to-air missiles (SAMs) that can hit an aircraft at cruising level.</li> </ol>	<p><b>Long-range surface-to-air missiles (SAMs) that can hit an aircraft at cruising level.</b></p> <p><i>Both parties in this conflict had the capability to hit civilian aircraft in the region with SAM and air-to-air missiles.<sup>104</sup></i></p>

<sup>102</sup> Mockaitis, Thomas R.: Iraq War Encyclopedia ABC-CLIO, 2013

<sup>103</sup> [https://en.wikipedia.org/wiki/Gulf\\_War\\_air\\_campaign](https://en.wikipedia.org/wiki/Gulf_War_air_campaign)

<sup>104</sup> Mockaitis, Thomas R.: Iraq War Encyclopedia ABC-CLIO, 2015, pg.18

## Iraq war 1991 (continued)

<p><b>G. Capability to differentiate between civil and military aircraft:</b></p> <ol style="list-style-type: none"> <li>1. Differentiation supported by radar, electronic identification and non-cooperative target recognition systems measuring signature using acoustic and thermal radiation, radio emissions, radar techniques.</li> <li>2. Differentiation supported by radar and electronic identification (e.g., identification, friend or foe (IFF), secondary surveillance radar (SSR).</li> <li>3. Differentiation supported only by radar tracks.</li> </ol>	<p><b>Differentiation supported by radar and electronic identification (e.g. identification, friend or foe (IFF), SSR).</b></p>
<p><b>H. SAM/AAM operators' experience and chain of command:</b></p> <ol style="list-style-type: none"> <li>1. Regular forces.</li> <li>2. SAMs in the possession of irregular military forces OR an absence of robust SAM/AAM command and control procedures for authorizing launch.</li> <li>3. SAMs in the possession of irregular military forces AND an absence of robust SAM/AAM command and control procedures for authorizing launch.</li> </ol>	<p><b>Regular forces.</b></p> <p><i>While the actual war lasted a brief time, there was evidence of command and control breakdown of the Iraqi military in the latter stages of the conflict.</i></p>
<p><b>I. Known intent to attack:</b></p> <ol style="list-style-type: none"> <li>1. Known intent to attack military aircraft.</li> <li>2. Known intent to attack civil aircraft.</li> <li>3. Communication of intent and a plan to attack civil aircraft or actual attack against civil aircraft.</li> </ol>	<p><b>Known intent to attack military aircraft.</b></p> <p><i>An effective state of war existed through the period.</i></p>
<p><b>J. Civil aircraft operations over or close to conflict zone (with and without the airspace restrictions if any):</b></p> <ol style="list-style-type: none"> <li>1. No or occasional traffic.</li> <li>2. Small to moderate traffic volume (for example restricted to arrivals and departures to airports).</li> <li>3. Considerable traffic volume, including international overflights.</li> </ol>	<p><b>Small to moderate traffic volume.</b></p> <p><i>Several factors greatly reduced the amount of traffic in Iraqi airspace during the wartime months. The combination of restrictions and, among other things, large increases in insurance rates encouraged many operators to route around the region.<sup>105</sup></i></p>

## Airspace Closure

<p><b>Airspace restrictions</b></p> <p>Describes when airspace restrictions were introduced, what airspace they affected and how they evolved over time including:</p> <ul style="list-style-type: none"> <li>• Restrictions by the responsible for the airspace sovereign authority (the state).</li> <li>• Restrictions by others — third parties and/or neighboring states.</li> </ul>	<ol style="list-style-type: none"> <li><b>1. Restrictions by the responsible for the airspace sovereign authority (the state)</b></li> </ol> <p><i>No information found</i></p> <ol style="list-style-type: none"> <li><b>2. Others</b></li> </ol> <p><i>The Iraqi airspace had been severely restricted by a combination of sanctions into/out of Iraq, as well as restrictions imposed by the UN regarding overflights. In September of 1990, UN resolution 670 established restrictions of operations into and out of Iraq, allowing only UN humanitarian operations.<sup>106</sup></i></p> <p><i>During the conflict, the Allied Command limited overflights to those above FL200 and restricted certain airways.</i></p> <p><i>The two no-fly zones, one in the north and another in the south of Iraq, were unilaterally created by the US, Britain and France soon after the 1991 Gulf War. Iraq was banned from using all aircraft, including helicopters, in the air exclusion zones.</i></p>
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<sup>105</sup> Jafe, Steven D.: Airspace Closure and Civil Aviation, Routledge, 2015, pg. 177

<sup>106</sup> <https://digitallibrary.un.org/record/97522?ln=en>

**Iraq war 1991** *(continued)*

<p><b>Reasons for airspace restrictions</b></p> <p>Describes the reasons for airspace restrictions, weapons known to be in the area and their range/capabilities, what traffic was vulnerable, known or suspected intent to attack civil aviation and whether there was concern about unintentional attack.</p>	<p><i>Military wartime operations area.</i></p>
<p><b>Decision-making</b></p> <p>Describes the source(s) of the threat information; who made the decision regarding the restrictions and with whom was the decision coordinated; was the decision-making process different from the normal or standard airspace decision-making process.</p>	<p><i>No documentation of decisions by Iraqi government can be found. The airspace limitations were driven by UN, Allied, US and European authorities. Certain restrictions existed limiting traffic above FL200, with numerous sectors prohibited.</i></p>
<p><b>Promulgation</b></p> <p>Describes how the restrictions were published, number of the NOTAMs if available, AIS.</p>	<p><i>NOTAM and EUROCONTROL AIM.</i></p>
<p><b>Notes</b></p> <p>Other relevant information</p>	

## Iraq war 2003–2011

## Likelihood of attack indicators

<p><b>A. Parties:</b></p> <ol style="list-style-type: none"> <li>1. Conflict between states.</li> <li>2. Conflict between non-state armed groups and state(s) or civil wars.</li> <li>3. Conflict between non-state armed groups.</li> </ol>	<p><b>Conflict between non-state armed groups and state(s) or civil wars.</b></p> <p><i>The Iraq War, also known as the Second Gulf War or Operation Freedom, began on 20 March 2003 when the U.S., joined by the U.K. and several coalition allies, launched a “shock and awe” bombing campaign. In December of 2011, the US announced “official withdrawal” of troops from Iraq.<sup>107</sup></i></p> <p><i>Conflict related to a destabilization of the nation and region continues to this day.</i></p>
<p><b>B. Armed conflict scale and/or tensions:</b></p> <ol style="list-style-type: none"> <li>1. Terrorism and/or international political tension.</li> <li>2. Insurgency (small-scale military activities) and/or medium increasing political tension.</li> <li>3. Large-scale military activities and/or heightened international political tension.</li> </ol>	<p><b>Large-scale military activities.</b></p> <p><i>At the time of invasion, the Allied forces were comprised of 1801 aircraft and approximately 767,000 troops. The overall number of sorties flown in the decade of war is not available. However, there were a 20, 228 sorties flown during the initial phases of the war between March 19 and April 18, 2003.</i></p> <p><i>The status of the Iraqi Air Force was poorly documented in the open literature. The capabilities of the Iraqi Forces were greatly impacted by the Gulf War and a total of 390 aircraft were believed to be operational at the end of 2002.<sup>108</sup></i></p> <p><i>The International Institute for Strategic Studies estimated the Iraqi troops prior to the 2003 invasion to number 538,000 (Iraqi Army 375,000, Iraqi Navy 2,000, Iraqi Air Force 20,000 and air defense 17,000, the paramilitary Fedayeen Saddam 44,000, and Republican Guard 80,000.<sup>109</sup></i></p>
<p><b>C. Military air transport activities:</b></p> <ol style="list-style-type: none"> <li>1. Military air transport activities not reported.</li> <li>2. Occasional use of aircraft to transport ground troops or military equipment.</li> <li>3. More than occasional use of aircraft to transport ground troops or military equipment by at least one party).</li> </ol>	<p><b>Use of aircraft to transport ground troops or military equipment by at least one party (such aircraft may be more difficult to distinguish from civil aircraft, particularly where operating near airways and close to civil aircraft cruising altitudes).</b></p> <p><i>A wide array of allied military transport aircraft numbering more than 800 were deployed to support the invasion in 2003.</i></p> <p><i>The Iraqi Air Force was not a factor in the conflict.</i></p>
<p><b>D. Military air combat activities:</b></p> <ol style="list-style-type: none"> <li>1. No military air combat activities.</li> <li>2. Small-scale (occasional) military air combat activities and/or some activities above FL 250.</li> <li>3. Large- to medium-scale military air combat activities and/or regular activities above FL 250</li> </ol>	<p><b>Military air combat activities.</b></p> <p><i>Large scale military air combat activities across Iraq and in neighbouring countries and sea areas (not Syria or Iran).</i></p>
<p><b>E. Known attacks:</b></p> <ol style="list-style-type: none"> <li>1. Conflict area without publicly reported security incidents involving military and civil aviation.</li> <li>2. Conflict area with single security-related reported incident/accident involving military (or civil) aviation.</li> <li>3. Conflict area with multiple reported security-related incident/accident involving military (or civil) aviation.</li> </ol>	<p><b>Conflict area with multiple reported incident/accident for military (or civil) aviation.</b></p> <p><i>Military conflict existed throughout the airspace, widely reported by international media.</i></p>
<p><b>F. Capability to attack by at least one party:</b></p> <ol style="list-style-type: none"> <li>1. No information for capability to attack with range above FL 250.</li> <li>2. Air-to-air missiles launched from fighter aircraft (and no SAMs).</li> <li>3. Long-range surface-to-air missiles (SAMs) that can hit an aircraft at cruising level.</li> </ol>	<p><b>Long-range surface-to-air missiles (SAMs) that can hit an aircraft at cruising level.</b></p> <p><i>Both parties in this conflict had the capability to hit civilian aircraft in the region.</i></p> <p><i>Coalition forces deployed multiple fighters with a capability to attack air targets at all altitudes.</i></p>

<sup>107</sup> Mockaitis, Thomas R.: Iraq War Encyclopedia ABC-CLIO, 2013

<sup>108</sup> <https://www.airforcemag.com/PDF/MagazineArchive/Magazine%20Documents/2003/July%202003/0703Numbers.pdf>

<sup>109</sup> [https://en.wikipedia.org/wiki/2003\\_invasion\\_of\\_Iraq#Preparations\\_for\\_war](https://en.wikipedia.org/wiki/2003_invasion_of_Iraq#Preparations_for_war)



## Iraq war 2003–2011 (continued)

<p><b>G. Capability to differentiate between civil and military aircraft:</b></p> <ol style="list-style-type: none"> <li>1. Differentiation supported by radar, electronic identification and non-cooperative target recognition systems measuring signature using acoustic and thermal radiation, radio emissions, radar techniques.</li> <li>2. Differentiation supported by radar and electronic identification (e.g., identification, friend or foe (IFF), secondary surveillance radar (SSR).</li> <li>3. Differentiation supported only by radar tracks.</li> </ol>	<p>Differentiation supported by radar, electronic identification and non-cooperative target recognition systems measuring signature using acoustic and thermal radiation, radio emissions, radar techniques.</p>
<p><b>H. SAM/AAM operators' experience and chain of command:</b></p> <ol style="list-style-type: none"> <li>1. Regular forces.</li> <li>2. SAMs in the possession of irregular military forces OR an absence of robust SAM/AAM command and control procedures for authorizing launch.</li> <li>3. SAMs in the possession of irregular military forces AND an absence of robust SAM/AAM command and control procedures for authorizing launch.</li> </ol>	<p><b>Regular forces.</b></p> <p><i>Capability existed on both sides.<sup>110</sup></i></p> <p><i>Extensive use of SAMs by the Iraqi military. Iraq fired approximately 1,600 radar guided SAMs during the invasion, failing to down a single allied aircraft.</i></p> <p><i>US Patriot batteries mistakenly shot down a UK Tornado GR4 and a USN FA-18 in separate friendly fire incidents.</i></p>
<p><b>I. Known intent to attack:</b></p> <ol style="list-style-type: none"> <li>1. Known intent to attack military aircraft.</li> <li>2. Known intent to attack civil aircraft.</li> <li>3. Communication of intent and a plan to attack civil aircraft or actual attack against civil aircraft.</li> </ol>	<p><b>Known intent to attack military aircraft.</b></p> <p><i>Iraqi military forces were openly motivated to attack allied aircraft. Reports indicate that Saddam Hussein personally encouraged the shooting of allied aircraft, offering \$5000 to any unit that shot down a US aircraft and \$2500 to any soldier capturing a pilot.</i></p>
<p><b>J. Civil aircraft operations over or close to conflict zone (with and without the airspace restrictions if any):</b></p> <ol style="list-style-type: none"> <li>1. No or occasional traffic.</li> <li>2. Small to moderate traffic volume (for example restricted to arrivals and departures to airports).</li> <li>3. Considerable traffic volume, including international overflights.</li> </ol>	<p><b>Small to minimal traffic volume.</b></p> <p><i>Iraq airspace was closed to civilian traffic at the beginning of the war. Coalition forces, in collaboration with ICAO and other stakeholders, opened the airspace to civil overflights in August 2003, leading to overflight traffic increasing. However, the development of optional routes around the airspace limited the number.</i></p>
<p><b>Airspace Closure</b></p>	
<p><b>Airspace restrictions</b></p> <p>Describes when airspace restrictions were introduced, what airspace they affected and how they evolved over time including:</p> <ul style="list-style-type: none"> <li>• Restrictions by the responsible for the airspace sovereign authority (the state).</li> <li>• Restrictions by others — third parties and/or neighboring states.</li> </ul>	<p><b>1. Restrictions by the responsible for the airspace sovereign authority (the state)</b></p> <p><i>No information found</i></p> <p><b>2. Others</b></p> <p><i>Several national aviation authorities and third-party organisations closed Iraq airspace to civilian traffic at the beginning of the war. Coalition forces, in collaboration with ICAO and other stakeholders opened the airspace to civil overflights in August 2003.</i></p>
<p><b>Reasons for airspace restrictions</b></p> <p>Describes the reasons for airspace restrictions, weapons known to be in the area and their range/capabilities, what traffic was vulnerable, known or suspected intent to attack civil aviation and whether there was concern about unintentional attack.</p>	<p><i>Military operations area.</i></p>
<p><b>Decision-making</b></p> <p>Describes the source(s) of the threat information; who made the decision regarding the restrictions and with whom was the decision coordinated; was the decision-making process different from the normal or standard airspace decision-making process.</p>	<p><i>No documentation of decisions by Iraqi government can be found. The airspace limitations were driven by national organisations outside Iraq and by international coalition forces.</i></p>

<sup>110</sup>Mockaitis Thomas R.: Iraq War Encyclopedia ABC-CLIO, 2015, pg.18

**Iraq war 2003–2011** *(continued)***Promulgation**

Describes how the restrictions were published, number of the NOTAMs if available, AIS.

*NOTAM and EUROCONTROL AIM.*

*ICAO*

**Notes**

Other relevant information

## Kosovo–Allied Force 1999

## Likelihood of attack indicators

<p><b>A. Parties:</b></p> <ol style="list-style-type: none"> <li>1. Conflict between states.</li> <li>2. Conflict between non-state armed groups and state(s) or civil wars.</li> <li>3. Conflict between non-state armed groups.</li> </ol>	<p><b>Conflict between non-state armed groups and state(s) or civil wars.</b></p> <p><b>Conflict between states.</b></p> <p><i>The conflicting parties in the Kosovo war were: Kosovo Liberation Army, Republic of Kosovo, Federal Republic of Yugoslavia and NATO (since 24 March 1999). It started in late February 1998 and lasted until 11 June 1999.</i></p> <p><i>In early 1998, violence erupted within Kosovo between Yugoslavian (Serb) forces and the Kosovo Liberation Army (KLA). United Nations Security Council Resolution 1199, passed on 23 September 1998, demanded a ceasefire in Kosovo. On 13 October 1998, NATO's North Atlantic Council authorized activation orders for air strikes. The crisis intensified in November and December 1998. NATO launched Operation Allied Force on 24 March 1999.</i></p>
<p><b>B. Armed conflict scale and/or tensions:</b></p> <ol style="list-style-type: none"> <li>1. Terrorism and/or international political tension.</li> <li>2. Insurgency (small-scale military activities) and/or medium increasing political tension.</li> <li>3. Large-scale military activities and/or heightened international political tension.</li> </ol>	<p><b>Large-scale military activities.</b></p> <p><i>Operation Allied Force involved close to 1000 NATO aircraft in an air campaign that lasted 78 days. NATO flew more than 38,000 sorties, of which 10,484 were strike sorties.</i></p>
<p><b>C. Military air transport activities:</b></p> <ol style="list-style-type: none"> <li>1. Military air transport activities not reported.</li> <li>2. Occasional use of aircraft to transport ground troops or military equipment.</li> <li>3. More than occasional use of aircraft to transport ground troops or military equipment by at least one party).</li> </ol>	<p><b>More than occasional use of aircraft to transport ground troops or military equipment by at least one party (such aircraft may be more difficult to distinguish from civil aircraft, particularly where operating near airways and close to civil aircraft cruising altitudes).</b></p> <p><i>3 x AWACS overland orbits manned 24-hrs.</i></p> <p><i>EC-130s served as Airborne Battlefield Command and Control Center (ABCCC). C-17, C-5 Galaxy and C-130 were used to transport cargo into certain airfields.</i></p>
<p><b>D. Military air combat activities:</b></p> <ol style="list-style-type: none"> <li>1. No military air combat activities.</li> <li>2. Small-scale (occasional) military air combat activities and/or some activities above FL 250.</li> <li>3. Large- to medium-scale military air combat activities and/or regular activities above FL 250</li> </ol>	<p><b>Large- to medium-scale military air combat activities.</b></p> <p><i>Military combat activities involving multiple regional parties and NATO.</i></p>
<p><b>E. Known attacks:</b></p> <ol style="list-style-type: none"> <li>1. Conflict area without publicly reported security incidents involving military and civil aviation.</li> <li>2. Conflict area with single security-related reported incident/accident involving military (or civil) aviation.</li> <li>3. Conflict area with multiple reported security-related incident/accident involving military (or civil) aviation.</li> </ol>	<p><b>Conflict area with multiple reported incident/accident for military (or civil) aviation.</b></p> <p><i>On 24 March 1999 two Yugoslav Air Force MiG-29s were shot down by two USAF F-15Cs with AMRAAM missiles. Different sources claim one of the MiG-29s was downed by friendly ground fire.</i></p> <p><i>On 24 March 1999, during Operation Allied Force, a Dutch F-16AM J-063 shot down a Yugoslavian MiG-29 with an AMRAAM missile. The pilot of the stricken jet ejected safely.</i></p> <p><i>On 26 March 1999 two Yugoslavian MiG-29s were shot down by two USAF F-15Cs with AMRAAM missiles.</i></p> <p><i>On 27 March 1999 an American F-117A Nighthawk stealth bomber was shot down over Belgrade by a Soviet-made S-125E SAM. The pilot ejected safely and the plane's wreckage was recovered by Serbian special forces.</i></p> <p><i>On 2 May 1999 a USAF F-16CG was shot down over Serbia. It was downed by an S-125 Neva SAM (NATO: SA-3) near Nakucani. The pilot ejected and was later rescued by a combat search-and-rescue mission.</i></p> <p><i>On 4 May 1999 a lone Yugoslav MiG-29 attempted to intercept a large NATO formation that was returning to base. It was engaged by a pair of USAF F-16Cs from the 78th Fighter Squadron and shot down with an AIM-120, killing the pilot. The falling wreckage was hit by a Strela 2M fired by the Yugoslav army in error.</i></p> <p><i>On 4 May 1999 a Yugoslav Mi-8T was shot down by a French Super Etendard.</i></p>

**Kosovo–Allied Force 1999** *(continued)***F. Capability to attack by at least one party:**

1. No information for capability to attack with range above FL 250.
2. Air-to-air missiles launched from fighter aircraft (and no SAMs).
3. Long-range surface-to-air missiles (SAMs) that can hit an aircraft at cruising level.

**Long-range surface-to-air missiles (SAMs) that can hit an aircraft at cruising level.**

*Both parties in this conflict had the capability to hit civilian aircraft in the region.*

**Federal Republic of Yugoslavia:**

*S-75 Dvina (NATO reporting name SA2) is a Soviet-designed, high-altitude air defence system with engagement altitude of 82,000 ft.*

*S-125 Neva/Pechora (NATO reporting name SA3), that shot down American F-117A Nighthawk stealth bomber, F-16 and possibly some UAVs, mobile surface-to-air missile system is a Soviet surface to air missile system with engagement altitude of 59,000 ft.*

*2K12 Kub mobile SAM. The 2K12 “Kub” (NATO reporting name: SA-6 “Gainful”) low to medium-level air defence system designed to protect ground forces from air attack with engagement altitude, depending on the modification, of up to 46,000ft.*

*Other capabilities for lower altitudes: 9K32 Strela-2 (SA-7), 9K31 Strela-1 (SA-9), 9K35 Strela-10 (SA-13), 9K34 Strela-3 (SA-14), 9K310 Igla-1 (SA-16) and mobile AAA batteries (multiple types)*

*Air-to-air missiles launched from fighter aircraft.*

*Multiple NATO fighters with radar and IR AAMs.*

*SAM capability for warships in the region — DDGs (guided missile destroyers) protecting the carrier group.*

**G. Capability to differentiate between civil and military aircraft:**

1. Differentiation supported by radar, electronic identification and non-cooperative target recognition systems measuring signature using acoustic and thermal radiation, radio emissions, radar techniques.
2. Differentiation supported by radar and electronic identification (e.g., identification, friend or foe (IFF), secondary surveillance radar (SSR)).
3. Differentiation supported only by radar tracks.

**Differentiation supported by radar and electronic identification (e.g. identification, friend or foe (IFF), SSR).****H. SAM/AAM operators’ experience and chain of command:**

1. Regular forces.
2. SAMs in the possession of irregular military forces OR an absence of robust SAM/AAM command and control procedures for authorizing launch.
3. SAMs in the possession of irregular military forces AND an absence of robust SAM/AAM command and control procedures for authorizing launch.

**Regular forces.****I. Known intent to attack:**

1. Known intent to attack military aircraft.
2. Known intent to attack civil aircraft.
3. Communication of intent and a plan to attack civil aircraft or actual attack against civil aircraft.

**Known intent to attack military aircraft.**

*See the incidents and accidents reported in section E.*

**J. Civil aircraft operations over or close to conflict zone (with and without the airspace restrictions if any):**

1. No or occasional traffic.
2. Small to moderate traffic volume (for example restricted to arrivals and departures to airports).
3. Considerable traffic volume, including international overflights.

**No civil aircraft operations during the airspace restrictions.**

*Considerable traffic volume, including international overflights prior the restrictions.*

*The airspace of Federal Republic of Yugoslavia was characterized by considerable overflight traffic volume, with overflights from Turkey, Greece, Middle East and Asia Pacific to Central and Western Europe.*

## Kosovo–Allied Force 1999 (continued)

## Airspace Closure

## Airspace restrictions

Describes when airspace restrictions were introduced, what airspace they affected and how they evolved over time including:

- Restrictions by the responsible for the airspace sovereign authority (the state).
- Restrictions by others — third parties and/or neighboring states.

**1. Restrictions by the responsible for the airspace sovereign authority (the state)**

*No information found*

**2. Others**

*24 Mar 1999–10 June 1999*

*The entire airspace of Federal Republic of Yugoslavia, Slovenia, Croatia, Bosnia and Herzegovina, FYROM, parts of southern Hungary, western Romania and Bulgaria, northern Greece, entire airspace over Albania and almost entire airspace over Adriatic Sea was closed.*

*The airspace closure was immediately associated with Operation Allied Force and there were no prior airspace restrictions for the period of escalation starting in 1998.*

*The airspace of Federal Republic of Yugoslavia was opened for civilian traffic in Sep 1999.*

*An air security zone, including the airspace of Kosovo, remained closed for civil aircraft until 3 April 2014.*

## Reasons for airspace restrictions

Describes the reasons for airspace restrictions, weapons known to be in the area and their range/capabilities, what traffic was vulnerable, known or suspected intent to attack civil aviation and whether there was concern about unintentional attack.

*NATO air strikes.*

*NATO aircraft and Tomahawk missiles from the air and Federal Republic of Yugoslavia air defence systems from the ground.*

*US Navy Carrier Air Group in Adriatic Sea.*

## Decision-making

Describes the source(s) of the threat information; who made the decision regarding the restrictions and with whom was the decision coordinated; was the decision-making process different from the normal or standard airspace decision-making process.

*Decision to close the described airspace came from all neighbouring states in order to stop the traffic to/from/over Federal Republic of Yugoslavia.*

*Technical support provided by EUROCONTROL. All flight plans to/from and over Federal Republic of Yugoslavia were rejected.*

## Promulgation

Describes how the restrictions were published, number of the NOTAMs if available, AIS.

*NOTAM and EUROCONTROL AIM.*

*A substantial preparation with the inclusion of all states whose airspace was used by NATO air forces.*

*EUROCONTROL participated in coordination and provided technical support.*

## Notes

Other relevant information

**References:**

*U.S. Central Intelligence Agency, Yugoslavia: Military Dynamics of a Potential Civil War, March 1991*

*U.S. Central Intelligence Agency, Combat forces in former Yugoslavia, July 1993*

*Daniel L. Haulman, Air Power History, "The U.S. Air Force in the Air War Over Serbia 1999," Summer 2015*

*Daniel L. Haulman, Air Force historical Research Agency, MANNED AIRCRAFT LOSSES OVER THE FORMER YUGOSLAVIA, 1994–1999, October 2009*

## Libya 2011

## Likelihood of attack indicators

<p><b>A. Parties:</b></p> <ol style="list-style-type: none"> <li>1. Conflict between states.</li> <li>2. Conflict between non-state armed groups and state(s) or civil wars.</li> <li>3. Conflict between non-state armed groups.</li> </ol>	<p><b>Conflict between non-state armed groups and state(s) or civil wars.</b></p> <p><b>Conflict between states.</b></p> <p><i>The conflicting parties in the Kosovo war were: Kosovo Liberation Army, Republic of Kosovo, Federal Republic of Yugoslavia and NATO (since 24 March 1999). It started in late February 1998 and lasted until 11 June 1999.</i></p> <p><i>In early 1998, violence erupted within Kosovo between Yugoslavian (Serb) forces and the Kosovo Liberation Army (KLA). United Nations Security Council Resolution 1199, passed on 23 September 1998, demanded a ceasefire in Kosovo. On 13 October 1998, NATO's North Atlantic Council authorized activation orders for air strikes. The crisis intensified in November and December 1998. NATO launched Operation Allied Force on 24 March 1999.</i></p>
<p><b>B. Armed conflict scale and/or tensions:</b></p> <ol style="list-style-type: none"> <li>1. Terrorism and/or international political tension.</li> <li>2. Insurgency (small-scale military activities) and/or medium increasing political tension.</li> <li>3. Large-scale military activities and/or heightened international political tension.</li> </ol>	<p><b>Large-scale military activities.</b></p> <p><i>Operation Allied Force involved close to 1000 NATO aircraft in an air campaign that lasted 78 days. NATO flew more than 38,000 sorties, of which 10,484 were strike sorties.</i></p>
<p><b>C. Military air transport activities:</b></p> <ol style="list-style-type: none"> <li>1. Military air transport activities not reported.</li> <li>2. Occasional use of aircraft to transport ground troops or military equipment.</li> <li>3. More than occasional use of aircraft to transport ground troops or military equipment by at least one party).</li> </ol>	<p><b>More than occasional use of aircraft to transport ground troops or military equipment by at least one party (such aircraft may be more difficult to distinguish from civil aircraft, particularly where operating near airways and close to civil aircraft cruising altitudes).</b></p> <p><i>3 x AWACS overland orbits manned 24-hrs.</i></p> <p><i>EC-130s served as Airborne Battlefield Command and Control Center (ABCCC). C-17, C-5 Galaxy and C-130 were used to transport cargo into certain airfields.</i></p>
<p><b>D. Military air combat activities:</b></p> <ol style="list-style-type: none"> <li>1. No military air combat activities.</li> <li>2. Small-scale (occasional) military air combat activities and/or some activities above FL 250.</li> <li>3. Large- to medium-scale military air combat activities and/or regular activities above FL 250</li> </ol>	<p><b>Large- to medium-scale military air combat activities.</b></p> <p><i>Military combat activities involving multiple regional parties and NATO.</i></p>
<p><b>E. Known attacks:</b></p> <ol style="list-style-type: none"> <li>1. Conflict area without publicly reported security incidents involving military and civil aviation.</li> <li>2. Conflict area with single security-related reported incident/accident involving military (or civil) aviation.</li> <li>3. Conflict area with multiple reported security-related incident/accident involving military (or civil) aviation.</li> </ol>	<p><b>Conflict area with multiple reported incident/accident for military (or civil) aviation.</b></p> <p><i>On 24 March 1999 two Yugoslav Air Force MiG-29s were shot down by two USAF F-15Cs with AMRAAM missiles. Different sources claim one of the MiG-29s was downed by friendly ground fire.</i></p> <p><i>On 24 March 1999, during Operation Allied Force, a Dutch F-16AM J-063 shot down a Yugoslavian MiG-29 with an AMRAAM missile. The pilot of the stricken jet ejected safely.</i></p> <p><i>On 26 March 1999 two Yugoslavian MiG-29s were shot down by two USAF F-15Cs with AMRAAM missiles.</i></p> <p><i>On 27 March 1999 an American F-117A Nighthawk stealth bomber was shot down over Belgrade by a Soviet-made S-125E SAM. The pilot ejected safely and the plane's wreckage was recovered by Serbian special forces.</i></p> <p><i>On 2 May 1999 a USAF F-16CG was shot down over Serbia. It was downed by an S-125 Neva SAM (NATO: SA-3) near Nakucani. The pilot ejected and was later rescued by a combat search-and-rescue mission.</i></p> <p><i>On 4 May 1999 a lone Yugoslav MiG-29 attempted to intercept a large NATO formation that was returning to base. It was engaged by a pair of USAF F-16Cs from the 78th Fighter Squadron and shot down with an AIM-120, killing the pilot. The falling wreckage was hit by a Strela 2M fired by the Yugoslav army in error.</i></p> <p><i>On 4 May 1999 a Yugoslav Mi-8T was shot down by a French Super Etendard.</i></p>

## Libya 2011 (continued)

**F. Capability to attack by at least one party:**

1. No information for capability to attack with range above FL 250.
2. Air-to-air missiles launched from fighter aircraft (and no SAMs).
3. Long-range surface-to-air missiles (SAMs) that can hit an aircraft at cruising level.

**Long-range surface-to-air missiles (SAMs) that can hit an aircraft at cruising level.**

*Both parties in this conflict had the capability to hit civilian aircraft in the region.*

**Armed Forces of the Libyan Arab Jamahiriya:**

*Crotale, SA-7 Grail, SA-9/SA-13 SAMs, and AA guns in Army service. A separate Air Defence Command had SA-2 Guideline, SA-3 Goa, SA-5 Gammon, and SA-8b Gecko, plus guns.*

*S-75 Dvina (NATO reporting name SA2) is a Soviet-designed, high-altitude air defence system with engagement altitude of 82,000 ft. S-75 — 6 Brigades with 18 launchers each;*

*S-125 Neva/Pechora (NATO reporting name SA3) mobile surface-to-air missile system is a Soviet SAM system with engagement altitude of 59,000 ft. S125 — 9 Brigades with 12 launchers each;*

*S-200 (NATO reporting name SA-5) is a very long range, medium-to-high altitude SAM system to defend large areas from bomber attack or other strategic aircraft with engagement altitude of 130,000 ft. S-200— 8 battalions of six launchers each at four sites and an estimated 380 missiles.*

*The Crotale EDIR (“InfraRed Differential Ecartometry”) is an all-weather short-range anti-air missile, originally developed by France, which can be used to intercept low-flight anti-ship missiles and aircraft with engagement altitude of up to 30,000 ft. Crotale — nine acquisition and 27 firing units.*

*The 9K33 Osa (NATO reporting name SA-8 Gecko) is a mobile, low-altitude, short-range tactical surface-to-air missile system designed in the Soviet Union with engagement altitude of 39,000 ft. 9K33 Osa/ SA-8 Gecko — 50*

*9K38 Igla (NATO reporting name SA-18 Grouse) is a Russian/Soviet man-portable infrared homing surface-to-air missile with and engagement altitude of 11,000 ft. 9K38 Igla — 380;*

*50 2K12 Kub mobile SAM. The 2K12 “Kub” (NATO reporting name: SA-6 “Gainful”) low to medium-level air defence system designed to protect ground forces from air attack with engagement altitude, depending on the modification, of up to 46,000 ft.*

*Other capabilities for lower altitudes: 200 9K34 Strela-3 (SA-14) — 278;*

**The National Transitional Council of Libya — The National Liberation Army:**

*9K32 Strela-2 (SA-7)*

**NATO:**

*NATO had the capability to hit civilian aircraft in the region.*

**G. Capability to differentiate between civil and military aircraft:**

1. Differentiation supported by radar, electronic identification and non-cooperative target recognition systems measuring signature using acoustic and thermal radiation, radio emissions, radar techniques.
2. Differentiation supported by radar and electronic identification (e.g., identification, friend or foe (IFF), secondary surveillance radar (SSR).
3. Differentiation supported only by radar tracks.

**Differentiation supported only by radar tracks.**

**NATO had more sophisticated capabilities to differentiate.**

**H. SAM/AAM operators’ experience and chain of command:**

1. Regular forces.
2. SAMs in the possession of irregular military forces OR an absence of robust SAM/AAM command and control procedures for authorizing launch.
3. SAMs in the possession of irregular military forces AND an absence of robust SAM/AAM command and control procedures for authorizing launch.

**Regular forces.**

Libya 2011 (continued)	
<b>I. Known intent to attack:</b> <ol style="list-style-type: none"> <li>Known intent to attack military aircraft.</li> <li>Known intent to attack civil aircraft.</li> <li>Communication of intent and a plan to attack civil aircraft or actual attack against civil aircraft.</li> </ol>	<b>Known intent to attack military aircraft.</b> <i>See the incidents and accidents reported in section E.</i>
<b>J. Civil aircraft operations over or close to conflict zone (with and without the airspace restrictions if any):</b> <ol style="list-style-type: none"> <li>No or occasional traffic.</li> <li>Small to moderate traffic volume (for example restricted to arrivals and departures to airports).</li> <li>Considerable traffic volume, including international overflights.</li> </ol>	<b>No or occasional traffic after the restrictions.</b> <b>Moderate traffic volume, including international overflights prior the restrictions.</b> <i>The infrastructure of Libya's air traffic control has largely been destroyed and only sporadic military air activities are conducted. On 18 March the Libyan airspace was closed from some neighbours.</i>
Airspace Closure	
<b>Airspace restrictions</b> Describes when airspace restrictions were introduced, what airspace they affected and how they evolved over time including: <ul style="list-style-type: none"> <li>Restrictions by the responsible for the airspace sovereign authority (the state).</li> <li>Restrictions by others — third parties and/or neighboring states.</li> </ul>	<b>1. Restrictions by the responsible for the airspace sovereign authority (the state)</b> <i>No information found</i> <b>2. Others</b> <i>On 18 March the Libyan airspace was closed, supported by countries with neighbouring airspace, to all traffic, reacting to a U.N. resolution.</i> <i>Beginning in early November 2011, a step-by-step approach has been followed for a safe transition of airspace, owing to the coordination between ICAO, EUROCONTROL, and the respective civil aviation authorities concerned (Malta, Tunisia, Egypt and Libya) and air traffic services over the central Mediterranean high seas and Libyan territory, as follows:</i> <i>Phase 1. The current situation, following the end of the no-fly zone in November, allowed the reopening of the main airports of Tripoli International, Tripoli Mitiga, Sabha, Benghazi and Misratah to civilian traffic.</i> <i>Phase 2. On 1 February 2012, two contingency north/south overflight routes were opened, allowing gradually increasing traffic as deemed necessary. The remaining routes will be released by the Libyan Civil Aviation Authority as soon as the operational conditions are fulfilled.</i> <i>Phase 3. From 1 April to 3 May 2012, aviation authorities added more routes to the overflight system, and reopened new airports on a regular basis with their associated contingency routes.</i>
<b>Reasons for airspace restrictions</b> Describes the reasons for airspace restrictions, weapons known to be in the area and their range/capabilities, what traffic was vulnerable, known or suspected intent to attack civil aviation and whether there was concern about unintentional attack.	<i>UN Security Council Resolution 1973 was adopted on 17 March 2011. The resolution authorised member states to establish and enforce a no-fly zone over Libya, and to use "all necessary measures" to prevent attacks on civilians. The resolution was the legal basis for military intervention by the forces of NATO.</i>
<b>Decision-making</b> Describes the source(s) of the threat information; who made the decision regarding the restrictions and with whom was the decision coordinated; was the decision-making process different from the normal or standard airspace decision-making process.	<i>Decision to close the described airspace came from all neighbouring states.</i> <i>Technical support provided by EUROCONTROL.</i>
<b>Promulgation</b> Describes how the restrictions were published, number of the NOTAMs if available, AIS.	<i>NOTAM and EUROCONTROL actions.</i>
<b>Notes</b> Other relevant information	<b>References:</b> <i>UN Security Council, Resolution 1973 (2011), 17 March 2011</i> <i>UN Security Council, Resolution 2009 (2011), 16 September 2011</i> <i>Jaffe S., Airspace Closure and Civil Aviation, 2015</i>



## Slovenia 1991

## Likelihood of attack indicators

<p><b>A. Parties:</b></p> <ol style="list-style-type: none"> <li>1. Conflict between states.</li> <li>2. Conflict between non-state armed groups and state(s) or civil wars.</li> <li>3. Conflict between non-state armed groups.</li> </ol>	<p><b>Conflict between non-state armed groups and state(s) or civil wars.</b></p> <p><i>The conflicting parties in the Slovenian war in 1991 were Slovenia and Yugoslavia. The belligerents Slovenian Territorial Defence and Slovenian police on one side and the Yugoslav People's Army on the other side.</i></p> <p><i>The war lasted from 27 June 1991 until 7 July 1991, when the Brioni Accords were signed.</i></p>
<p><b>B. Armed conflict scale and/or tensions:</b></p> <ol style="list-style-type: none"> <li>1. Terrorism and/or international political tension.</li> <li>2. Insurgency (small-scale military activities) and/or medium increasing political tension.</li> <li>3. Large-scale military activities and/or heightened international political tension.</li> </ol>	<p><b>Insurgency or small-scale military activities.</b></p>
<p><b>C. Military air transport activities:</b></p> <ol style="list-style-type: none"> <li>1. Military air transport activities not reported.</li> <li>2. Occasional use of aircraft to transport ground troops or military equipment.</li> <li>3. More than occasional use of aircraft to transport ground troops or military equipment by at least one party).</li> </ol>	<p><b>Occasional use of aircraft to transport ground troops or military equipment.</b></p>
<p><b>D. Military air combat activities:</b></p> <ol style="list-style-type: none"> <li>1. No military air combat activities.</li> <li>2. Small-scale (occasional) military air combat activities and/or some activities above FL 250.</li> <li>3. Large- to medium-scale military air combat activities and/or regular activities above FL 250</li> </ol>	<p><b>Small-scale military air combat activities.</b></p>
<p><b>E. Known attacks:</b></p> <ol style="list-style-type: none"> <li>1. Conflict area without publicly reported security incidents involving military and civil aviation.</li> <li>2. Conflict area with single security-related reported incident/accident involving military (or civil) aviation.</li> <li>3. Conflict area with multiple reported security-related incident/accident involving military (or civil) aviation.</li> </ol>	<p><b>Conflict area with single reported incident/accident involving military (or civil) aviation.</b></p> <p><i>On 27 June 1991, the Slovenian Territorial Defence shot down two Yugoslav People's Army helicopters with SA-7 missiles.</i></p>

## Slovenia 1991 (continued)

**F. Capability to attack by at least one party:**

1. No information for capability to attack with range above FL 250.
2. Air-to-air missiles launched from fighter aircraft (and no SAMs).
3. Long-range surface-to-air missiles (SAMs) that can hit an aircraft at cruising level.

**Long-range surface-to-air missiles (SAMs) that can hit an aircraft at cruising altitude.**

**Federal Republic of Yugoslavia:**

*At the start of the war, the Yugoslav national air defence force possessed more than 100 search radars, eight battalions of SA-2s, six battalions of SA-3s, one battalion of SA-5s, four battalions of SA-6/11s, and 15 regiments of antiaircraft guns. For support of the army, there were also SA-9, SA-13 mobile IR-guided SAMs, and thousands of SA-7 and SA-16 MANPADS.*

*S-75 Dvina (NATO reporting name SA2) is a Soviet-designed, high-altitude air defence system with engagement altitude of 82,000 ft.*

*S-125 Neva/Pechora (NATO reporting name SA3) mobile surface-to-air missile system is a Soviet-made SAM system with engagement altitude of 59,000ft.*

*S-200 (NATO reporting name SA-5) is a very long range, medium-to-high altitude SAM system to defend large areas from bomber attack or other strategic aircraft. It has an engagement altitude of 130,000ft.*

*2K12 Kub mobile SAM. The 2K12 "Kub" (NATO reporting name: SA-6 "Gainful") low- to medium-level air defence system designed to protect ground forces from air attack with engagement altitude, depending on the modification, of up to 46,000 ft.*

*Other capabilities for lower altitudes: 9K32 Strela-2 (SA-7), 9K31 Strela-1 (SA-9), 9K35 Strela-10 (SA-13), 9K34 Strela-3 (SA-14), 9K310 Igla-1 (SA-16) and mobile AAA batteries (multiple types).*

**Slovenian Territorial Defence:**

*9K31 Strela-1 (SA-9) is a mobile, short-range, low altitude infra-red guided surface-to-air missile system and shoulder-fired 9K32 Strela-2 (SA-7).*

**G. Capability to differentiate between civil and military aircraft:**

1. Differentiation supported by radar, electronic identification and non-cooperative target recognition systems measuring signature using acoustic and thermal radiation, radio emissions, radar techniques.
2. Differentiation supported by radar and electronic identification (e.g., identification, friend or foe (IFF), secondary surveillance radar (SSR)).
3. Differentiation supported only by radar tracks.

**Differentiation supported by radar and electronic identification (e.g., identification, friend or foe (IFF), secondary surveillance radar (SSR)).**

**H. SAM/AAM operators' experience and chain of command:**

1. Regular forces.
2. SAMs in the possession of irregular military forces OR an absence of robust SAM/AAM command and control procedures for authorizing launch.
3. SAMs in the possession of irregular military forces AND an absence of robust SAM/AAM command and control procedures for authorizing launch.

**Regular forces.**

**I. Known intent to attack:**

1. Known intent to attack military aircraft.
2. Known intent to attack civil aircraft.
3. Communication of intent and a plan to attack civil aircraft or actual attack against civil aircraft.

**Known intent to attack military aircraft.**

*See the incidents and accidents reported in section E.*

## Slovenia 1991 (continued)

<p><b>J. Civil aircraft operations over or close to conflict zone (with and without the airspace restrictions if any):</b></p> <ol style="list-style-type: none"> <li>1. No or occasional traffic.</li> <li>2. Small to moderate traffic volume (for example restricted to arrivals and departures to airports).</li> <li>3. Considerable traffic volume, including international overflights.</li> </ol>	<p><b>No or occasional traffic.</b></p> <p><b>Moderate traffic volume, including international overflights prior the restrictions.</b></p>
<p><b>Airspace Closure</b></p>	
<p><b>Airspace restrictions</b></p> <p>Describes when airspace restrictions were introduced, what airspace they affected and how they evolved over time including:</p> <ul style="list-style-type: none"> <li>• Restrictions by the responsible for the airspace sovereign authority (the state).</li> <li>• Restrictions by others — third parties and/or neighboring states.</li> </ul>	<p><b>1. Restrictions by the responsible for the airspace sovereign authority (the state)</b></p> <p><i>On 26 June, at 1330, the Ljubljana airport and the airspace above Slovenia was closed by the federal air traffic control.</i></p> <p><i>The federal air traffic control closed FIR Zagreb on 31 August at 15:00.</i></p> <p><i>On 1 September at 0930 FIR Zagreb was opened.</i></p> <p><i>On 15 September FIR Zagreb was again closed at 14:52.</i></p> <p><i>After the airports in Ljubljana and Zagreb were closed, and because of the serious threat of further attacks in Slovenia by the federal army, high increases in insurance premiums for individual flights in Croatia and because of all the general uncertainties, the management of Adria Airways decided to transfer its operations abroad after 8 July 1991. Adria aircraft landed at airports in Klagenfurt, Frankfurt and Vienna.</i></p> <p><i>On 15 January 1992 an agreement was reached with Austria for provision of air traffic control in Slovenian airspace. At midnight on 22 January 1992 Slovenian airspace was opened when an agreement between Slovenian and Austrian aviation authorities came into force.</i></p> <p><i>The Ljubljana airport was shutdown, with rare exceptions, until February 1992.</i></p>
<p><b>Reasons for airspace restrictions</b></p> <p>Describes the reasons for airspace restrictions, weapons known to be in the area and their range/ capabilities, what traffic was vulnerable, known or suspected intent to attack civil aviation and whether there was concern about unintentional attack.</p>	<p><i>The reason for the initial restrictions was "technical shortcomings."</i></p> <p><i>The closure of airspace followed immediately after 25 June when Slovenia passed its act of independence and coincided with a plan the Slovenian government had already put into action to seize control of the republic's border posts and the international airport.</i></p>
<p><b>Decision-making</b></p> <p>Describes the source(s) of the threat information; who made the decision regarding the restrictions and with whom was the decision coordinated; was the decision-making process different from the normal or standard airspace decision-making process.</p>	<p><i>The Brioni Declaration stated in the paragraph on air transport that there is only one air traffic control for the whole of Yugoslavia and that all domestic and international air traffic through Yugoslavia would be supervised and provided by the competent federal authority.</i></p> <p><i>Subsequently, in January 1992 Slovenia agreed with Austria for the provision of air traffic control.</i></p>
<p><b>Promulgation</b></p> <p>Describes how the restrictions were published, number of the NOTAMs if available, AIS.</p>	<p><i>References not found.</i></p>
<p><b>Notes</b></p> <p>Other relevant information</p>	<p><b>References:</b></p> <p><i>U.S. Central Intelligence Agency, Yugoslavia: Military Dynamics of a Potential Civil War, March 1991</i></p> <p><i>Adria Airways Kronika 1991</i></p> <p><i>U.S. Central Intelligence Agency, Combat forces in former Yugoslavia, July 1993</i></p> <p><i>Daniel L. Haulman, Air Force historical Research Agency, MANNED AIRCRAFT LOSSES OVER THE FORMER YUGOSLAVIA, 1994–1999, October 2009</i></p>

Afghanistan 2001–present	
Likelihood of attack indicators	
<p><b>A. Parties:</b></p> <ol style="list-style-type: none"> <li>1. Conflict between states.</li> <li>2. Conflict between non-state armed groups and state(s) or civil wars.</li> <li>3. Conflict between non-state armed groups.</li> </ol>	Conflict between non-state armed groups and state(s) or civil wars.
<p><b>B. Armed conflict scale and/or tensions:</b></p> <ol style="list-style-type: none"> <li>1. Terrorism and/or international political tension.</li> <li>2. Insurgency (small-scale military activities) and/or medium increasing political tension.</li> <li>3. Large-scale military activities and/or heightened international political tension.</li> </ol>	Insurgency (small-scale military activities) and/or medium increasing political tension.
<p><b>C. Military air transport activities:</b></p> <ol style="list-style-type: none"> <li>1. Military air transport activities not reported.</li> <li>2. Occasional use of aircraft to transport ground troops or military equipment.</li> <li>3. More than occasional use of aircraft to transport ground troops or military equipment by at least one party).</li> </ol>	More than occasional use of aircraft to transport ground troops or military equipment by at least one party).
<p><b>D. Military air combat activities:</b></p> <ol style="list-style-type: none"> <li>1. No military air combat activities.</li> <li>2. Small-scale (occasional) military air combat activities and/or some activities above FL 250.</li> <li>3. Large- to medium-scale military air combat activities and/or regular activities above FL 250</li> </ol>	Small-scale (occasional) military air combat activities and/or some activities above FL 250.
<p><b>E. Known attacks:</b></p> <ol style="list-style-type: none"> <li>1. Conflict area without publicly reported security incidents involving military and civil aviation.</li> <li>2. Conflict area with single security-related reported incident/accident involving military (or civil) aviation.</li> <li>3. Conflict area with multiple reported security-related incident/accident involving military (or civil) aviation.</li> </ol>	Conflict area with multiple reported security-related incident/accident involving military (or civil) aviation.
<p><b>F. Capability to attack by at least one party:</b></p> <ol style="list-style-type: none"> <li>1. No information for capability to attack with range above FL 250.</li> <li>2. Air-to-air missiles launched from fighter aircraft (and no SAMs).</li> <li>3. Long-range surface-to-air missiles (SAMs) that can hit an aircraft at cruising level.</li> </ol>	<p>Air-to-air missiles launched from fighter aircraft (and no SAMs).</p> <p><i>Afghan fighter presence 1989-2001, anti-aircraft artillery (AAA) capable of reaching cruising levels and MANPADS that, because of the specific high terrain, could reach cruising altitudes as well.</i></p> <p><i>2001 — Coalition fighter presence.</i></p>
<p><b>G. Capability to differentiate between civil and military aircraft:</b></p> <ol style="list-style-type: none"> <li>1. Differentiation supported by radar, electronic identification and non-cooperative target recognition systems measuring signature using acoustic and thermal radiation, radio emissions, radar techniques.</li> <li>2. Differentiation supported by radar and electronic identification (e.g., identification, friend or foe (IFF), secondary surveillance radar (SSR).</li> <li>3. Differentiation supported only by radar tracks.</li> </ol>	<p>Differentiation supported by radar, electronic identification and non-cooperative target recognition systems measuring signature using acoustic and thermal radiation, radio. (Applicable only to coalition forces)</p> <p><b>CAUTION: Use of MANPADS and AAA by insurgent or irregular forces limited to visual differentiation</b></p>

## Afghanistan 2001–present (continued)

<p><b>H. SAM/AAM operators' experience and chain of command:</b></p> <ol style="list-style-type: none"> <li>1. Regular forces.</li> <li>2. SAMs in the possession of irregular military forces OR an absence of robust SAM/AAM command and control procedures for authorizing launch.</li> <li>3. SAMs in the possession of irregular military forces AND an absence of robust SAM/AAM command and control procedures for authorizing launch.</li> </ol>	<p><b>SAMs in the possession of irregular military forces AND an absence of robust SAM/AAM command and control procedures for authorizing launch</b></p> <p><i>Residual Strela and Stinger MANPADS, plus possible AAA.</i></p>
<p><b>I. Known intent to attack:</b></p> <ol style="list-style-type: none"> <li>1. Known intent to attack military aircraft.</li> <li>2. Known intent to attack civil aircraft.</li> <li>3. Communication of intent and a plan to attack civil aircraft or actual attack against civil aircraft.</li> </ol>	<p><b>Known intent to attack military aircraft.</b></p> <p><b>Known intent to attack civil aircraft.</b></p> <p><i>Multiple engagements by Pakistan forces of Afghan aircraft straying into northern Pakistan airspace during late 1980s.</i></p> <p><a href="https://www.nytimes.com/1988/11/22/world/afghanistan-reports-30-dead-on-plane-downed-by-pakistan.html">https://www.nytimes.com/1988/11/22/world/afghanistan-reports-30-dead-on-plane-downed-by-pakistan.html</a></p> <p><i>Multiple engagements of military traffic by irregular forces within Afghanistan during Russian occupation up to 1989.</i></p> <p><i>Multiple low-altitude engagements by irregular forces since 2001.</i></p>
<p><b>J. Civil aircraft operations over or close to conflict zone (with and without the airspace restrictions if any):</b></p> <ol style="list-style-type: none"> <li>1. No or occasional traffic.</li> <li>2. Small to moderate traffic volume (for example restricted to arrivals and departures to airports).</li> <li>3. Considerable traffic volume, including international overflights.</li> </ol>	<p><b>Considerable traffic volume, including international overflights.</b></p>
<p><b>Airspace Closure</b></p>	
<p><b>Airspace restrictions</b></p> <p>Describes when airspace restrictions were introduced, what airspace they affected and how they evolved over time including:</p> <ul style="list-style-type: none"> <li>• Restrictions by the responsible for the airspace sovereign authority (the state).</li> <li>• Restrictions by others — third parties and/or neighboring states.</li> </ul>	<ol style="list-style-type: none"> <li><b>1. Restrictions by the responsible for the airspace sovereign authority (the state)</b></li> </ol> <p><i>No information found</i></p> <ol style="list-style-type: none"> <li><b>2. Others</b></li> </ol> <p><i>No information found</i></p> <p><b>Note:</b></p> <p><i>No formal airspace closures. Area was voluntarily avoided by civil traffic during Soviet occupation. Coalition air ops from 2001</i></p> <p><i>India permanent NOTAM dated 3 Apr 2001, overflight of Taliban-held territory prohibited, traffic would be denied future access to Indian airspace. Still valid. (VI G0047/01)</i></p> <p><i>Extant overflight warnings by NOTAM from USA, UK, France, Germany, advising min altitude 25,000 AGL, (FL330 for USA and Germany) <a href="https://www.easa.europa.eu/domains/air-operations/czibs/czib-2017-08r5">https://www.easa.europa.eu/domains/air-operations/czibs/czib-2017-08r5</a></i></p>
<p><b>Reasons for airspace restrictions</b></p> <p>Describes the reasons for airspace restrictions, weapons known to be in the area and their range/capabilities, what traffic was vulnerable, known or suspected intent to attack civil aviation and whether there was concern about unintentional attack.</p>	<p><i>Presence of anti-aviation weapons within Kabul FIR. USA NOTAM references potential for engagement by certain MANPADS below FL 330.</i></p>
<p><b>Decision-making</b></p> <p>Describes the source(s) of the threat information; who made the decision regarding the restrictions and with whom was the decision coordinated; was the decision-making process different from the normal or standard airspace decision-making process.</p>	<p><b>National advisories only. Standard decision-making from appropriate national authorities.</b></p> <p><i>No warnings issued by Afghan government.</i></p>

**Afghanistan 2001–present** *(continued)***Promulgation**

Describes how the restrictions were published, number of the NOTAMs if available, AIS.

*NOTAM, AIS. Germany NOTAM: B0437/20. USA A0038/20. UK AIP ENR 1.4.5 valid from 8 Oct 2015 <https://www.aurora.nats.co.uk/htmlAIP/Publications/2018-11-08-AIRAC/html/eAIP/EG-ENR-1.1-en-GB.html>*

**Notes**

Other relevant information

**References:**

*Jaffe S., Airspace Closure and Civil Aviation, 2015*

## Armenia Azerbaijan

## Likelihood of attack indicators

<p><b>A. Parties:</b></p> <ol style="list-style-type: none"> <li>1. Conflict between states.</li> <li>2. Conflict between non-state armed groups and state(s) or civil wars.</li> <li>3. Conflict between non-state armed groups.</li> </ol>	<p><b>Conflict between states.</b></p> <p><b>Conflict between non-state armed groups and state(s) or civil wars.</b></p> <p><i>After the 2016 Armenian–Azerbaijani clashes, in which an estimated 350 troops and civilians from both sides were killed, Azerbaijan declared a unilateral cease fire (the clashes started when Azerbaijani forces launched strikes to regain control of territory controlled by the Armenia-backed breakaway Nagorno-Karabakh.)</i></p> <p><i>The two countries are still technically at war and the Azerbaijani government regularly threatens to retake Nagorno-Karabakh by military force</i></p> <p><i>The Four-Day War, or April War, began along the Nagorno-Karabakh line of contact on 1 April 2016 with the Nagorno-Karabakh Defense Army, backed by the Armenian Armed Forces, on one side and the Azerbaijani Armed Forces on the other.</i></p> <p><i>The clashes have been defined as “the worst” since the 1994 ceasefire agreement signed by Nagorno-Karabakh, Azerbaijan and Armenia.</i></p>
<p><b>B. Armed conflict scale and/or tensions:</b></p> <ol style="list-style-type: none"> <li>1. Terrorism and/or international political tension.</li> <li>2. Insurgency (small-scale military activities) and/or medium increasing political tension.</li> <li>3. Large-scale military activities and/or heightened international political tension.</li> </ol>	<p><b>Large-scale military activities and/or heightened international political tension.</b></p>
<p><b>C. Military air transport activities:</b></p> <ol style="list-style-type: none"> <li>1. Military air transport activities not reported.</li> <li>2. Occasional use of aircraft to transport ground troops or military equipment.</li> <li>3. More than occasional use of aircraft to transport ground troops or military equipment by at least one party).</li> </ol>	<p><b>More than occasional use of aircraft to transport ground troops or military equipment by at least one party (such aircraft may be more difficult to distinguish from civil aircraft, particularly where operating near airways and close to civil aircraft cruising altitudes).</b></p> <p><i>The scale of the military actions, the number of forces and combat equipment involved, such as heavy artillery, including use of cluster munition, tanks, air forces and suicide drones, as well as the statements of Azerbaijani officials clearly indicate that the events of 2–5 April were not a spontaneous escalation, but a carefully planned and prepared military operation, aimed at resolving the Karabakh conflict by the use of force.</i></p>
<p><b>D. Military air combat activities:</b></p> <ol style="list-style-type: none"> <li>1. No military air combat activities.</li> <li>2. Small-scale (occasional) military air combat activities and/or some activities above FL 250.</li> <li>3. Large- to medium-scale military air combat activities and/or regular activities above FL 250</li> </ol>	<p><b>Small-scale military air combat activities.</b></p>
<p><b>E. Known attacks:</b></p> <ol style="list-style-type: none"> <li>1. Conflict area without publicly reported security incidents involving military and civil aviation.</li> <li>2. Conflict area with single security-related reported incident/accident involving military (or civil) aviation.</li> <li>3. Conflict area with multiple reported security-related incident/accident involving military (or civil) aviation.</li> </ol>	<p><b>Conflict area with multiple reported security-related incident/accident involving military (or civil) aviation.</b></p> <p><i>February 2017 — Fighting flares up in Nagorno-Karabakh between the Azerbaijani army and ethnic Armenian troops along the line separating them.</i></p> <p><i>Azerbaijan’s air force was composed of 45 combat aircraft which were often piloted by experienced Russian and Ukrainian mercenaries from the former Soviet military. They flew mission sorties over Karabakh with such sophisticated jets as the MiG-25 and Sukhoi Su-24 and with older-generation Soviet fighter bombers, such as the MiG-21.</i></p> <p><i>Several were shot down over the city by Armenian forces and according to one of the pilots’ commanders, with assistance provided by the Russians. Many of these pilots risked the threat of execution by Armenian forces if they were shot down. The setup of the defense system severely hampered Azerbaijan’s ability to carry out and launch more air strikes.</i></p> <p><i>Azerbaijani fighter jets attacked civilian airplanes too. An Armenian civil aviation Yak-40 plane traveling from Stepanakert airport to Yerevan with total of 34 passengers and crew was attacked by an Azerbaijani SU-25. Though suffering engine failure and a fire in rear of the plane, it eventually made a safe landing in Armenian territory</i></p>

## Armenia Azerbaijan (continued)

<p><b>F. Capability to attack by at least one party:</b></p> <ol style="list-style-type: none"> <li>1. No information for capability to attack with range above FL 250.</li> <li>2. Air-to-air missiles launched from fighter aircraft (and no SAMs).</li> <li>3. Long-range surface-to-air missiles (SAMs) that can hit an aircraft at cruising level.</li> </ol>	<p><b>Long-range surface-to-air missiles (SAMs) that can hit an aircraft at cruising altitude.</b></p> <p><i>Azerbaijani MiG-25 was shot down near Cherban on 20 August 1992 by an SA-7A MANPADS.</i></p> <p><i>Azerbaijani Su-22 was shot down on 19 February 1994 over Verdenisskiy by an SA-14 MANPADS.</i></p> <p><i>Azerbaijani Su-25 flown by Kurbanov was shot down over Mkhrdag on 13 June 1992 by a MANPADS.</i></p> <p><i>Azerbaijani Su-25 shot down near Malibeili on 10 October 1992 using MANPADS.</i></p> <p><b>Azerbaijan:</b> BUK SAM, S-300PMU2, Perchora-T2M SAM</p> <p><b>Armenia:</b> BUK, OSA, Pechora-T2M, 2K11Krug, SA-13 Gopher, KUB-M-3, S-300PS, S-300PT-1</p>
<p><b>G. Capability to differentiate between civil and military aircraft:</b></p> <ol style="list-style-type: none"> <li>1. Differentiation supported by radar, electronic identification and non-cooperative target recognition systems measuring signature using acoustic and thermal radiation, radio emissions, radar techniques.</li> <li>2. Differentiation supported by radar and electronic identification (e.g., identification, friend or foe (IFF), secondary surveillance radar (SSR).</li> <li>3. Differentiation supported only by radar tracks.</li> </ol>	<p><b>Differentiation supported by radar and electronic identification (e.g., identification, friend or foe (IFF), secondary surveillance radar (SSR).</b></p>
<p><b>H. SAM/AAM operators' experience and chain of command:</b></p> <ol style="list-style-type: none"> <li>1. Regular forces.</li> <li>2. SAMs in the possession of irregular military forces OR an absence of robust SAM/AAM command and control procedures for authorizing launch.</li> <li>3. SAMs in the possession of irregular military forces AND an absence of robust SAM/AAM command and control procedures for authorizing launch.</li> </ol>	<p><b>Regular forces.</b></p> <p><i>Azerbaijan's Defense Ministry said its forces on May 15, 2017 "destroyed an Osa air defense system along with its crew." The ministry added that the system's deployment near the line of control was a "provocation" and a threat to Azerbaijani aircraft.</i></p> <p><i>All versions of the 9K33 feature all-in-one 9A33 transporter erector launcher and radar (TELAR) vehicles which can detect, track and engage aircraft independently or with the aid of regimental surveillance radars. The six-wheeled transport vehicles BAZ-5937 are fully amphibious and air transportable. The road range is about 500 km.</i></p>
<p><b>I. Known intent to attack:</b></p> <ol style="list-style-type: none"> <li>1. Known intent to attack military aircraft.</li> <li>2. Known intent to attack civil aircraft.</li> <li>3. Communication of intent and a plan to attack civil aircraft or actual attack against civil aircraft.</li> </ol>	<p><b>Communication of intent and a plan to attack civil aircraft or actual attack against civil aircraft — reference 1991 hostile events sample.</b></p>
<p><b>J. Civil aircraft operations over or close to conflict zone (with and without the airspace restrictions if any):</b></p> <ol style="list-style-type: none"> <li>1. No or occasional traffic.</li> <li>2. Small to moderate traffic volume (for example restricted to arrivals and departures to airports).</li> <li>3. Considerable traffic volume, including international overflights.</li> </ol>	<p><b>No traffic after the restrictions.</b></p> <p><b>Moderate traffic volume, mainly restricted to arrivals and departures to airports prior to the restrictions.</b></p>
<p><b>Airspace Closure</b></p>	
<p><b>Airspace restrictions</b></p> <p>Describes when airspace restrictions were introduced, what airspace they affected and how they evolved over time including:</p> <ul style="list-style-type: none"> <li>• Restrictions by the responsible for the airspace sovereign authority (the state).</li> <li>• Restrictions by others — third parties and/or neighboring states.</li> </ul>	<p><b>1. Restrictions by the responsible for the airspace sovereign authority (the state)</b></p> <p><i>Restricted</i></p> <p>A0024/11 NOTAMN Q) UBBA/QRPXX/IV/NBO/W /000/999/3936N04642E045 A) UBBA B) 1102111240 C) PERM E) ACCORDING TO AIP OF AZERBAIJAN REPUBLIC REF.ENR 5.1 DUE TO CONFLICT SITUATION THE PROHIBITED AREA UBP3 GND/UNL IS ESTABLISHED OVER THE TERRITORY OF THE NAGORNY KARABAKH AND CONTROLLED BY THE MINISTRY OF DEFENSE OF THE REPUBLIC OF AZERBAIJAN. INTERCEPTION OF OFFENDERS BY THE AIR FORCE IS MANDATORY ACTION F) GND G) UNL</p>



**Armenia Azerbaijan** *(continued)*

<b>Reasons for airspace restrictions</b> Describes the reasons for airspace restrictions, weapons known to be in the area and their range/capabilities, what traffic was vulnerable, known or suspected intent to attack civil aviation and whether there was concern about unintentional attack.	<i>Conflict</i>
<b>Decision-making</b> Describes the source(s) of the threat information; who made the decision regarding the restrictions and with whom was the decision coordinated; was the decision-making process different from the normal or standard airspace decision-making process.	
<b>Promulgation</b> Describes how the restrictions were published, number of the NOTAMs if available, AIS.	ICAO NOTAM A0024/11 NOTAMN Q) UBBA/QRPXX/IV/NBO/W /000/999/3936N04642E045
<b>Notes</b> Other relevant information	<b>References:</b> <a href="http://wikipedia.org.wikipedia.org/wiki/missile_system">wikipedia.org.wikipedia.org/wiki/missile_system</a> <a href="http://wordpress.com">Wordpress.com</a> Russian supplied defense systems <i>Hoge, James F. (2010). The Clash of Civilizations: The Debate. Council on Foreign Relations, Eastern Europe, Russia and Central Asia. London: Europa Publications. 2002. p. 77., cfr.org</i>

## Ivory Coast 2002–2004

## Likelihood of attack indicators

<p><b>A. Parties:</b></p> <ol style="list-style-type: none"> <li>1. Conflict between states.</li> <li>2. Conflict between non-state armed groups and state(s) or civil wars.</li> <li>3. Conflict between non-state armed groups.</li> </ol>	<p><b>Conflict between non-state armed groups and state(s) or civil wars.</b>  <i>Official government forces, the National Army (FANCI), also called loyalists, formed and equipped essentially since 2003.</i>  <i>Mercenaries recruited by president Gbagbo:</i></p> <ul style="list-style-type: none"> <li>• Belarusian pilots;</li> <li>• Former combatants of Liberia, including under-17 youths, forming the so-called "Lima militia";</li> <li>• New Forces (Forces Nouvelles, FN), ex-northern rebels;</li> <li>• Liberian government forces;</li> <li>• French military forces: troops sent within the framework of Operation Unicorn and under UN mandate (UNOCI);</li> <li>• Soldiers of the Economic Community of West African States (ECOWAS), White helmets, also under the UN;</li> <li>• NATO forces.</li> </ul>
<p><b>B. Armed conflict scale and/or tensions:</b></p> <ol style="list-style-type: none"> <li>1. Terrorism and/or international political tension.</li> <li>2. Insurgency (small-scale military activities) and/or medium increasing political tension.</li> <li>3. Large-scale military activities and/or heightened international political tension.</li> </ol>	<p><b>Insurgency or small-scale military activities.</b>  <i>Mutiny in Abidjan by soldiers unhappy at being demobilized grows into full-scale rebellion, with Ivory Coast Patriotic Movement rebels seizing control of the north. They launched attacks in many cities, including Abidjan. Attacks were launched almost simultaneously in most major cities; the government forces maintained control of Abidjan and the south, but the new rebel forces had taken the north and based themselves in Bouake. Particular importance for the case study is the 2004 French–Ivorian clashes that represent air-to-air capability to attack.</i></p>
<p><b>C. Military air transport activities:</b></p> <ol style="list-style-type: none"> <li>1. Military air transport activities not reported.</li> <li>2. Occasional use of aircraft to transport ground troops or military equipment.</li> <li>3. More than occasional use of aircraft to transport ground troops or military equipment by at least one party).</li> </ol>	<p><b>More than occasional use of aircraft to transport ground troops or military equipment by at least one party (such aircraft may be more difficult to distinguish from civil aircraft, particularly where operating near airways and close to civil aircraft cruising altitudes).</b>  <i>Evidence of NATO and French mobilized and airborne force movement and deployments.</i></p>
<p><b>D. Military air combat activities:</b></p> <ol style="list-style-type: none"> <li>1. No military air combat activities.</li> <li>2. Small-scale (occasional) military air combat activities and/or some activities above FL 250.</li> <li>3. Large- to medium-scale military air combat activities and/or regular activities above FL 250</li> </ol>	<p><b>Small-scale (occasional) military air combat activities.</b>  <i>Military combat activities involving multiple regional parties and NATO.</i>  <i>French forces conducted attacks on airports destroying SU25s and helicopters are shot down.</i></p>
<p><b>E. Known attacks:</b></p> <ol style="list-style-type: none"> <li>1. Conflict area without publicly reported security incidents involving military and civil aviation.</li> <li>2. Conflict area with single security-related reported incident/accident involving military (or civil) aviation.</li> <li>3. Conflict area with multiple reported security-related incident/accident involving military (or civil) aviation.</li> </ol>	<p><b>Conflict area with multiple reported security-related incidents/accidents involving military (or civil) aviation.</b>  <i>On 4 November 2004, Gbagbo ordered the counter-offensive to the rebel town of Bouaké to be backed by air strikes. France does not react but on 5 November put three Dassault Mirage F.1 jet fighters based in nearby Gabon on standby.</i>  <i>On 6 November, two Ivorian Sukhoi Su-25 bombers, crewed by two Belarusian mercenaries and two Ivorian pilots, fired on the Ivorian rebels led by Issiaka Ouattara. One of the bombers attacked the French peacekeeping position in the town at 1 pm, killing nine French soldiers and wounding 31. The Ivorian government claimed the attack on the French was unintentional, but the French insisted that the attack had been deliberate.</i></p>
<p><b>F. Capability to attack by at least one party:</b></p> <ol style="list-style-type: none"> <li>1. No information for capability to attack with range above FL 250.</li> <li>2. Air-to-air missiles launched from fighter aircraft (and no SAMs).</li> <li>3. Long-range surface-to-air missiles (SAMs) that can hit an aircraft at cruising level.</li> </ol>	<p><b>Air-to-air missiles launched from fighter aircraft (and no SAMs).</b></p>

## Ivory Coast 2002–2004 (continued)

<p><b>G. Capability to differentiate between civil and military aircraft:</b></p> <ol style="list-style-type: none"> <li>1. Differentiation supported by radar, electronic identification and non-cooperative target recognition systems measuring signature using acoustic and thermal radiation, radio emissions, radar techniques.</li> <li>2. Differentiation supported by radar and electronic identification (e.g., identification, friend or foe (IFF), secondary surveillance radar (SSR)).</li> <li>3. Differentiation supported only by radar tracks.</li> </ol>	<p>Differentiation supported by radar and electronic identification (e.g., identification, friend or foe (IFF), secondary surveillance radar (SSR)).</p>
<p><b>H. SAM/AAM operators' experience and chain of command:</b></p> <ol style="list-style-type: none"> <li>1. Regular forces.</li> <li>2. SAMs in the possession of irregular military forces OR an absence of robust SAM/AAM command and control procedures for authorizing launch.</li> <li>3. SAMs in the possession of irregular military forces AND an absence of robust SAM/AAM command and control procedures for authorizing launch.</li> </ol>	<p>Regular forces.</p>
<p><b>I. Known intent to attack:</b></p> <ol style="list-style-type: none"> <li>1. Known intent to attack military aircraft.</li> <li>2. Known intent to attack civil aircraft.</li> <li>3. Communication of intent and a plan to attack civil aircraft or actual attack against civil aircraft.</li> </ol>	<p>Known intent to attack military aircraft.</p>
<p><b>J. Civil aircraft operations over or close to conflict zone (with and without the airspace restrictions if any):</b></p> <ol style="list-style-type: none"> <li>1. No or occasional traffic.</li> <li>2. Small to moderate traffic volume (for example restricted to arrivals and departures to airports).</li> <li>3. Considerable traffic volume, including international overflights.</li> </ol>	<p>Moderate traffic volume, mainly restricted to arrivals and departures to airports prior to the restrictions.</p>
<p><b>Airspace Closure</b></p>	
<p><b>Airspace restrictions</b> Describes when airspace restrictions were introduced, what airspace they affected and how they evolved over time including:</p> <ul style="list-style-type: none"> <li>• Restrictions by the responsible for the airspace sovereign authority (the state).</li> <li>• Restrictions by others — third parties and/or neighboring states.</li> </ul>	<p><b>1. Restrictions by the responsible for the airspace sovereign authority (the state)</b> <i>No information found</i></p> <p><b>2. Others</b> <i>No information found</i></p> <p><b>Note:</b> <i>Airport closures likely during raids</i></p>
<p><b>Reasons for airspace restrictions</b> Describes the reasons for airspace restrictions, weapons known to be in the area and their range/capabilities, what traffic was vulnerable, known or suspected intent to attack civil aviation and whether there was concern about unintentional attack.</p>	
<p><b>Decision-making</b> Describes the source(s) of the threat information; who made the decision regarding the restrictions and with whom was the decision coordinated; was the decision-making process different from the normal or standard airspace decision-making process.</p>	<p>State authorities and on-site commanders had the authority to make assessments and decisions regarding military threats.</p>

**Ivory Coast 2002–2004** *(continued)***Promulgation**

Describes how the restrictions were published, number of the NOTAMs if available, AIS.

*No evidence of airspace closures or restrictions other than those cited for Port Bouët Airport.*

**Notes**

Other relevant information

**References:**

*"Cote d'Ivoire, since 2002."* Acig.org.

*"Civil War in Côte d'Ivoire (Ivory Coast Civil War):" The Polynational War Memorial, [www.war-memorial.net](http://www.war-memorial.net). Retrieved 5 June 2017.*

*Asante, Molefi Kete (2014). The History of Africa: The Quest for Eternal Harmony. New York and London: Routledge.*

*State.gov*

## Indonesia (Aceh) 1990–1998

## Likelihood of attack indicators

<p><b>A. Parties:</b></p> <ol style="list-style-type: none"> <li>1. Conflict between states.</li> <li>2. Conflict between non-state armed groups and state(s) or civil wars.</li> <li>3. Conflict between non-state armed groups.</li> </ol>	<p><b>Conflict between non-state armed groups and state(s) or civil wars.</b></p> <p><i>Conflict was between the separatist Free Aceh Movement (GAM), which wanted autonomy, and the Indonesian state, which wanted centralized control. Separatist struggle waged for more than 30 years. After a period of dormancy, GAM re-emerged in the late 1980s, after sending combatants to Libya for training, by attacking police stations and military installations.</i></p>
<p><b>B. Armed conflict scale and/or tensions:</b></p> <ol style="list-style-type: none"> <li>1. Terrorism and/or international political tension.</li> <li>2. Insurgency (small-scale military activities) and/or medium increasing political tension.</li> <li>3. Large-scale military activities and/or heightened international political tension.</li> </ol>	<p><b>Insurgency or small-scale military activities.</b></p> <p><i>In 1989, Jakarta responded to the expansion of GAM (some of the guerrillas were trained in Libya) by launching a large-scale counter insurgency campaign. Aceh was officially transformed into a 'Military Operations Area' (Daerah Operasi Militer, DOM), widely understood as the imposition of martial law, for the next decade. Some scholars, however, question whether the DOM designation is correct. Unclear how many Indonesian troops were stationed in Aceh during DOM, but most sources estimate that about 12,000 security forces personnel were involved.</i></p> <p><i>DOM formally lifted in 1998.</i></p>
<p><b>C. Military air transport activities:</b></p> <ol style="list-style-type: none"> <li>1. Military air transport activities not reported.</li> <li>2. Occasional use of aircraft to transport ground troops or military equipment.</li> <li>3. More than occasional use of aircraft to transport ground troops or military equipment by at least one party).</li> </ol>	<p><b>Occasional use of aircraft to transport ground troops or military equipment.</b></p> <p><i>Indonesian Air Force, as of 2002, contained two squadrons of C-130s, a number of small transport and rotary-wing aircraft; and three Boeing 737s used for sea surveillance.</i></p>
<p><b>D. Military air combat activities:</b></p> <ol style="list-style-type: none"> <li>1. No military air combat activities.</li> <li>2. Small-scale (occasional) military air combat activities and/or some activities above FL 250.</li> <li>3. Large- to medium-scale military air combat activities and/or regular activities above FL 250</li> </ol>	<p><b>Small-scale (occasional) military air combat activities and/or some activities above FL 250.</b></p> <p><i>Indonesian Air Force operated a mix of Western- and Russian-built aircraft, including F-5s, F-16s and Su-30s.</i></p> <p><i>No information could be found on extent to which these and other combat aircraft were used.</i></p>
<p><b>E. Known attacks:</b></p> <ol style="list-style-type: none"> <li>1. Conflict area without publicly reported security incidents involving military and civil aviation.</li> <li>2. Conflict area with single security-related reported incident/accident involving military (or civil) aviation.</li> <li>3. Conflict area with multiple reported security-related incident/accident involving military (or civil) aviation.</li> </ol>	<p><b>Conflict area without publicly reported security incidents involving military and civil aviation.</b></p> <p><i>Low-flying Indonesian military helicopters and fixed-wing observation planes likely would have been GAM targets, but no incidents uncovered during research. Military or civil aircraft operating at cruise altitude would have been out of the reach of insurgent weapons.</i></p>
<p><b>F. Capability to attack by at least one party:</b></p> <ol style="list-style-type: none"> <li>1. No information for capability to attack with range above FL 250.</li> <li>2. Air-to-air missiles launched from fighter aircraft (and no SAMs).</li> <li>3. Long-range surface-to-air missiles (SAMs) that can hit an aircraft at cruising level.</li> </ol>	<p><b>Air-to-air missiles launched from fighter aircraft (and no SAMs).</b></p> <p><i>Heaviest weapons GAM rebels possessed were grenade launches and MANPADS</i></p> <p><i>Indonesian military has a mix of Western- and Soviet/Russian-made weapons systems, including naval vessels with SAMs and combat aircraft with air-to-air and air-to-ground attack capability.</i></p>
<p><b>G. Capability to differentiate between civil and military aircraft:</b></p> <ol style="list-style-type: none"> <li>1. Differentiation supported by radar, electronic identification and non-cooperative target recognition systems measuring signature using acoustic and thermal radiation, radio emissions, radar techniques.</li> <li>2. Differentiation supported by radar and electronic identification (e.g., identification, friend or foe (IFF), secondary surveillance radar (SSR).</li> <li>3. Differentiation supported only by radar tracks.</li> </ol>	<p><b>No sufficient information</b></p> <p><i>Indonesian military and civil authorities have ability to differentiate. No indication that GAM could differentiate.</i></p>

**Indonesia (Aceh) 1990–1998 (continued)****H. SAM/AAM operators' experience and chain of command:**

1. Regular forces.
2. SAMs in the possession of irregular military forces OR an absence of robust SAM/AAM command and control procedures for authorizing launch.
3. SAMs in the possession of irregular military forces AND an absence of robust SAM/AAM command and control procedures for authorizing launch.

**Regular forces.**

*Indonesia has traditional military command structure.  
GAM rebels were irregular forces with some training from Libya.*

**I. Known intent to attack:**

1. Known intent to attack military aircraft.
2. Known intent to attack civil aircraft.
3. Communication of intent and a plan to attack civil aircraft or actual attack against civil aircraft.

**Known intent to attack military aircraft.**

*In 2000, which is two years after the period in review, two chartered aircraft carrying oil field workers were hit by small arms fire, including one aircraft that was hit while it was taxiing, resulting in two injuries.*

**J. Civil aircraft operations over or close to conflict zone (with and without the airspace restrictions if any):**

1. No or occasional traffic.
2. Small to moderate traffic volume (for example restricted to arrivals and departures to airports).
3. Considerable traffic volume, including international overflights.

**Considerable traffic volume, including international overflights.**

*Because of the number of islands in the Indonesian archipelago, the country has a well-developed and busy air transport system. Its proximity to Singapore and Malaysia, both of which have a lot of aviation traffic, and its location in a fast-growing region of the world result in a great deal of traffic. Indonesia tightly controls overflights.*

**Airspace Closure****Airspace restrictions**

Describes when airspace restrictions were introduced, what airspace they affected and how they evolved over time including:

- Restrictions by the responsible for the airspace sovereign authority (the state).
- Restrictions by others — third parties and/or neighboring states.

**1. Restrictions by the responsible for the airspace sovereign authority (the state)**

*No information found*

**2. Others**

*No information found*

**Reasons for airspace restrictions**

Describes the reasons for airspace restrictions, weapons known to be in the area and their range/capabilities, what traffic was vulnerable, known or suspected intent to attack civil aviation and whether there was concern about unintentional attack.

**Decision-making**

Describes the source(s) of the threat information; who made the decision regarding the restrictions and with whom was the decision coordinated; was the decision-making process different from the normal or standard airspace decision-making process.

*Information on decision-making during this period was not available, but generally speaking it is a process complicated by the proximity of Singapore and Malaysia and the high level of air traffic in the region. According to at least one document, Indonesia's military pilots must seek clearance from ATC at Singapore's Changi Airport before taking off on training flights. There is tension between Singapore and Indonesia over FIRs and control of sovereign airspace.*

**Promulgation**

Describes how the restrictions were published, number of the NOTAMS if available, AIS.

**Indonesia (Aceh) 1990–1998** *(continued)***Notes**

Other relevant information

**References:**

Miller, Michelle Ann. "The Conflict in Aceh: context precursors and catalysts," *Accord 20*, p. 12–15.

Pan, Esther, Backgrounder, "[Indonesia: The Aceh Peace Agreement](#)," last updated 15 Sept. 2005.

Rabasa, Angel and Haseman, John, *The Military and Democracy in Indonesia: Challenges, Politics and Power*, *Rand National Security Research Division*, 2002.

Schulze, Kirsten E., *The Free Aceh Movement: Anatomy of a Separatist Organization*, *Policy Studies 2*, East-West Center, ISBN 1-932728-03-1 (online version), 2004.

Developing Countries Studies Center, "[Singapore FIR Takeover Plan: Avoid the 1995 Experience](#)," accessed 12 June 2020.

## Mali 2012–2015

## Likelihood of attack indicators

<p><b>A. Parties:</b></p> <ol style="list-style-type: none"> <li>1. Conflict between states.</li> <li>2. Conflict between non-state armed groups and state(s) or civil wars.</li> <li>3. Conflict between non-state armed groups.</li> </ol>	<p><b>Conflict between non-state armed groups and state(s) or civil wars.</b></p> <p><i>In January 2012 the Northern Mali Conflict or Mali Civil War started when several insurgent groups (mainly MNLA [National Movement for the Liberation of Azawad] and Ansar Dine) began fighting against the Malian government for independence for north Mali. On 5 April the MNLA proclaimed the independence of northern Mali from the rest of the country. However, by 17 July 2012, the MNLA had lost control of most of northern Mali's cities. The government of Mali asked for foreign military help to re-take the north. On 11 January 2013, the French military began operations against the Islamists. Forces from other African Union states were deployed shortly after. By 8 February, the Islamist-held territory had been re-taken by the Malian military, with help from the international coalition. However, attacks against the Malian military continued until a peace deal between the government and Tuareg rebels was signed on 18 June 2013. On 26 September 2013 the rebels pulled out of the peace agreement and fighting continued. Despite a peace accord was signed on 15 April 2015, low-level fighting continues.</i></p>
<p><b>B. Armed conflict scale and/or tensions:</b></p> <ol style="list-style-type: none"> <li>1. Terrorism and/or international political tension.</li> <li>2. Insurgency (small-scale military activities) and/or medium increasing political tension.</li> <li>3. Large-scale military activities and/or heightened international political tension.</li> </ol>	<p><b>Insurgency (small-scale military activities) and/or medium increasing political tension.</b></p> <p><i>French military intervention: Operation Serval from 11 January 2013 till 15 July 2014.</i></p> <p><i>US forces arrived in Niger in early 2013 to support the French military intervention in Mali; 150 US personnel set up a surveillance drone operation over Mali that was conducted out of Niamey. As of 2017, there are about 800 US troops in Niger, the majority of whom are construction crews working to build up a second drone base in northern Niger.</i></p>
<p><b>C. Military air transport activities:</b></p> <ol style="list-style-type: none"> <li>1. Military air transport activities not reported.</li> <li>2. Occasional use of aircraft to transport ground troops or military equipment.</li> <li>3. More than occasional use of aircraft to transport ground troops or military equipment by at least one party).</li> </ol>	<p><b>More than occasional use of aircraft to transport ground troops or military equipment</b></p>
<p><b>D. Military air combat activities:</b></p> <ol style="list-style-type: none"> <li>1. No military air combat activities.</li> <li>2. Small-scale (occasional) military air combat activities and/or some activities above FL 250.</li> <li>3. Large- to medium-scale military air combat activities and/or regular activities above FL 250</li> </ol>	<p><b>Small-scale (occasional) military air combat activities and/or some activities above FL 250.</b></p>
<p><b>E. Known attacks:</b></p> <ol style="list-style-type: none"> <li>1. Conflict area without publicly reported security incidents involving military and civil aviation.</li> <li>2. Conflict area with single security-related reported incident/accident involving military (or civil) aviation.</li> <li>3. Conflict area with multiple reported security-related incident/accident involving military (or civil) aviation.</li> </ol>	<p><b>Conflict area with multiple reported security-related incidents/accidents involving military (or civil) aviation.</b></p> <p><i>In January one Malian Air Force MIG-21 jet was shot down by the Tuareg.</i></p> <p><i>On 11 January 2013, a French Army Gazelle helicopter was shot down by small arms fire.</i></p>
<p><b>F. Capability to attack by at least one party:</b></p> <ol style="list-style-type: none"> <li>1. No information for capability to attack with range above FL 250.</li> <li>2. Air-to-air missiles launched from fighter aircraft (and no SAMs).</li> <li>3. Long-range surface-to-air missiles (SAMs) that can hit an aircraft at cruising level.</li> </ol>	<p><b>Air-to-air missiles launched from fighter aircraft (and no SAMs).</b></p>



**Mali 2012–2015** *(continued)*

<p><b>G. Capability to differentiate between civil and military aircraft:</b></p> <ol style="list-style-type: none"> <li>1. Differentiation supported by radar, electronic identification and non-cooperative target recognition systems measuring signature using acoustic and thermal radiation, radio emissions, radar techniques.</li> <li>2. Differentiation supported by radar and electronic identification (e.g., identification, friend or foe (IFF), secondary surveillance radar (SSR)).</li> <li>3. Differentiation supported only by radar tracks.</li> </ol>	<p><b>Differentiation — fighter jets.</b></p>
<p><b>H. SAM/AAM operators' experience and chain of command:</b></p> <ol style="list-style-type: none"> <li>1. Regular forces.</li> <li>2. SAMs in the possession of irregular military forces OR an absence of robust SAM/AAM command and control procedures for authorizing launch.</li> <li>3. SAMs in the possession of irregular military forces AND an absence of robust SAM/AAM command and control procedures for authorizing launch.</li> </ol>	<p><b>Regular forces.</b></p>
<p><b>I. Known intent to attack:</b></p> <ol style="list-style-type: none"> <li>1. Known intent to attack military aircraft.</li> <li>2. Known intent to attack civil aircraft.</li> <li>3. Communication of intent and a plan to attack civil aircraft or actual attack against civil aircraft.</li> </ol>	<p><b>Known intent to attack military aircraft.</b></p>
<p><b>J. Civil aircraft operations over or close to conflict zone (with and without the airspace restrictions if any):</b></p> <ol style="list-style-type: none"> <li>1. No or occasional traffic.</li> <li>2. Small to moderate traffic volume (for example restricted to arrivals and departures to airports).</li> <li>3. Considerable traffic volume, including international overflights.</li> </ol>	<p><b>Small to moderate traffic volume (for example restricted to arrivals and departures to airports).</b></p>

## Mali 2012–2015 (continued)

## Airspace Closure

## Airspace restrictions

Describes when airspace restrictions were introduced, what airspace they affected and how they evolved over time including:

- Restrictions by the responsible for the airspace sovereign authority (the state).
- Restrictions by others — third parties and/or neighboring states.

## 1. Restrictions by the responsible for the airspace sovereign authority (the state)

No information found

## 2. Others

No information found

## Note:

27/02/2017 The Algerian CAA has published in 2012 airspace closures along their southern border due to the conflict.

## FAA (27/02/2017)

Feb 27th, 2017: The FAA issued warnings for Kenyan and Malian airspace, warning US operators of the potential dangers in operating through both the Nairobi and Malian FIR's.

Published on Feb 26th, the new advice also adds new language with clarification of the type of weapons and phases of flight that the FAA is concerned about, specifically:

- fire from small arms,
- indirect fire weapons (such as mortars and rockets), and
- anti-aircraft weapons such as MANPADS.

The scenarios considered highest risk include:

- landings and takeoffs,
- low altitudes, and
- aircraft on the ground.

The FAA uses the same wording for both Kenya and Mali.

The updated guidance is intended for US operators and FAA License holder.

## Warnings are addressing flights below FL300/2607250

## 2017 (referring to EASA CZIB No 2017-01R1 and FAA warning

## EASA 29/04/2020–31/1072020

This CZIB was issued on the basis of information available to EU Member States and EU institutions.

The presence of terrorist groups with access to anti-aviation weaponry is assessed to pose a HIGH risk to operations within the portion of the Niamey FIR, which is situated above Mali territory, at altitudes below FL 250. Terrorist groups continue attacks on the country with the risk of mortar shelling on airstrips and airports.

Additionally, the Agency draws the attention of the aviation community to the above referenced information, copies of which are attached to this CZIB.

## France (AIC 08/20) 09/04/2020–ongoing

From 09/04/2020 and until further notice, French air carriers and aircraft owners registered in France are requested to ensure that their aircraft maintain at all times a flight level above or equal to FL320 in the part of the Niamey FIR (DRRR) located above the Malian territory.

## Reasons for airspace restrictions

Describes the reasons for airspace restrictions, weapons known to be in the area and their range/capabilities, what traffic was vulnerable, known or suspected intent to attack civil aviation and whether there was concern about unintentional attack.

Rebels were expected to possess MANPADS

With instability in the Sahel-Saharan region, fears were growing al-Qaeda in the Islamic Maghreb's (AQIM) could have acquired portable surface-to-missiles from Libya.

## Decision-making

Describes the source(s) of the threat information; who made the decision regarding the restrictions and with whom was the decision coordinated; was the decision-making process different from the normal or standard airspace decision-making process.

## Promulgation

Describes how the restrictions were published, number of the NOTAMS if available, AIS.

AIC, warnings by FAA, EASA CZIB

**Mali 2012–2015** *(continued)***Notes**

Other relevant information

**References:**

<https://www.eurasiareview.com/31012012-loose-libyan-missiles-threaten-air-traffic/>

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<https://www.easa.europa.eu/domains/air-operations/czibs/czib-2017-01r7>

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<https://www.reuters.com/article/us-libya-arms-un/libya-arms-fueling-conflicts-in-syria-mali-and-beyond-u-n-experts-idUSBRE93814Y20130409>

## Georgian Civil Wars 1991–1993

## Likelihood of attack indicators

<p><b>A. Parties:</b></p> <ol style="list-style-type: none"> <li>1. Conflict between states.</li> <li>2. Conflict between non-state armed groups and state(s) or civil wars.</li> <li>3. Conflict between non-state armed groups.</li> </ol>	<p><b>Conflict between non-state armed groups and state(s) or civil wars.</b></p> <p><i>Conflict involved multiple players during the period in question; first it involved the newly independent state of Georgia against separatists from South Ossetia, which had previously declared itself an autonomous Soviet Republic. A three-way power struggle involving Georgian, Ossetian and Soviet military forces broke out. The first democratically elected president of Georgia lost power in a coup; his armed attempts to regain power were later defeated. Also during this time, separatists from the Abkhazia region, with help from Russian troops, fought against Georgia.</i></p>
<p><b>B. Armed conflict scale and/or tensions:</b></p> <ol style="list-style-type: none"> <li>1. Terrorism and/or international political tension.</li> <li>2. Insurgency (small-scale military activities) and/or medium increasing political tension.</li> <li>3. Large-scale military activities and/or heightened international political tension.</li> </ol>	<p><b>Large-scale military activities and/or heightened international political tension.</b></p> <p><i>Armed conflict involved multiple players, including Russia, and military equipment left over from the Soviet military.</i></p>
<p><b>C. Military air transport activities:</b></p> <ol style="list-style-type: none"> <li>1. Military air transport activities not reported.</li> <li>2. Occasional use of aircraft to transport ground troops or military equipment.</li> <li>3. More than occasional use of aircraft to transport ground troops or military equipment by at least one party).</li> </ol>	<p><b>More than occasional use of aircraft to transport ground troops or military equipment by at least one party.</b></p>
<p><b>D. Military air combat activities:</b></p> <ol style="list-style-type: none"> <li>1. No military air combat activities.</li> <li>2. Small-scale (occasional) military air combat activities and/or some activities above FL 250.</li> <li>3. Large- to medium-scale military air combat activities and/or regular activities above FL 250</li> </ol>	<p><b>Large- to medium-scale military air combat activities and/or regular activities above FL 250</b></p> <p><i>Georgian Su-25s flew more than 200 sorties during conflict in Abkhazia region. Helicopters also were used extensively.</i></p>
<p><b>E. Known attacks:</b></p> <ol style="list-style-type: none"> <li>1. Conflict area without publicly reported security incidents involving military and civil aviation.</li> <li>2. Conflict area with single security-related reported incident/accident involving military (or civil) aviation.</li> <li>3. Conflict area with multiple reported security-related incident/accident involving military (or civil) aviation.</li> </ol>	<p><b>Conflict area with multiple reported security-related incidents/accidents involving military (or civil) aviation.</b></p> <p><i>A number of military aircraft, including both fighters and helicopters, were shot down during the conflicts.</i></p> <p><i>Two civil type aircraft, a Tu-134 and a Tu-154, also were attacked on consecutive days in Sept. 1993, resulting in 135 fatalities.</i></p>
<p><b>F. Capability to attack by at least one party:</b></p> <ol style="list-style-type: none"> <li>1. No information for capability to attack with range above FL 250.</li> <li>2. Air-to-air missiles launched from fighter aircraft (and no SAMs).</li> <li>3. Long-range surface-to-air missiles (SAMs) that can hit an aircraft at cruising level.</li> </ol>	<p><b>Long-range surface-to-air missiles (SAMs) that can hit an aircraft at cruising level.</b></p> <p><i>Long-range SAMs were in the Georgian arsenal and Georgian military aircraft were brought down by what are believed to have been SAMs, leading to speculation that Russian military units were supporting separatists.</i></p>
<p><b>G. Capability to differentiate between civil and military aircraft:</b></p> <ol style="list-style-type: none"> <li>1. Differentiation supported by radar, electronic identification and non-cooperative target recognition systems measuring signature using acoustic and thermal radiation, radio emissions, radar techniques.</li> <li>2. Differentiation supported by radar and electronic identification (e.g., identification, friend or foe (IFF), secondary surveillance radar (SSR).</li> <li>3. Differentiation supported only by radar tracks.</li> </ol>	

### Georgian civil wars 1991–1993 (continued)

<p><b>H. SAM/AAM operators' experience and chain of command:</b></p> <ol style="list-style-type: none"> <li>1. Regular forces.</li> <li>2. SAMs in the possession of irregular military forces OR an absence of robust SAM/AAM command and control procedures for authorizing launch.</li> <li>3. SAMs in the possession of irregular military forces AND an absence of robust SAM/AAM command and control procedures for authorizing launch.</li> </ol>	<p><b>Regular forces</b>  <i>SAMs also possibly in the possession of irregular forces and/or irregular forces supported by regular forces.</i></p>
<p><b>I. Known intent to attack:</b></p> <ol style="list-style-type: none"> <li>1. Known intent to attack military aircraft.</li> <li>2. Known intent to attack civil aircraft.</li> <li>3. Communication of intent and a plan to attack civil aircraft or actual attack against civil aircraft.</li> </ol>	<p><b>Communication of intent and a plan to attack civil aircraft or actual attack against civil aircraft.</b>  <i>A Tu-134 and a Tu-154 in flight were attacked by separatists in Sept. 1993 resulting in 135 fatalities.</i></p>
<p><b>J. Civil aircraft operations over or close to conflict zone (with and without the airspace restrictions if any):</b></p> <ol style="list-style-type: none"> <li>1. No or occasional traffic.</li> <li>2. Small to moderate traffic volume (for example restricted to arrivals and departures to airports).</li> <li>3. Considerable traffic volume, including international overflights.</li> </ol>	<p><b>Small to moderate traffic volume (for example restricted to arrivals and departures to airports).</b></p>
<p><b>Airspace Closure</b></p>	
<p><b>Airspace restrictions</b>          Describes when airspace restrictions were introduced, what airspace they affected and how they evolved over time including:</p> <ul style="list-style-type: none"> <li>• Restrictions by the responsible for the airspace sovereign authority (the state).</li> <li>• Restrictions by others — third parties and/or neighboring states.</li> </ul>	<p><b>1. Restrictions by the responsible for the airspace sovereign authority (the state)</b>  <i>No information found</i></p> <p><b>2. Others</b>  <b>Note:</b>  <i>During the period there were civil aircraft shot down in the airspace over Abkhazia.</i></p>
<p><b>Reasons for airspace restrictions</b>          Describes the reasons for airspace restrictions, weapons known to be in the area and their range/capabilities, what traffic was vulnerable, known or suspected intent to attack civil aviation and whether there was concern about unintentional attack.</p>	<p><i>No information available.</i></p>
<p><b>Decision-making</b>          Describes the source(s) of the threat information; who made the decision regarding the restrictions and with whom was the decision coordinated; was the decision-making process different from the normal or standard airspace decision-making process.</p>	<p><i>No information available.</i></p>
<p><b>Promulgation</b>          Describes how the restrictions were published, number of the NOTAMS if available, AIS.</p>	<p><i>No information available.</i></p>
<p><b>Notes</b>          Other relevant information</p>	<p><b>References:</b>  <a href="http://Web.archive.org">Web.archive.org</a>  <i>U.S. Institute of Peace, The Intra-Georgian civil war and The Georgian-Abkhas conflict, accessed June 2020.</i></p>

## Appendix B

### Questionnaire Responses:

#### Russian Federation standard procedures and threat knowledge

This appendix contains the responses received from the Russian Federation to standard procedures and threat knowledge questionnaire. The responses are provided as received without additional editing or modification. *Note: Unofficial translation from Russian.*

#### Q1. Is information in social media used as a trigger for security threat analysis for civil aviation, including information about capability of attack and/or intend to attack civil aircraft?

##### Answer:

Analysis of flight safety threats is carried out on the basis of ICAO documents which address flight safety in the areas of military and other kinds of danger for civil aviation, including ICAO Doc 9554.

##### Responsible:

Competent authorities that exchange information related to aviation security.

##### References:

Aeronautical Information Services Manual, ICAO Doc 8126, Sixth Edition, 2003.

Manual Concerning Safety Measures relating to Military Activities Potentially Hazardous to Civil Aircraft Operations, ICAO Doc 9554, First Edition 1990.

Air Traffic Services Planning Manual, ICAO Doc 9426, First Edition (Provisional), 1984.

##### Process and timeline:

Preparations for activities that pose a potential hazard to civil aircraft over the territory of states or the open sea are coordinated with relevant competent air traffic service authorities. This coordination is carried out sufficiently in advance to ensure timely publication of information concerning such activities in accordance with existing regulations.

Such coordination is aimed at providing optimal conditions that will allow to avoid the creation of hazards for civil aircraft and minimize interference with the normal conduction of flights by such aircraft. If activities that pose a potential hazard to civil aircraft are conducted on a regular or ongoing basis, special committees should be established, as appropriate, to ensure the necessary coordination of the needs of all stakeholders.

States should make preparations, if necessary, to ensure that timely action is taken in case of unforeseen circumstances. Such preparations should include a risk assessment to civil aircraft due to a military conflict or acts of unlawful interference with civil aviation. Preparatory activities should include development of special contingency

plans in case of natural disasters, public health emergencies, military conflicts or acts of unlawful interference in the activities of civil aviation, which may affect the use of airspace for flights of civil aircraft and/or provision of air traffic services and support services.

Authorized air traffic service bodies organize and implement close cooperation with the military authorized bodies responsible for activities that may affect the flights of civil aircraft. Air traffic service authorities and relevant military authorities reach an agreement regarding the immediate exchange of information related to the safe and unhindered performance of civil aircraft flights.

Based on the information available, the state responsible for air traffic service should determine the geographic area of the conflict, assess the danger or potential danger to civil aircraft of international aviation and determine whether to avoid flights in or through the conflict area or whether flights may continue under certain conditions. Thereafter, an international NOTAM containing necessary information, recommendations and security measures to be taken should be issued; it should be updated as events evolve.

In general, planning is a dynamic process in which facts are identified, existing or newly proposed methods are checked and information is sought. It is also an ongoing process that requires insight, imagination and courage to interpret existing data and to develop concepts in order to prove and defend one's beliefs. [...] Due attention should also be paid to the often conflicting requirements with regard to special military flights and allocation of some airspace for national security.

##### Actual implementation:

**Describe here what social media civil aviation threat information about presence of air defense equipment or intent to attack was identified by which authority.**

Information is used in accordance with ICAO rules.

##### Changes after 17 July 2014:

The use of Doc 10084 "Risk Assessment Manual for Civil Aircraft Operations Over or Near Conflict Zones."

## APPENDIX B | QUESTIONNAIRE RESPONSES: RUSSIAN FEDERATION STANDARD PROCEDURES AND THREAT KNOWLEDGE

**Q2. What are the sources of public and private threat information and the processes for gathering information relative to civil aviation security (including in a conflict zone)?****Answer:**

The source selection process is described in ICAO documents. Recommended procedures with regard to collection and use of information on threats originating from armed conflict zones are discussed in ICAO Doc 9554.

The threats to air traffic safety in the Rostov-on-Don FIR originated from hazardous activities in the area of responsibility of the adjacent Dnepropetrovsk FIR. There were no armed conflicts within Rostov-on-Don flight information region (FIR).

**Responsible:**

Competent authorities that exchange information related to aviation security.

**References:**

Aeronautical Information Services Manual, ICAO Doc 8126, Sixth Edition, 2003.

Manual Concerning Safety Measures relating to Military Activities Potentially Hazardous to Civil Aircraft Operations, ICAO Doc 9554, First Edition 1990.

Air Traffic Services Planning Manual, ICAO Doc 9426, First Edition (Provisional), 1984.

**Process and timeline:**

The final DSB report does not contain analysis of the extent to which Ukraine's actions met the ICAO standards. It only contains a reference to the fact that "the initiative to restrict airspace use originated from the military authorities" and that "based on Ukrainian legislation, there were no grounds for full closure of the airspace above the

eastern part of Ukraine to civil aviation" (paragraphs 6.2 and 6.3 of the final DSB report).

When taking a decision to issue NOTAMs V6158/14 and A2681/14 on 16 July, 2014, Rosaviatsiya used information provided by the Russian Ministry of Foreign Affairs, according to which it was possible to conclude that the rules for the use of airspace of the Russian Federation had been violated:

- a) Shooting at checkpoint Gukovo with missiles also hitting the nearby populated areas in the territory of the Russian Federation (statement No. 1570 of 28 June 2014);
- b) Another shooting at checkpoint Gukovo (statement No. 1678 of 10 July 2014);
- c) The Ukrainian Army shelled Donetsk, in the Rostov Region, using high-explosive shells, a missile hit a residential house, one person died (statement No.1688 of 13 July 2014).

**Actual implementation:**

**Describe here what other sources of civil aviation threat information about presence of air defense equipment and intent to attack was identified by which authority.**

Information about the presence of air defense systems in the region should have been provided by the competent authorities of Ukraine on whose territory an armed conflict took place. Information on the required actions on the Ukrainian part can be found in the answer to Q1.

**Changes after 17 July 2014:**

Based on the available reliable information, the Russian side issued NOTAMs V6158/14 and A2681/14 to provide secure flights within Rostov-on-Don FIR.

**Q3. What is the level of involvement of airlines, air navigation service providers (ANSPs), the military and adjacent states or other states publishing advisories in gathering information about aviation security (including information for conflict zones)?**

**Answer:**

The source selection process is described in ICAO documents. Recommended procedures with regard to collection and use of information on threats originating from armed conflict zones are discussed in ICAO Doc 9554.

Information on the basis for the issuance of NOTAMs V6158/14 and A2681/14 is contained in the answer to Q2.

**Responsible:**

The competent authorities and the procedure for their interaction are considered in ICAO documents (references to some documents are given below).

**References:**

Aeronautical Information Services Manual, ICAO Doc 8126, Sixth Edition, 2003.

Manual Concerning Safety Measures relating to Military Activities Potentially Hazardous to Civil Aircraft Operations, ICAO Doc 9554, First Edition 1990.

Air Traffic Services Planning Manual, ICAO Doc 9426, First Edition (Provisional), 1984.

**Process and timeline:**

Airlines, military or other organizations were not involved in the issuance of NOTAMs V6158/14 and A2681/14.

Rosaviatsiya practices to release urgent information reports and instructions for the Russian exploiters of aircraft in case of receiving information on the military activity hazardous to flight safety. For instance, Rosaviatsiya's telegrams containing information on tense situation in India's, Pakistan's and Afghanistan's airspace (information of 27 February 2019), hazardous situation to flight safety in Yemen's airspace (information of 3 April 2015), and in Libya's airspace (information of 2 February 2015).

**Actual implementation:**

**Describe specifically what airlines, air navigation service provider (ANSP), the military and adjacent states or other states publishing advisories were used as a source for what information about security risk for civil aircraft.**

Information provided by the Russian Ministry of Foreign Affairs was used to issue NOTAMs V6158/14 and A2681/14 (See the answer to Q2).

**Changes after 17 July 2014:**

Issuance of NOTAMs V6158/14 and A2681/14 due to reasons mentioned in the answer to Q2.



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**Q4. What are the procedures for routine review and analysis of NOTAMs, security warnings and airspace restrictions for adjacent flight information regions (FIRs) to ensure civil aircraft security?****Answer:**

The process conforms to ICAO rules.

**Responsible:**

Federal State Unitary Enterprise “State Air Traffic Management Corporation of the Russian Federation.”

**References:**

Federal Rules on the Use of the Air Space of the Russian Federation approved by Order of the Government of the Russian Federation No. 138 of 11 March 2010.

Federal Aviation Rules “Organization of Planning the Use of Airspace of the Russian Federation” approved by Order of the Ministry of Transport of the Russian Federation No. 6 of 16 January 2012.

**Process and timeline:**

Coordination of airspace use is carried out in order to ensure the activity declared by airspace users depending on the evolving air, meteorological, air navigation situation and in accordance with state priorities in airspace use.

Strategic, pre-tactical and tactical (current) planning of airspace use, as well as coordination of airspace use is based on information:

- reports on plans (schedules, timing) of airspace use, including reports on plans for international and domestic flights of aircraft on air traffic service routes, flights of aircraft outside air traffic service routes and use of restricted areas;
- on permissions (issued by corresponding federal executive bodies) for international flights and on cancellation of such permissions;
- on prohibitions and restrictions on the use of airspace;
- on permissions to use airspace in prohibited zones and restricted zones from persons in whose interests

such zones are established, and on cancellation of such permissions;

- on the movement of aircraft in airspace;
- on the beginning and end of activities related to the use of airspace that are not related to the performance of flights by aircraft.

**Actual implementation:**

**Describe what civil aviation security threat information was identified by which authority based on the NOTAMs, security warnings and airspace restrictions for adjacent flight information regions FIRs.**

When planning the use of airspace, Ukraine’s NOTAM restrictions on the use of flight levels for flights on air routes entering the airspace of the Russian Federation were applied. There were no other warnings on aviation security from Ukraine.

The proximity of possible flight altitudes of Ukrainian military aircraft (according to Ukraine’s NOTAMs 1492/14 and 1493/14) up to level 320 (for example, for flight MH17 at level 330) was a sufficient reason for the aviation authorities of Ukraine to close the airspace over the armed conflict zone.

The threats to air traffic safety in the Rostov-on-Don FIR originated from hazardous activities in the area of responsibility of the adjacent FIR of Dnepropetrovsk. There were no armed conflicts in the flight information region (FIR) of Rostov-on-Don. Based on the available reliable information, the Russian side issued NOTAMs V6158/14 and A2681/14 to ensure flight safety in the Rostov-on-Don FIR.

**Changes after 17 July 2014:**

NOTAMs V6158/14 and A2681/14 were issued for the reasons indicated in the answer to question Q2.

**Q5. What is the process for deciding on the source credibility and for verifying information, including information on capability of attack and intent to attack, relative to an active armed conflict that could impact civil aviation?**

**Answer:**

The Russian Federation used the information of the Russian Ministry of Foreign Affairs for NOTAMs V6158/14 and A2681/14.

**Responsible:**

Federal Air Transport Agency (Rosaviatsiya).

**References:**

Instructions for the development, establishment, introduction and removal of temporary and local regimes, as well as short-term restrictions, approved by Order of the Ministry of Transport of Russia No. 171 dated June 27, 2011.

Joint Order of Federal Air Navigation Agency (Rosaviatsiya) and the Ministry of Transport of Russia No. 139/202 “On the organization of activities to issue notices to aviation personnel (NOTAM)” dated December 29, 2007.

Manual Concerning Safety Measures Relating to Military Activities Potentially Hazardous to Civil Aircraft Operations, ICAO Document No. 9554, First Edition 1990.

**Process and timeline:**

The texts of statements by the Russian Ministry of Foreign Affairs: No. 1570 of June 28, 2014, No. 1678 of July 10, 2014, and No. 1688 of July 13, 2014 were published on the Russian Foreign Ministry official website.

**Actual implementation:**

**How was the security threat information verified, the source judged for credibility, and by what authority / organization? What were the results of the credibility decision and the verification?**

Rosaviatsiya has no reason to doubt the reliability of the information officially published by the Russian Ministry of Foreign Affairs, which was used to issue NOTAMs in accordance with ICAO rules.

**Changes after 17 July 2014:**

The initiative to issue NOTAMs V6158/14 and A2681/14 concerning the Rostov-on-Don FIR came on July 12, 2014 from the Rosaviatsiya Southern Interregional Territorial Administration (responsible for the Rostov-on-Don FIR) due to the aggravated situation in the areas bordering on Ukraine, the use of various types of weapons by the Ukrainian armed forces (statements by the Russian MFA No. 1570 of June 28, 2014, No. 1678 of July 10, 2014, and No. 1688 of July 13, 2014).

## APPENDIX B | QUESTIONNAIRE RESPONSES: RUSSIAN FEDERATION STANDARD PROCEDURES AND THREAT KNOWLEDGE

**Q6. What are the determining risk factors for unintentional attack that may not allow civil aviation to fly over a conflict zone? For example, scale of the conflict, military air transport or air combat activities, previous attacks against aircraft, level of training and experience of SAM operators, level of robustness of command and control mechanism for authorizing launch, civil aviation flight proximity to strategic assets, technical capability of SAMs to distinguish between civil and military aircraft.**

**Answer:**

Threats to air traffic safety in the Rostov-on-Don FIR stemmed from the dangerous activities in the area of responsibility of the adjacent Dnepropetrovsk FIR, where an armed conflict was taking place, which required coordination of the relevant Ukrainian authorities.

Information, including official one, about the presence of a certain type of weapons in the conflict zone, as well as incidents with the use of these weapons, should have been considered sufficient by Ukraine to make decisions.

For making decisions, the procedures described in ICAO documents, including Document No. 9554, should be used.

Consistent adherence by Ukraine to ICAO rules (in force at the time of the crash) would have allowed the aviation authorities of Ukraine to come to a decision on the need to stop civil aviation flights over the conflict zone and avoid the crash of Flight MH17.

**Responsible:**

The state responsible for compliance with the rules for the introduction of restrictions on the use of airspace over an armed conflict zone (Ukraine, in relation to the Flight MH17 crash).

**References:**

Manual Concerning Safety Measures Relating to Military Activities Potentially Hazardous to Civil Aircraft Operations, ICAO Document No. 9554, First Edition 1990.

Civil/Military Cooperation in Air Traffic Management, ICAO Circular No. 330.

**Process and timeline**

All possible risk factors for an unintended attack should be considered. ICAO instruments require interoperability between military and civilian authorities. States should undertake preparatory measures as necessary to ensure that contingencies are dealt with in a timely manner. Such preparations should include an assessment of the risk to civil aircraft operations due to a military conflict

or incidents of unlawful interference with civil aviation. Preparatory activities should include the development of special contingency plans for military conflicts or acts of unlawful interference with civil aviation that may affect the use of airspace for civil aircraft and/or the provision of air traffic and support services.

ICAO documents state that, whatever the circumstances of a crisis, the development of contingency plans would greatly contribute to an increased level of coordination between civilian and military bodies.

The first step in the normal coordination process is transmission or delivery of a message detailing the proposed activity to the appropriate authority or ATM units. This message should describe the nature of the activity, geographical area(s) affected, including its/their horizontal and vertical dimensions, the anticipated date(s), start time and duration of the activity, any special security measures to be undertaken when necessary; and the means and methods of coordination between the military units involved and ATM units concerned, including the use of radio communications.

Where feasible, a flight level should be established at or above which civil aircraft can continue to operate normally without being exposed to hazards. In areas where most civil aircraft will be in the en-route phase, this flight level should ideally be at or below the lowest cruise level normally used.

**Actual implementation:**

**Describe what risk factors for unintentional attack were identified by what authority / organization. See examples of risk factors listed in Q6.**

The aviation authorities of Ukraine had to adhere to the procedures described, in particular, in ICAO documents.

Information on the reasons for and process of deciding to issue NOTAMs V6158/14 and A2681/14 is contained in the answer to questions Q5 and Q12.

**Changes after 17 July 2014:**

There were no changes.

**Q7. What organizations are involved, how do they coordinate, and what is the process for determining acceptable security risk levels in civil aviation airspace over a conflict zone?**

*Note: These are general security level targets to be met if specified, that are not specific to an event or situation.*

**Answer:**

The process should be in conformity with ICAO regulations, including ICAO Document 9554.

The Russian Federation used the information of the Russian Ministry of Foreign Affairs for NOTAMs V6158/14 and A2681/14.

There were no armed conflicts in the Rostov-on-Don flight information region (FIR). The armed clashes took place on the territory of Ukraine.

**Responsible:**

Authorized bodies of the State on whose territory an armed conflict has arisen (Ukraine, in relation to the Flight MH17 crash).

**References:**

Manual Concerning Safety Measures Relating to Military Activities Potentially Hazardous to Civil Aircraft Operations, ICAO Document No. 9554, First Edition 1990.

Civil/Military Cooperation in Air Traffic Management, ICAO Circular No. 330.

**Process and timeline:**

Responsibility for initiating the coordination process lies with the State on whose territory an armed conflict is taking place. States providing air traffic management in conflict-affected airspace are responsible for taking special

measures to ensure the safety of international operation of civil aircraft, even when coordination has not been initiated or completed. Based on the information available, the State responsible for air traffic management should define the geographic area of the conflict, assess the hazard or potential hazard to the international operation of civil aircraft, and determine whether flights in or over the conflict area should be avoided or may continue subject to certain conditions. Then an international NOTAM should be issued containing the necessary information, recommendations and security measures to be taken; it should be updated subsequently to follow the developments.

**Actual implementation:**

**Describe what organisations determined the acceptable security risk levels for civil aircraft. How this was determined and what were the determined acceptable security levels?**

There were no armed conflicts within the Rostov-on-Don FIR. NOTAMs V6158/14 and A2681/14 with restrictions on the use of the airspace of the Rostov-on-Don FIR were issued due to the hostilities on the territory of Ukraine near the state border with the Russian Federation, as well as the shelling of Russian territory from the territory of Ukraine.

**Changes after 17 July 2014:**

There were no changes in the Russian regulations.

## APPENDIX B | QUESTIONNAIRE RESPONSES: RUSSIAN FEDERATION STANDARD PROCEDURES AND THREAT KNOWLEDGE

**Q8. What is the process of determining how civil aviation can be affected based on threat information in a conflict zone? For example, what part of the airspace, what altitudes or types of aircraft?**

**Answer:**

The process must be in conformity with ICAO regulations, including Document No. 9554.

**Responsible:**

Competent authorities and airspace users exchanging information related to aviation safety.

**References:**

Aeronautical Information Services Manual, ICAO Document No. 8126, Sixth Edition, 2003.

Manual Concerning Safety Measures Relating to Military Activities Potentially Hazardous to Civil Aircraft Operations, ICAO Document No. 9554, First Edition 1990.

**Process and timeline:**

Rosaviatsiya used information from the Russian Foreign Ministry for NOTAMs V6158/14 and A2681/14.

**Actual implementation:**

**Describe what were the impact analysis results, if any—how civil aviation can be affected based on threat information — what airspace, what altitudes or type of aircraft.**

NOTAMs V6158/14 and A2681/14 included a text to explain the reason for issuing the NOTAM, “Due to the hostilities ongoing on the territory of Ukraine near the state border with the Russian Federation, as well as the shelling of Russian territory from the territory of Ukraine,” and their scope was also defined.

**Changes after 17 July 2014:**

Based on the available reliable information, the Russian side issued NOTAMs V6158/14 and A2681/14 to ensure flight safety in the Rostov-on-Don FIR.

**Q9. What analysis methodology or risk matrix is used to assess the likelihood of a threat presenting itself and the potential consequences for civil aircraft flying over the conflict zone?**

**Answer:**

The process should be in line with ICAO rules, including document No. 9554.

The armed conflict took place on the territory of Ukraine, so it is not known how the Ukrainian authorities conducted the relevant analysis and risk assessment.

**Responsible:**

Competent authorities of the State on the territory of which the armed conflict took place (Ukraine, in relation to Flight MH17 plane crash).

**References:**

Aeronautical Information Services Manual, ICAO document No. 8126, Sixth Edition — 2003.

Manual Concerning Safety Measures Relating to Military Activities Potentially Hazardous to Civil Aircraft

Operations, ICAO document No. 9554, First Edition — 1990.

**Process and timeline:**

See the answers to Q7 and Q8.

**Actual implementation:**

**Describe if and how risk was assessed and what levels of security risk were determined for what airspace, what altitudes or what type of aircraft.**

See the answers to Q7 and Q8.

**Changes after 17 July 2014:**

Information on the reasons for and the decision process of releasing NOTAMs V6158/14 and A2681/14 can be found in the answers to question Q5 and Q12.

## APPENDIX B | QUESTIONNAIRE RESPONSES: RUSSIAN FEDERATION STANDARD PROCEDURES AND THREAT KNOWLEDGE

**Q10. What is the process to determine security mitigations that would permit civil aviation to overfly a conflict zone?****Answer:**

The process should be in line with ICAO rules, including document No. 9554.

**Responsible:**

Competent authorities and airspace users exchanging information related to aviation security.

**References:**

Aeronautical Information Services Manual, ICAO document No. 8126, Sixth Edition — 2003.

Manual Concerning Safety Measures Relating to Military Activities Potentially Hazardous to Civil Aircraft Operations, ICAO document No. 9554, First Edition — 1990.

**Actual implementation:**

**Describe if and what security mitigations were determined that would permit civil aviation to overfly the conflict zone.**

See answers to Q7, Q8 and Q9.

**Changes after 17 July 2014:**

Information on the reasons for and the decision process of releasing NOTAMs V6158/14 and A2681/14 can be found in the answers to question Q5 and Q12.

**Q11. What are your normal (not during conflict) criteria for establishing restriction or segregation of airspace and what are the coordination procedures both internally and externally?**

**Answer:**

The process is in line with ICAO rules.

**Responsible:**

- Rosaviatsiya
- Federal State Unitary Enterprise “State Air Traffic Management Corporation of the Russian Federation”
- A user of airspace whose activity poses a threat to the safety of airspace use.

**References:**

Federal Law No. 60-FZ, “The Aviation Code of the Russian Federation” of March 19, 1997.

Chapter VI, “Prohibition or restriction of the use of airspace” of the Federal Rules on the Use of the Air Space of the Russian Federation approved by the Decree of the Government of the Russian Federation No. 138 of March 11, 2010.

Federal Aviation Regulations, “Organization of Planning the Use of Airspace of the Russian Federation” approved by Order of the Ministry of Transport of Russia No. 6 dated January 16, 2012.

Guidelines for the development, establishment, introduction and removal of temporary and local regimes, as well as short-term restrictions, approved by Order of the Ministry of Transport of Russia No. 171 dated June 27, 2011.

Joint order of Rosaeronavigation and the Ministry of Transport of Russia from No. 139/202 “On the Organization of activity on publication of notices for the aviation personnel (NOTAM)” dated December 29, 2007.

**Process and timeline:**

Organization of the use of airspace provides for safe, cost-effective and regular air traffic, as well as other activities to use airspace. The organization of the use of airspace is carried out by the authorized body in the field of airspace use, the authorities of the unified system of air traffic management, as well as bodies of users of airspace — air traffic

service (flight management) in the designated zones and areas. The use of airspace or certain areas thereof may be prohibited or restricted.

If there is a need to use airspace by two or more airspace users at the same time, prohibition or restriction of their activities in certain areas of the airspace of the Russian Federation in accordance with state priorities in the use of airspace is established by introducing temporary and local regimes, as well as short-term restrictions.

Submissions for the establishment of temporary and local regimes shall be submitted by users of airspace via the aircraft terrestrial data transmission network and telegraph messages or in hard copy, including facsimile communication to the relevant centers of the Unified System. The submissions shall provide reliable and complete information on the planned activities to use airspace.

The terms are determined by the Guidelines for the development, establishment, introduction and removal of temporary and local regimes, as well as short-term restrictions, approved by Order of the Ministry of Transport of Russia No. 171 dated June 27, 2011.

The coordination of the use of airspace ensures efficient and flexible use and includes:

- ensuring the safety of airspace use in case of changes in the air, meteorological and aeronautical environment through the implementation of the authorities of the Unified System centers on air space redistribution in accordance with the state priorities;
- timely introduction and removal of bans and restrictions in the optimal airspace related to temporary and local regimes, as well as short-term restrictions;
- providing an opportunity to use the airspace of restricted areas, the validity of which is limited by time period.

**Actual implementation:**

**Not applicable—no answer required.**

**Changes after 17 July 2014:**

There were no changes to the regulatory documents



**Q12. What are the decision processes for security of airspace, including establishing restriction or segregation of airspace in a conflict zone? What are the ANSP and military coordination procedures for active civil flights and their safety?**

**Answer:**

The process is in line with ICAO rules.

There were no armed conflicts in the Rostov-on-Don Flight Information Region (FIR).

**Responsible:**

- Rosaviatsiya
- Federal State Unitary Enterprise “State Air Traffic Management Corporation of the Russian Federation”
- A user of airspace whose activity poses a threat to the safety of airspace use.

**References:**

Federal Law No. 60-FZ “The Aviation Code of the Russian Federation” of March 19, 1997.

Chapter VI “Prohibition or restriction of the use of airspace” of the Federal Rules on the Use of the Air Space of the Russian Federation approved by the Decree of the Government of the Russian Federation No. 138 of March 11, 2010.

Federal Aviation Regulations “Organization of Planning the Use of Airspace of the Russian Federation” approved by Order of the Ministry of Transport of Russia No. 6 dated January 16, 2012.

Guidelines for the development, establishment, introduction and removal of temporary and local regimes, as well as short-term restrictions, approved by Order of the Ministry of Transport of Russia No. 171 dated June 27, 2011.

Joint order of Rosaviatsiya and the Ministry of Transport of Russia from No. 139/202 “On the Organization of activity on publication of notices for the aviation personnel (NOTAM)” dated December 29, 2007.

Manual Concerning Safety Measures Relating to Military Activities Potentially Hazardous to Civil Aircraft Operations, ICAO document No. 9554, First Edition — 1990.

**Process and timeline:**

The process has no differences from the one specified in the answer to question Q11.

Procedures for issuing NOTAMs on changes in air navigation data that need to be issued immediately are further defined in the Joint order of Rosaviatsiya and the Ministry of Transport of Russia from No. 139/202 “On the Organization of activity on publication of notices for the aviation personnel (NOTAM)” dated December 29, 2007.

**Actual implementation:**

**Describe who took what decisions for security of airspace, including establishing restriction or segregation of airspace. Describe what coordination took place between the ANSP and military regarding the security threats.**

Since March 1, 2014 and up to the present time, there has been no armed conflict in the Rostov-on-Don Flight Information Region (FIR). The imposition of restrictions (NOTAMs V6158/14 and A2681/14) on the use of part of the airspace of the Rostov-on-Don FIR was motivated by the reaction to hazardous activities for flights in the neighbouring State.

The airspace above the conflict zone was above the territory of Ukraine, therefore, decisions on flight safety should have been made by Ukrainian competent authorities.

Based on the information which is available, the State responsible for air traffic services should identify the geographical area of the conflict, assess the hazards or potential hazards to international civil aircraft operations, and determine whether such operations in or through the area of conflict should be avoided or may be continued under specified conditions. An international NOTAM containing the necessary information, advice and security measures should then be issued. If the necessary information is not provided by States whose military authorities are involved in an armed conflict, the State responsible for providing air traffic control is advised to establish the nature and degree of hazard or potential hazard from other sources, such as aircraft operators, IATA, IFALPA, neighbouring States or ICAO.

The initiative to issue NOTAMs V6158/14 and A2681/14 related to the Rostov-on-Don FIR came from the Southern Interregional Territorial Administration of Rosaviatsiya on July 12, 2014 due to the aggravated situation in the border areas with Ukraine, the use of various types of weapons by the Ukrainian armed forces (statements of the Ministry of Foreign Affairs of Russia No. 1570 dated June 28, 2014, No. 1678 dated July 10, 2014, No. 1688 dated July 13, 2014).

NOTAM should contain information on the hazard that is the subject of the message. Based on this, a text explaining the reason for issuing NOTAM was included in NOTAMs V6158/14 and A2681/14: “Due to the hostilities ongoing on the territory of Ukraine near the state border with the Russian Federation, as well as the shelling of Russian territory from the territory of Ukraine.”

**Changes after 17 July 2014:**

There were no changes.

**Q13. What organisations are involved and what are the procedures for coordinating airspace restrictions in the conflict zone among adjacent FIRs?****Answer:**

The area of flight information in which the armed conflict was taking place was not in the Russian Federation.

Ukraine has not published information about the reasons for the restrictions imposed by NOTAM.

**Responsible:**

Competent authorities and airspace users exchanging information related to aviation security.

**References:**

Aeronautical Information Services Manual, ICAO document No. 8126, Sixth Edition — 2003.

Manual Concerning Safety Measures Relating to Military Activities Potentially Hazardous to Civil Aircraft Operations, ICAO document No. 9554, First Edition — 1990.

**Process and timeline:**

Aeronautical data and information should be complete, timely and of the required quality. In the presence of sources of hazard to air navigation, as well as the establishment of prohibited areas, hazardous areas or zones of restriction, the issuance of NOTAMs is required.

The text of a NOTAM is generated using the values/uniform abbreviated phraseology required for the ICAO NOTAM code, supplemented by ICAO abbreviations, dash numbers, discriminant, indexes, callsigns, frequencies, numbers and plain text [1].

NOTAMs shall contain information about the hazard, operating condition or mode of operation of the means that are the subject of the message.

An example of information on the hazard to be included in NOTAMs relating to an armed conflict zone is given in Appendix “B” of the document [2].

**Actual implementation:**

**Describe if and how the airspace restrictions were coordinated with the adjacent FIRs and what organisations were involved in the coordination.**

Ukraine has full sovereignty over its airspace. There was no additional information from the Ukrainian aviation authorities about the hazards other than those published in Ukrainian issued NOTAMs.

Published by the Russian side NOTAMs on July 16, 2014 were available for the Ukrainian side (see the answer to question Q12).

**Changes introduced after 17 July 2014:**

According to the DSB Final Report, the investigation found that Ukraine had made a decision to issue NOTAMs to restrict access to the airspace below FL320 based on the necessity to “set additional buffer zone FL260-FL320 in order to ensure flight safety of civil aircraft related to operations of the state aircraft of Ukraine within the prohibited airspace” (para. 6.3, p. 196 of the DSB Final Report).

The contents of NOTAMs does not allow to set the altitude for a buffer zone.

According to the latest NOTAM issued by Ukraine on 14 July 2014, military aircraft could operate at the levels up to FL320, resulting in a 300-meter altitude difference between a military aircraft and a civil aircraft flying at an altitude of 10050 meters (Flight MH17 was at FL330), which complied with the reduced vertical separation minimum (RVSM). Furthermore, FL320 is part of the RVSM airspace that is subject to the ICAO rules establishing special security measures and requirements for aircraft on-board equipment, cabin crew and ground personnel training, as well as accuracy and reliability characteristics of the ground equipment.

Military aircraft do not fall under the requirements for the on-board equipment for RVSM flights. Besides, military aircraft are not subject to the height keeping requirements. Therefore, they cannot fly in RVSM airspace without special procedures applied.

Paragraph 5.2.5. of the Manual on a 300 m (1000 ft) Vertical Separation Minimum Between FL 290 and FL 410 Inclusive (ICAO Doc 9574) points out the need to develop procedures to accommodate military flight operations that do not meet the equipment requirements but are carried out at FL 290. Possible methods include:

- a) the provision of temporary airspace reservations;
- b) the provision of block altitudes;
- c) the provision of special routes applicable only to military aircraft; and
- d) the provision of special routes applicable to air traffic requiring a 600 m (2 000 ft) VSM above FL 290.

Therefore, Ukraine, when issuing a NOTAM permitting military aircraft flights at the levels up to FL320 inclusive, failed to consider or implement the ICAO requirements in question. UksATSE and the civil aviation authority of Ukraine had to make a decision prohibiting the use of airspace by civil aircraft above the armed conflict zone.

## APPENDIX B | QUESTIONNAIRE RESPONSES: RUSSIAN FEDERATION STANDARD PROCEDURES AND THREAT KNOWLEDGE

**Q14. What is the process to decide if there is a need for aeronautical information publication and to choose the communication tool for it (e.g. NOTAMs, AIC)?****Response:**

The process is consistent with the ICAO rules.

**Responsible:**

- Federal Air Transport Agency (Rosaviatsiya)
- Federal State Unitary Enterprise “State Air Traffic Management Corporation of the Russian Federation”
- Federal State Unitary Enterprise “Aeronautical Information Centre”
- Airspace user, whose activities create a hazard to the safe use of airspace.

**References:**

Federal Law No. 60-FZ “The Air Code of the Russian Federation” of 19 March 1997.

Federal Rules for the Use of the Airspace of the Russian Federation approved by Resolution No. 138 of the Government of the Russian Federation of 11 March 2010.

Federal Aviation Regulations “Airspace Use Planning in the Russian Federation” approved by Order No. 6 of the Ministry of Transport of the Russian Federation of 16 January 2012.

Instruction on the development, establishment, implementation and removal of temporary, local and short-term restrictions approved by Order No. 171 of the Ministry of Transport of the Russian Federation of 27 June 2011.

Joint order No. 139/202 of the Federal Aeronautical Agency and the Ministry of Transport of the Russian Federation on “Organizing the Issuance of Notice to Airmen (NOTAMs)” of 29 December 2007.

**Process and timeline:**

The process is described in the response to Q11.

To ensure planning of airspace use, the Unified System centers employ an aviation ground data and telegraph network, public telephone network, restricted telephone and/or telegraph network, and the Internet, as well as receive information in paper format, including fax. Planning of airspace use is carried out in the Unified System centers equipped with automated airspace use planning systems using the said systems.

**Actual implementation:**

**Describe how it was decided if there is a need for aeronautical information publication and how it was chosen what communication tool for it (e.g. NOTAMs AIC).**

The decision-making process regarding the issuance of NOTAMs V6158/14 and A2681/14 is described in the response to Q12.

**Changes introduced after 17 July 2014:**

No changes have been introduced.

**Q15. What organisations are involved in and what are the processes to prepare, verify if ICAO AIS procedures and terminology are used, validate for correctness and transmit aeronautical information to the users of it (e.g. airlines and ANSPs)?**

**Response:**

The process is consistent with the ICAO rules.

**Responsible entity:**

- Federal State Unitary Enterprise “State Air Traffic Management Corporation of the Russian Federation”
- Federal State Unitary Enterprise “Aeronautical Information Centre”

**References:**

Aeronautical Information Services Manual, ICAO Doc 8126, Sixth Edition, 2003.

Manual Concerning Safety Measures Relating to Military Activities Potentially Hazardous to Civil Aircraft Operations, ICAO Doc 9554, First Edition, 1990.

Federal Aviation Regulations “Requirements for legal entities and individual entrepreneurs performing commercial air transport operations. Form of and procedure for issuing a document verifying compliance of legal entities and individual entrepreneurs performing commercial air transport operations with the requirements set out in federal aviation regulations” approved by Order No. 246 of the Ministry of Transport of the Russian Federation of 13 August 2015.

Federal Aviation Regulations “Preparation for and performance of civil aircraft operations in the Russian Federation” approved by Order No. 128 of the Ministry of Transport of the Russian Federation of 31 July 2009.

Procedure for production and rules for provision of aeronautical information approved by Order No. 305 of the Ministry of Transport of the Russian Federation of 31 October 2014.

**Process and timeline:**

Production of aeronautical information includes compilation (generation) of raw aeronautical data and raw aeronautical information, their submission to the aeronautical information authority, subsequent processing and verification by the aeronautical information authority

and transmission to the users of the official aeronautical data and official aeronautical information, processors of the official aeronautical data and official aeronautical information, and providers of the official aeronautical information and official aeronautical data. After receiving raw aeronautical data and raw aeronautical information, the aeronautical information authority shall verify, register and process them for inclusion in the AIP of Russia, Annex to the AIP of Russia, notices transmitted via communication channels and containing information about the condition of the aeronautical equipment and airspace structure elements that are crucial to be timely warned of for the personnel involved in the performance of aircraft operations, and NOTAMs and AICs, as well as provision to the users of the official aeronautical data and official aeronautical information, processors of the official aeronautical data and official aeronautical information, and providers of the official aeronautical data. If the raw aeronautical data and raw aeronautical information do not meet the requirements, the aeronautical information authority shall send them back to the providers (compilers) of raw aeronautical data and raw aeronautical information for refinement.

**Actual implementation:**

**Please describe the organizations involved in the preparation of aeronautical information, verification of the use of the ICAO AIS procedures and terminology, and validation of the correctness and transmission of the aeronautical information to its users.**

- Federal Air Transport Agency (Rosaviatsiya)
- Federal State Unitary Enterprise “State Air Traffic Management Corporation of the Russian Federation”
- Federal State Unitary Enterprise “Aeronautical Information Centre”

**Changes introduced after 17 July 2014:**

No changes have been introduced.

## APPENDIX B | QUESTIONNAIRE RESPONSES: RUSSIAN FEDERATION STANDARD PROCEDURES AND THREAT KNOWLEDGE

**Q16. What are the procedures for disseminating civil aviation security threat information to operators within and outside the conflict zone FIR?****Response:**

The process is consistent with the ICAO rules.

**Responsible:**

- Aircraft operator
- Federal State Unitary Enterprise “State Air Traffic Management Corporation of the Russian Federation”
- Federal State Unitary Enterprise “Aeronautical Information Centre”

**References:**

Aeronautical Information Services Manual, ICAO Doc 8126, Sixth Edition, 2003.

Manual Concerning Safety Measures Relating to Military Activities Potentially Hazardous to Civil Aircraft Operations, ICAO Doc 9554, First Edition, 1990.

Federal Aviation Regulations “Requirements for legal entities and individual entrepreneurs performing commercial air transport operations. Form of and procedure for issuing a document verifying compliance of legal entities and individual entrepreneurs performing commercial air transport operations with the requirements set out in federal aviation regulations” approved by Order No. 246 of the Ministry of Transport of the Russian Federation of 13 August 2015.

Federal Aviation Regulations “Preparation for and performance of civil aircraft operations in the Russian Federation” approved by Order No. 128 of the Ministry of Transport of the Russian Federation of 31 July 2009.

Procedure for preparation and rules for provision of aeronautical information approved by Order No. 305 of

the Ministry of Transport of the Russian Federation of 31 October 2014.

**Process and timeline:**

The aeronautical information authority publishes aeronautical information documents containing official aeronautical information and official aeronautical data. Official aeronautical information is issued as a NOTAM if the raw aeronautical information is of temporary and short-term nature or if permanent or long-term temporary changes that are important in terms of operation are urgently introduced, with the exception of extensive text and/or graphic materials. The aeronautical information authority issues NOTAMs, as well as checklists of valid NOTAMs and NOTAM checklists. NOTAMs are transmitted as one communication message via AFS.

Russian aircraft operators, including those performing international flights, shall ensure provision of aeronautical information to the cabin crews. In case of commercial air transport operations, the operator ensures during the preparation for the flight that the cabin crew is provided with aeronautical and meteorological information.

**Actual implementation:**

**Please describe whether and, if so, how the civil aviation security threat information was disseminated to operators within and outside the conflict zone FIR?**

All users of the airspace of the Russian Operation were sent NOTAM V6158/14 via the AFTN channel in telegram No. 141707 of 16 July 2014 and NOTAM A2681/14 in telegram No. 161709 of 16 July 2014.

**Changes introduced after 17 July 2014:**

No changes have been introduced.

## Appendix C

### Clarifying Questions Responses from Russian Federation

This appendix contains the responses received from the Russian Federation to clarifying questions. The responses are provided as received without additional editing or modification. *Note: Unofficial translation from Russian.*

**CQ1. What threat information about the presence of air defence equipment in eastern Ukraine that was not controlled by government forces and which could have reached the respective airspace in URVV FIR above Flight Level 250 was identified, when and by which authority?**

#### Answer:

The Russian authorities did not have any information regarding the presence of air defense equipment on the territory of Ukraine that was not controlled by the armed forces of the Ministry of Defence of Ukraine and which could hit targets in the Rostov-on-Don FIR above FL 250.

Statements by Ukraine's officials implied that Ministry of Defence of Ukraine delivered different types of weapons, including combat aircraft, to the armed conflict zone. In accordance with ICAO Rules, Ukrainian authorities were responsible for obtaining, analyzing and disseminating flight safety information over armed conflict zone.

NOTAMs (A1383/14, A1384/15, A1492/14, A1493/14) issued by Ukraine mentioned only flights of state aircraft as a source of threat to flight safety of civil aircraft. The real situation in eastern Ukraine differed from the information presented in NOTAMs. Therefore, as it was outlined in the answer to Q2 of the Questionnaire of 4 September 2020, Rosaviatsiya identified a threat to flight safety itself due to Ukraine's regular shooting of the Russian border areas.

We would deem it important to draw the Flight Safety Foundation's attention to the fact that it is incorrect to focus only on threats posed exclusively by air defense systems capable of hitting targets at high altitudes when assessing flight safety risks over eastern Ukraine. The same mistake was made in the final DSB report where the analysis of the actions and decisions taken by the Ukrainian side was focused on the speculation that the AN-26 aircraft of the Armed Forces of Ukraine had been downed on 14 July 2014 with some "heavy weapon" (pages 181–185, Section 5.3).

The final DSB report concludes that the reason why Ukraine restricted the use of the airspace below FL320 remains unclear (page 10, Subsection "Ukraine's airspace management," paragraph two).

In April 2014, the Ukrainian authorities declared areas in eastern Ukraine "an anti-terrorist operation zone." Regulation on the Use of Airspace of Ukraine approved by the Cabinet of Ministers of Ukraine Resolution No. 401 of 29 March 2002 ([https://zakon.rada.gov.ua/laws/](https://zakon.rada.gov.ua/laws/show/401-2002-%D0%BF#Text)

[show/401-2002-%D0%BF#Text](https://zakon.rada.gov.ua/laws/show/401-2002-%D0%BF#Text)) did not provide for procedures in case of internal armed conflicts.

As it was found out during the investigation of Flight MH17 crash, due to the operational use of the aircraft of the Armed Forces of Ukraine (MIG-29, SU-27, SU-25 aircraft), larger airspace in Denepetrovsk FIR was reserved by issuing NOTAMs from 29 June to 14 July 2014 by the necessity to set "a buffer zone" FL260-FL320 (page 196, Section 6.3, paragraph two).

Regulation No. 401 of 29 March 2002 contains a definition of the term "a buffer zone" which is a part of the airspace around restricted areas, hazardous areas, prohibited areas and areas related to temporarily reserved airspace intended to ensure safety requirements while carrying activities related to the use of airspace in the mentioned areas and beyond them. However, Regulation No. 410 of 29 March 2002 does not describe the order of buffer zones settings.

Ukraine did not publish information regarding "the buffer zone" around the conflict zone. Moreover, NOTAMs A1492/14 and A1493/14 issued by the Ukraine did not prohibit state aircraft to fly between FL260 and FL320. In this connection, it is still unclear how the Ministry of Defence of Ukraine was going to provide and the Ukraerocenter to control the observance of the so-called "buffer zone."

Clarifications concerning the reasons for issuing NOTAMs A1492/14 and A1493/14 on setting "a buffer zone" provided during the investigation of Flight MH17 crash, give grounds for assuming that military activity in the armed conflict zone related to the military aviation flights was more dangerous than it was reflected in NOTAMs.

In accordance with para. 12.2. of the Rules for the Performance of Flights and Air Traffic Management in the Airspace of Ukraine with a Reduced Vertical Separation Minimum approved by Order of the Ministry of Transport of Ukraine No. 9 of 11 January 2002, "The required vertical separation minimum between the vertical limits of the restricted and reserved airspace and other aircraft not engaged in such activities and flying in airspace with RVSM should be: 600 meters (2000 feet) above the upper limit of the zone of the aforementioned activities for the upper limits at FL290 and above; ..." (<https://zakon.rada.gov.ua/laws/show/z0041-02#Text>).

Therefore, given FL320 which is, according to NOTAMs A1492/14 and A1493/14, the upper limit of the restricted zone, civil aircraft could fly in this area at no less than FL340, i.e. Flight MH17 authorised by the Ministry of

Internal Affairs of Ukraine at FL330 did not answer the safety requirements over the armed conflict zone. The investigation conducted by the DSB did not establish the reason why the Ministry of Internal Affairs of Ukraine allowed the Flight MH17 to proceed at an altitude lower than provided for by the Ukrainian legislation.

**CQ2. What intent to attack with air defence equipment in eastern Ukraine that was not controlled by government forces and which could have reached the respective airspace in URVV FIR above Flight Level 250 was identified, when and by which authority?**

**Answer:**

When taking a decision to issue NOTAM V6158/14, the Russian airspace authorities did not have information that governmental or non-governmental entities on the territory of Ukraine deployed air defence equipment capable of downing aircraft at high altitudes in the conflict zone and could use it in the armed conflict by mistake or negligence.

Responsibility for assessing the intent to use air defence equipment by governmental and non-governmental armed groups on the territory of Ukraine rests with the Ukrainian authorities. This follows from the recommendations given in para. 10.2 of ICAO Document 9554: “The responsibility for initiating the co-ordination process rests with the States whose military forces are engaged in the conflict. The responsibility for instituting special measures to ensure the safety of international civil aircraft operations remains with the States responsible for providing air traffic services in the airspace affected by the conflict, even in case where co-ordination is not initiated or completed.”

**CQ3. What were the specific reasons for restricting the airspace with NOTAM V6158/14, why were there several restrictions in one NOTAM, and to which of the restrictions in the NOTAM apply the items F) and G), specifying surface as lower height limit and FL530 as upper height limit?**

**Answer:**

In the period from March to August 2014 analysed by the Foundation, there were no armed conflicts on the territory of the Russian Federation adjacent to the state border with Ukraine. However, statements by the Russian Ministry of Foreign Affairs provided information concerning the risks to people and objects on the territory of the Russian Federation and in its airspace and in this regard, Rosaviatsiya took preventive flight safety measures (issuance of NOTAMs V6158/14 and A2681/14).

The specific reason for airspace restrictions imposed by NOTAM V6158/14 is stated in the field E) of the NOTAM: “Due to combat actions on the territory of the Ukraine near the state border with the Russian Federation

and the facts of firing from the territory of the Ukraine towards the territory of the Russian Federation...” This explanation was included in the NOTAM subject to the requirements of ICAO Rules, including para. 6.3.8. of ICAO Document 8126 and recommendations given in Appendix B to ICAO Document 9554.

Items Q), F) and G) of NOTAM V6158/14 stated that it applied to the airspace from the ground to FL530. However, regarding the airway sections adjacent to the state border of the Russian Federation listed in the field E), the stated height limit was “SFC — FL320” which corresponded to the upper limit on the use of airways in NOTAMs A1492/14 and A1493/14 published earlier (on 14 July 2014) by Ukraine.

The difference in the upper limit values of the airspace restrictions is related to the information published in the second part of the field E) of the NOTAM, concerning the use of the arrival/exit routes to and from the Rostov-on-Don airport from and to the Dnepropetrovsk flight information region (FIR), with FL340 and above stated (FL330 and above respectively). Therefore, when writing the NOTAM, the maximum value of the highest possible FL530 for the airways sections used for the departure (arrival) from (to) the Rostov-on-Don airport, was chosen.

Flight MH17 following airway L980 in the airspace of Ukraine to the compulsory reporting point TAMAK and further, according to the flight plan, from the waypoint TAMAK, following airway A87 in the Russian airspace, was subject to NOTAM V6158/14 restrictions for the airspace below FL 320 (airway section “A87 TMAK — SARNA” stated in NOTAM V6158/14).

The content of the field E) of NOTAM V6158/14 consists of two parts the first one concerns restrictions on airway sections, while the second one concerns those on approach and exit routes to and from the area of Rostov-on-Don airport (URRR). Meanwhile, the second part regarding Rostov-on-Don airport was repeated in NOTAM A2681/14.

**CQ4. NOTAM V6158/14 promulgated, among other things, a restriction with an upper height limit of FL320 referring to “...the facts of firing from the territory of the Ukraine towards the territory of Russian Federation...” What was the precise threat that required airspace restriction over the territory of the Russian Federation up to FL320 but not above, considering that in the references you provided the statements (1570-28-06-2014, 1678-10-07-2014 and 1688-13-07-2014) of the Ministry of Foreign Affairs of the Russian Federations refer to low altitude artillery shootings?**

**Answer:**

NOTAMs A1383/14, A1384/14, A1387/14, A1389/14, A1492/14, and A1493/14 issued by the Ukrainian side did not contain information concerning the nature of the

military actions as required by the ICAO Rules, including para. 6.3.8. of ICAO Document 8126 and recommendations given in Appendix B to ICAO Document 9554. From the Ukrainian NOTAMs, it formally followed that they were in order to ensure state aviation flights.

However, the use of different types of weapons and methods of warfare (flights with the use of combat aviation weapons; tanks and artillery shooting; jamming support) in close proximity to the territory of the Russian Federation, not declared in the NOTAM, pointed to the fact that the Ukrainian authorities did not fulfil the requirements of the ICAO Rules, according to which, co-ordination is aimed at providing optimal conditions which allow to avoid the creation of hazards to civil aircraft and minimizing interference with the normal flight operations of such aircraft.

For instance:

- On 24 April 2014, one of the Russian air companies informed Rosaviatsiya of disappearing GPS signal when flying within the Dnepropetrovsk FIR area of responsibility. Navigation equipment resumed its work after entering the airspace of the Russian Federation;
- On 5 June 2014, the Ukrainian plane SU-27 violated the state border by trespassing over the Russian border and going 1.5km deep into the Russian territory in the area of the populated area Kuybyshevo (the Rostov region). On 12 June 2014, in the same area, a MI-8 helicopter with Ukrainian symbols flying at the height of 50m trespassed into the airspace of the Russian Federation going up to 3km deep into it (extract from the Statement by the Russian MFA No. 1422 of 14 June 2014).

As it was mentioned earlier in the answers to Questions No. 1 and 2, proceeding from the information in the latest statements by the Russian MFA (No. 1570 of 28 June 2014, No. 1678 of 10 July 2014, No. 1688 of 13 July 2014), Rosaviatsiya decided to partially close the airspace in the Rostov-on-Don FIR area of responsibility.

FL320 was taken as the limit for the NOTAM V6158/14, same as in the Ukrainian NOTAMs A1492/14 and A1493/14. The decision to set a vertical limit of FL320 was taken as Rosaviatsiya did not have any other, more or less credible information provided by the Ukrainian side, which would allow to forecast the vertical limit of the hazard zone for civil aviation flights.



## Appendix D

### Questionnaire Responses:

#### Ukraine standard procedures and threat knowledge

This appendix contains the responses received from Ukraine to standard procedures and threat knowledge questionnaire. The responses are provided as received without additional editing or modification.

#### Q1. Is information in social media used as a trigger for security threat analysis for civil aviation, including information about capability of attack and/or intend to attack civil aircraft?

##### Answer:

Information from open sources, including social media, is used in the assessment of threats to civil aviation security in accordance with relevant regulatory documents.

##### Responsible:

- State Aviation Administration of Ukraine;
- Security Service of Ukraine;
- Ministry of Defense of Ukraine;
- Ministry of Internal Affairs of Ukraine;
- Foreign Intelligence Service of Ukraine;
- airport operators;
- aircraft operators;
- air navigation service providers.

##### References:

Law of Ukraine “On the State Civil Aviation Security Program” dated February 20, 2003 No 545-IV;

Law of Ukraine “On Combating Terrorism” dated March 20, 2003 No 638-IV (as amended).

Decree of the President of Ukraine “On Regulations regarding the Anti-Terrorist Center and its coordination groups at the regional bodies of the Security Service of Ukraine” dated April 14, 1999 No 379/99 (as amended).

Order of the Ministry of Transport and Communications of Ukraine “On Approval of the Guidance to Assess the Level of Threat to Civil Aviation Security of Ukraine” dated 11.05.2007 No 390 (restricted), registered by the Ministry of Justice of Ukraine on May 25, 2007, registration No 542/13809 (as amended).

These documents are developed in accordance with relevant ICAO provisions, in particular Annex 17 and ICAO Doc 8973.

##### Process and timeline:

In accordance with the legislation, the State Aviation Administration of Ukraine constantly conducts a general

assessment of threats to civil aviation security on the basis of information received from the Security Service of Ukraine; Ministry of Defense of Ukraine; Ministry of Internal Affairs of Ukraine; Foreign Intelligence Service of Ukraine; airport operators; aircraft operators; air navigation service providers; and other sources, social media included.

##### Actual implementation:

**Describe here what social media civil aviation threat information about presence of air defense equipment or intent to attack was identified by which authority.**

According to the established procedures, the State Aviation Administration of Ukraine used information on threats to civil aviation security from the Ministry of Defense of Ukraine, law enforcement and intelligence agencies of Ukraine, and other sources. This information is the one marked “For official use (restricted).” The information mentioned above is specified in the final report on the investigation of the air crash of Malaysia Airlines’ Boeing-777-200. <https://www.onderzoeksr.aad.nl/en/page/3546/crash-mh17-17-july-2014>.

##### Changes after 17 July 2014:

Have been improved in line with updated ICAO Standards and Recommended Practices, Annex 17 to the Chicago Convention on International Civil Aviation, and current legislation. In particular, the following have been adopted:

- Amendments to the laws of Ukraine “On the Security Service of Ukraine,” “On Combating Terrorism,” “On Counterintelligence Activities,” “On Operational and Investigative Activities”;
- State Civil Aviation Security Program, approved by the Law of Ukraine, dated March 21, 2017 No. 1965-VIII;
- Order of the Ministry of Infrastructure of Ukraine “On Approval of the Guidance to Assess the Level of Threat to Civil Aviation Security of Ukraine,” dated 17.06.2020 No356 registered by the Ministry of Justice of Ukraine on 01.10.2020, registration No 960/35243

**Q2. What are the sources of public and private threat information and the processes for gathering information relative to civil aviation security (including in a conflict zone)?**

**Answer:**

Information from all available sources is used to assess threats to civil aviation security in accordance with relevant regulatory documents. Also, when assessing the threats to civil aviation security, they consider the information pertaining to restrictions on flights in certain areas from international civil aviation organizations and civil aviation authorities of other states (Along with this, attention ought to be paid to the fact that at the time the air crash occurred, there was no concept or definition for a “conflict zone”).

**Responsible:**

- State Aviation Administration of Ukraine;
- Security Service of Ukraine;
- Ministry of Defense of Ukraine;
- Ministry of Internal Affairs of Ukraine;
- Foreign Intelligence Service of Ukraine;
- airport operators; aircraft operators;
- air navigation service providers;
- civil aviation authorities of foreign states;
- international civil aviation organizations.

**References:**

Law of Ukraine “On the State Civil Aviation Security Program” dated February 20, 2003 No 545-IV;

Law of Ukraine “On Combating Terrorism” dated March 20, 2003 No 638-IV (as amended).

Decree of the President of Ukraine “On Regulations regarding the Anti-Terrorist Center and its coordination groups at the regional bodies of the Security Service of Ukraine” dated April 14, 1999 No 379/99 (as amended).

Order of the Ministry of Transport and Communications of Ukraine “On Approval of the Guidance to Assess the Level of Threat to Civil Aviation Security of Ukraine” dated 11.05.2007 No 390 (restricted), registered by the Ministry of Justice of Ukraine on May 25, 2007, registration No 542/13809 (as amended).

These documents are developed in accordance with relevant ICAO provisions, in particular Annex 17 and ICAO Doc 8973.

**Process and timeline:**

In accordance with the legislation, the State Aviation Administration of Ukraine constantly conducts a general

assessment of threats to civil aviation security on the basis of information received from the Security Service of Ukraine; Ministry of Defense of Ukraine; Ministry of Internal Affairs of Ukraine; Foreign Intelligence Service of Ukraine; airport operators; aircraft operators; air navigation service providers; civil aviation authorities of foreign states; international civil aviation organizations.

**Actual implementation:**

**Describe here what other sources of civil aviation threat information about presence of air defence equipment and intent to attack was identified by which authority.**

According to the established procedures, the State Aviation Administration of Ukraine used information on threats to civil aviation security from the Ministry of Defense of Ukraine, law enforcement and intelligence agencies of Ukraine, civil aviation authorities of foreign states; international civil aviation organizations. This information is the one marked “For official use (restricted).” The information mentioned above is specified in the final report on the investigation of the air crash of Malaysia Airlines’ Boeing-777-200. <https://www.onderzoeksr Aad.nl/en/page/3546/crash-mh17-17-july-2014>.

**Changes after 17 July 2014:**

National regulations and procedures pertaining to gathering and analyzing information about threats to civil aviation security have been improved in line with updated ICAO Standards and Recommended Practices, Annex 17 to the Chicago Convention on International Civil Aviation, and current legislation. In particular, the following have been adopted:

- amendments to the laws of Ukraine “On the Security Service of Ukraine,” “On Combating Terrorism,” “On Counterintelligence Activities,” “On Operational and Investigative Activities”;
- State Civil Aviation Security Program, approved by the Law of Ukraine, dated March 21, 2017 No. 1965-VIII;
- Order of the Ministry of Infrastructure of Ukraine “On Approval of the Guidance to Assess the Level of Threat to Civil Aviation Security if Ukraine,” dated 17.06.2020 No 356 registered by the Ministry of Justice of Ukraine on 01.10.2020, registration No 960/35243

## APPENDIX D | QUESTIONNAIRE RESPONSES: UKRAINE STANDARD PROCEDURES AND THREAT KNOWLEDGE

**Q3. What is the level of involvement of airlines, air navigation service providers (ANSPs), the military and adjacent states or other states publishing advisories in gathering information about aviation security (including information for conflict zones)?****Answer:**

National airlines, air navigation service providers, the military and law enforcement agencies are involved in gathering information about aviation security. According to relevant regulatory documents, information received from adjacent or other states (if available) is taken into consideration as well.

(Along with this, attention ought to be paid to the fact that at the time the air crash occurred, there was no concept or definition for a “conflict zone”).

**Responsible:**

- State Aviation Administration of Ukraine;
- Security Service of Ukraine;
- Ministry of Defense of Ukraine;
- Ministry of Internal Affairs of Ukraine;
- Foreign Intelligence Service of Ukraine;
- airport operators; aircraft operators;
- air navigation service providers;
- civil aviation authorities of foreign states;
- international civil aviation organizations.

**References:**

Law of Ukraine “On the State Civil Aviation Security Program” dated February 20, 2003 No 545-IV;

Law of Ukraine “On Combating Terrorism” dated March 20, 2003 No 638-IV (as amended).

Decree of the President of Ukraine “On Regulations regarding the Anti-Terrorist Center and its coordination groups at the regional bodies of the Security Service of Ukraine” dated April 14, 1999 No 379/99 (as amended).

Order of the Ministry of Transport and Communications of Ukraine “On Approval of the Guidance to Assess the Level of Threat to Civil Aviation Security of Ukraine” dated 11.05.2007 No 390 (restricted), registered by the Ministry of Justice of Ukraine on May 25, 2007, registration No 542/13809 (as amended).

These documents are developed in accordance with relevant ICAO provisions, in particular Annex 17 and ICAO Doc 8973.

**Process and timeline:**

In accordance with the legislation, the State Aviation Administration of Ukraine constantly conducts a general

assessment of threats to civil aviation security on the basis of information received from the Security Service of Ukraine; Ministry of Defense of Ukraine; Ministry of Internal Affairs of Ukraine; Foreign Intelligence Service of Ukraine; airport operators; aircraft operators; air navigation service providers; civil aviation authorities of foreign states; international civil aviation organizations.

**Actual implementation:**

**Describe specifically what airlines, air navigation service provider (ANSP), the military and adjacent states or other states publishing advisories were used as a source for what information about security risk for civil aircraft.**

According to the established procedures, the State Aviation Administration of Ukraine used information on threats to civil aviation security from national airlines, air navigation service providers, the military and law enforcement agencies, considering information from adjacent or other states (if available) as well.

This information is the one marked “For official use (restricted).” The information mentioned above is specified in the final report on the investigation of the air crash of Malaysia Airlines’ Boeing-777-200. <https://www.onderzoekskraa.d.nl/en/page/3546/crash-mh17-17-july-2014>.

**Changes after 17 July 2014:**

National regulations and procedures pertaining to gathering and analyzing information about threats to civil aviation security have been improved in line with updated ICAO Standards and Recommended Practices, Annex 17 to the Chicago Convention on International Aviation, and current legislation. In particular, the following have been adopted:

- amendments to the laws of Ukraine “On the Security Service of Ukraine,” “On Combating Terrorism,” “On Counterintelligence Activities,” “On Operational and Investigative Activities”;
- State Civil Aviation Security Program, approved by the Law of Ukraine, dated March 21, 2017 No. 1965-VIII;
- Order of the Ministry of Infrastructure of Ukraine “On Approval of the Guidance to Assess the Level of Threat to Civil Aviation Security of Ukraine,” dated 17.06.2020 No 356, registered by the Ministry of Justice of Ukraine on 01.10.2020, registration No 960/35243

**Q4. What are the procedures for routine review and analysis of NOTAMs, security warnings and airspace restrictions for adjacent flight information regions (FIRs) to ensure civil aircraft security?**

**Answer:**

Information pertaining to NOTAMs, security warnings and airspace restrictions for adjacent flight information regions (FIRs) is constantly reviewed and analyzed in accordance with relevant regulatory documents.

**Responsible:**

- State Aviation Administration of Ukraine;
- Security Service of Ukraine;
- Ministry of Defense of Ukraine;
- aircraft operators;
- air navigation service providers;
- EUROCONTROL.

**References:**

Law of Ukraine “On the State Civil Aviation Security Program” dated February 20, 2003 No 545-IV;

Rules of aeronautical information service provision (Order of the Ministry of Transport and Communications of Ukraine (dated 01.07.2004 No564).

Regulation on Use of Airspace of Ukraine, approved by the decree of the Cabinet of Ministers of Ukraine, dated 29.03.2002 No 401

These documents are developed in accordance with relevant ICAO provisions, in particular Annexes 11, 15 and 17, Doc 8973, Doc 9554, Doc 8126, Cir 330

**Process and timeline:**

State Aviation Administration of Ukraine; Security Service of Ukraine; Ministry of Defense of Ukraine; aircraft operators; air navigation service providers constantly review and analyze NOTAMs, security warnings and airspace restrictions for adjacent flight information regions (FIRs). EUROCONTROL analyzes such information in order to provide centralized services related to flight planning and air traffic flow management.

**Actual implementation:**

**Describe what civil aviation security threat information was identified by which authority based on the NOTAMs, security warnings and airspace restrictions for adjacent flight information regions FIRs.**

According to the established procedures, the State Aviation Administration of Ukraine; Security Service of Ukraine; Ministry of Defense of Ukraine; aircraft operators; air navigation service providers constantly review

and analyse NOTAMs, security warnings and airspace restrictions for adjacent flight information regions (FIRs). EUROCONTROL analyzes such information in order to provide centralized services related to flight planning and air traffic flow management. The information mentioned above is specified in the final report on the investigation of the air crash of Malaysia Airlines’ Boeing-777-200.

<https://www.onderzoeksraa d.nl/en/page/3546/crash-mh17-17-july-2014>.

**Changes after 17 July 2014:**

National regulations and procedures pertaining to gathering and analyzing information about threats to civil aviation security have been improved in line with updated ICAO Standards and Recommended Practices, Annexes 11, 15, 17 to the Chicago Convention on International Civil Aviation, Doc 10084, Doc 10066, and current legislation. In particular, the following have been adopted:

- State Civil Aviation Security Program, approved by the Law of Ukraine, dated March 21, 2017 No. 1965-VIII;
- Order of the Ministry of Infrastructure of Ukraine “On Approval of the Guidance to Assess the Level of Threat to Civil Security Aviation of Ukraine,” dated 17.06.2020 No356 registered by the Ministry of Justice of Ukraine on 01.10.2020, registration No 960/35243;
- New edition of the Regulations on Use of Airspace of Ukraine, approved by the decree of the Cabinet of Ministers of Ukraine, dated 06.12.2017 No 954.
- “Rules of the Use of Airspace of Ukraine,” approved by the Order of the State Aviation Administration of Ukraine and the Ministry of Defense of Ukraine, dated 11.05.2018 No 430/210, registered by the Ministry of Justice of Ukraine on 14.09.2018, registration No 1056/32508;
- Aviation Regulations of Ukraine “Aeronautical Information Service Provision,” approved by the Order of the State Aviation Administration of Ukraine dated on 13.05.2019 No 582, registered by the Ministry of Justice of Ukraine on 09.07.2019, registration No 760/33731;
- Aviation Regulations of Ukraine “Air Traffic Service,” approved by the Order of the State Aviation Administration of Ukraine, dated 16.04.2019 No 475, registered by the Ministry of Justice of Ukraine on 04.07.2019, registration No 727/33698.

## APPENDIX D | QUESTIONNAIRE RESPONSES: UKRAINE STANDARD PROCEDURES AND THREAT KNOWLEDGE

**Q5. What is the process for deciding on the source credibility and for verifying information, including information on capability of attack and intent to attack, relative to an active armed conflict that could impact civil aviation?**

**Answer:**

Information on threats to civil aviation security is analyzed, verified and assessed in accordance with relevant regulatory documents (additional information is provided in Appendix 3).

**Responsible:**

- Security Service of Ukraine;
- Ministry of Defense of Ukraine;
- Foreign Intelligence Service of Ukraine

**References:**

The detailed process of gathering, analyzing, verifying and assessing information is classified. The general provisions related to this process are specified in the following legislative documents:

- Laws of Ukraine “On Combating Terrorism,” “On the Security Service of Ukraine” (as amended), “On Operational and Investigative Activities” (as amended), “On Counterintelligence activities” (as amended);
- Decree of the President of Ukraine “On the Regulations regarding the Anti-Terrorist Center and its coordination groups at the regional bodies of the Security Service of Ukraine,” dated April 14, 1999 No 379/99 (as amended).
- Regulations on the unified state system of prevention, response and cessation of terrorist acts and minimization of their consequences, approved by the resolution of the Cabinet of Ministers of Ukraine, dated February 18, 2016 No 92.
- Order of the Ministry of Transport and Communications of Ukraine “On Approval of the Guidance to Assess the Level of Threat to Civil Aviation Security of Ukraine” dated 11.05.2007 No 390 (restricted), registered by the Ministry of Justice of Ukraine on May 25, 2007, registration No 542/13809 (as amended);
- classified internal departmental documents.

**Process and timeline:**

Information on possible threats to aircraft flights in areas of military conflicts is intelligence one. The procedure for determining the reliability of the source of information depends on the method of obtaining such information and the type of information source. This information is classified.

**Actual implementation:**

**How was the security threat information verified, the source judged for credibility, and by what authority / organization? What were the results of the credibility decision and the verification?**

The information was analyzed, verified and assessed by the Security Service of Ukraine, the Ministry of Defense of Ukraine, and the Foreign Intelligence Service of Ukraine. This information is classified.

**Changes after 17 July 2014:**

Based on the adopted Decree of the President of Ukraine dated 30.03.2018 No 116/2018 “On approval of the Resolution of the National Security and Defense Council “On large-scale anti-terrorist operation in Donetsk and Luhansk regions” (restricted), the Law of Ukraine dated 21.06.2018 No 2469-VIII “On the National Security of Ukraine,” Law of Ukraine dated 17.09.2020 No 912-IX “On Intelligence,” appropriate amendments have been made to the following legislation:

- Laws of Ukraine “On Combating Terrorism,” “On the Security Service of Ukraine,” “On Operational and Investigative Activities,” “On Counterintelligence activities”;
- State Civil Aviation Security Program, approved by the Law of Ukraine, dated March 21, 2017 No. 1965-VIII.
- Decree of the President of Ukraine “On the Regulations regarding the Anti-Terrorist Center and its coordination groups at the regional bodies of the Security Service of Ukraine,” dated April 14, 1999 No 379/99 (as amended).
- Regulations on the unified state system of prevention, response and cessation of terrorist acts and minimization of their consequences, approved by the resolution of the Cabinet of Ministers of Ukraine, dated February 18, 2016 No 92.

Ukraine has adopted the Order of the Ministry of Infrastructure of Ukraine “On Approval of the Guidance to Assess the Level of Threat to Civil Aviation Security of Ukraine” dated 17.06.2020 No356, registered by the Ministry of Justice of Ukraine on 01.10.2020, registration No960/35243.

Also, some classified internal departmental documents have been amended.

**Q6. What are the determining risk factors for unintentional attack that may not allow civil aviation to fly over a conflict zone? For example, scale of the conflict, military air transport or air combat activities, previous attacks against aircraft, level of training and experience of SAM operators, level of robustness of command and control mechanism for authorizing launch, civil aviation flight proximity to strategic assets, technical capability of SAMs to distinguish between civil and military aircraft.**

**Answer:**

According to relevant regulatory documents, all factors that pose a potential threat to civil aviation security are taken into account when establishing restrictions, prohibitions and terms on the use of airspace over or near areas of military conflicts. (Along with this, attention ought to be paid to the fact that at the time the air crash occurred, there was no concept or definition for a “conflict zone”). (Additional information is provided in Appendix 3).

**Responsible:**

- State Aviation Administration of Ukraine;
- Security Service of Ukraine;
- Foreign Intelligence Service of Ukraine;
- Ministry of Defense of Ukraine;
- Ministry of Internal Affairs of Ukraine;
- air navigation service providers.

**References:**

Regulation on Use of Airspace of Ukraine, approved by the decree of the Cabinet of Ministers of Ukraine, dated 29.03.2002 No 401

Law of Ukraine “On the State Civil Aviation Security Program” dated February 20, 2003 No 545-IV;

Order of the Ministry of Transport and Communications of Ukraine “On Approval of the Guidance to Assess the Level of Threat to Civil Aviation Security of Ukraine” dated 11.05.2007 No 390 (restricted), registered by the Ministry of Justice of Ukraine on May 25, 2007, registration No 542/13809 (as amended).

These documents are developed in accordance with relevant ICAO provisions, in particular Annexes 11 and 17, Doc 8973, Doc 9554, Doc 9433, Cir 330

**Process and timeline**

In accordance with the legislation, the State Aviation Administration of Ukraine constantly conducts a general assessment of threats to civil aviation security on the basis of information received from Security Service of Ukraine; Foreign Intelligence Service of Ukraine; Ministry of Defense of Ukraine; Ministry of Internal Affairs of Ukraine, air navigation service providers, and make a decision on establishing restrictions and prohibitions on the use of airspace.

The information mentioned above is specified in the final report on the investigation of the air crash of Malaysia Airlines’ Boeing-777-200. <https://www.onderzoeksraad.nl/en/page/3546/crash-mh17-17-july-2014>

**Actual implementation:**

**Describe what risk factors for unintentional attack were identified by what authority / organization. See examples of risk factors listed in Q6**

According to the established procedures, on the basis of available information, appropriate restrictions and prohibitions on the use of airspace were established.

**Changes after 17 July 2014:**

National regulations and procedures pertaining to gathering and analyzing information about threats to civil aviation security, risk assessment and implementation of prohibitions, restrictions and terms on the use of airspace, have been improved in line with updated ICAO Standards and Recommended Practices Annexes 11, 17 to the Chicago Convention on International Civil Aviation, Doc 10084, and current legislation. In particular, the following have been adopted:

- Laws of Ukraine “On Combating Terrorism,” “On the Security Service of Ukraine,” “On Operational and Investigative Activities,” “On Counterintelligence activities.”
- Ukraine has adopted the following legislative documents:
  - State Civil Aviation Security Program, approved by the Law of Ukraine, dated March 21, 2017 No. 1965-VIII;
  - Order of the Ministry of Infrastructure of Ukraine “On Approval of the Guidance to Assess the Level of Threat to Civil Aviation Security of Ukraine,” dated 17.06.2020 No356 registered by the Ministry of Justice of Ukraine on 01.10.2020, registration No 960/35243;
  - New edition of the Regulations on Use of Airspace of Ukraine, approved by the decree of the Cabinet of Ministers of Ukraine, dated 06.12.2017 No 954.
  - “Rules of the Use of Airspace of Ukraine,” approved by the Order of the State Aviation Administration of Ukraine and the Ministry of Defense of Ukraine, dated 11.05.2018 No 430/210, registered by the Ministry of Justice of Ukraine on 14.09.2018, registration No 1056/32508;
  - Aviation Regulations of Ukraine “Air Traffic Service,” approved by the Order of the State Aviation Administration of Ukraine, dated 16.04.2019 No 475, registered by the Ministry of Justice of Ukraine on 04.07.2019, registration No 727/33698.

## APPENDIX D | QUESTIONNAIRE RESPONSES: UKRAINE STANDARD PROCEDURES AND THREAT KNOWLEDGE

**Q7. What organizations are involved, how do they coordinate, and what is the process for determining acceptable security risk levels in civil aviation airspace over a conflict zone?**

Note: These are general security level targets to be met if specified, that are not specific to an event or situation.

**Answer:**

According to relevant regulatory documents, the process of determining the acceptable level of civil aviation safety risks is carried out within appropriate coordination based on an analysis of available threat information (along with this, attention ought to be paid to the fact that at the time the air crash occurred, there was no concept or definition for a “conflict zone”).

**Responsible:**

- State Aviation Administration of Ukraine;
- Security Service of Ukraine;
- Foreign Intelligence Service of Ukraine;
- Ministry of Defense of Ukraine;
- Ministry of Internal Affairs of Ukraine;
- air navigation service providers.

**References:**

Regulation on Use of Airspace of Ukraine, approved by the decree of the Cabinet of Ministers of Ukraine, dated 29.03.2002 No 401

Law of Ukraine “On the State Civil Aviation Security Program” dated February 20, 2003 No 545-IV;

Law of Ukraine “On Combating Terrorism” dated March 20, 2003 No 638-IV (as amended);

Order of the Ministry of Transport and Communications of Ukraine “On Approval of the Guidance to Assess the Level of Threat to Civil Aviation Security of Ukraine” dated 11.05.2007 No 390 (restricted), registered by the Ministry of Justice of Ukraine on May 25, 2007, registration No 542/13809 (as amended).

These documents are developed in accordance with relevant ICAO provisions, in particular Annexes 11 and 17, Doc 8973, Doc 9554, Doc 9433, Cir 330

**Process and timeline:**

In accordance with the legislation, the State Aviation Administration of Ukraine constantly conducts a general assessment of threats to civil aviation security in coordination with the Security Service of Ukraine; Foreign Intelligence Service of Ukraine; Ministry of Defense of Ukraine; Ministry of Internal Affairs of Ukraine, air navigation service providers.

The information mentioned above is specified in the final report on the investigation of the air crash of Malaysia Airlines’ Boeing-777-200. <https://www.onderzoeksr Aad.nl/en/page/3546/crash-mh17-17-july-2014>.

**Actual implementation:**

**Describe what organisations determined the acceptable security risk levels for civil aircraft. How this was determined and what were the determined acceptable security levels?**

According to the established procedures, the detailed information is specified in the final report on the investigation of the air crash of Malaysia Airlines’ Boeing-777-200. <https://www.onderzoeksr Aad.nl/en/page/3546/crash-mh17-17-july-2014>.

**Changes after 17 July 2014:**

National regulations and procedures regarding risk assessment in relation to threats to civil aviation security have been improved in line with updated ICAO Standards and Recommended Practices, Annexes 11, 17 to the Chicago Convention on International Civil Aviation, Doc 10084, and current legislation. In particular, the following have been adopted:

- Laws of Ukraine “On Combating Terrorism,” “On the Security Service of Ukraine,” “On Operational and Investigative Activities,” “On Counterintelligence activities.”

Ukraine has adopted the following legislative documents:

- Law of Ukraine “On the specifics of state policy to ensure the state sovereignty of Ukraine in the temporarily occupied territories in Donetsk and Luhansk regions” dated January 18, 2018 No 2268-VIII;
- State Civil Aviation Security Program, approved by the Law of Ukraine, dated March 21, 2017 No. 1965-VIII;
- Order of the Ministry of Infrastructure of Ukraine “On Approval of the Guidance to Assess the Level of Threat to Civil Aviation Security of Ukraine,” 17.06.2020 No356 registered by the Ministry of Justice of Ukraine on 01.10.2020, registration No 960/35243;
- New edition of the Regulations on Use of Airspace of Ukraine, approved by the decree of the Cabinet of Ministers of Ukraine, dated 06.12.2017 No 954.
- “Rules of the Use of Airspace of Ukraine,” approved by the Order of the State Aviation Administration of Ukraine and the Ministry of Defense of Ukraine, dated 11.05.2018 No 430/210, registered by the Ministry of Justice of Ukraine on 14.09.2018, registration No 1056/32508;
- Aviation Regulations of Ukraine “Air Traffic Service,” approved by the Order of the State Aviation Administration of Ukraine, dated 16.04.2019 No 475, registered by the Ministry of Justice of Ukraine on 04.07.2019, registration No 727/33698.

**Q8. What is the process of determining how civil aviation can be affected based on threat information in a conflict zone? For example, what part of the airspace, what altitudes or types of aircraft?**

**Answer:**

The process of determining how civil aviation can be affected based on threat information has been implemented on the basis of relevant regulatory document (Additional information is provided in Appendix 3). (Along with this, attention ought to be paid to the fact that at the time the air crash occurred, there was no concept or definition for a “conflict zone”).

**Responsible:**

- State Aviation Administration of Ukraine;
- Security Service of Ukraine;
- Foreign Intelligence Service of Ukraine;
- Ministry of Defense of Ukraine;
- Ministry of Internal Affairs of Ukraine;
- air navigation service providers.

**References:**

Law of Ukraine “On the State Civil Aviation Security Program” dated February 20, 2003 No 545-IV;

Regulation on Use of Airspace of Ukraine, approved by the decree of the Cabinet of Ministers of Ukraine, dated 29.03.2002 No 401;

Order of the Ministry of Transport and Communications of Ukraine “On Approval of the Guidance to Assess the Level of Threat to Civil Aviation Security of Ukraine” dated 11.05.2007 No 390 (restricted), registered by the Ministry of Justice of Ukraine on May 25, 2007, registration No 542/13809 (as amended).

These documents are developed in accordance with relevant ICAO provisions, in particular Annexes 11 and 17, Doc 8973, Doc 9554, Doc 9433, Cir 330

**Process and timeline:**

In accordance with the legislation, the State Aviation Administration of Ukraine constantly conducts a general assessment of threats to civil aviation security on the basis of information received from the Security Service of Ukraine; Foreign Intelligence Service of Ukraine; Ministry of Defense of Ukraine; Ministry of Internal Affairs of Ukraine, air navigation service providers, and make a decision on establishing restrictions, prohibitions and terms on the use of airspace. The information mentioned above is specified in the final report on the investigation of the air crash of Malaysia Airlines’ Boeing-777-200, <https://www.onderzoeksrada.nl/en/page/3546/crash-mh17-17-july-2014>.

**Actual implementation:**

**Describe what were the impact analysis results, if any — how civil aviation can be affected based on threat information — what airspace, what altitudes or type of aircraft.**

According to the established procedures, the detailed information is specified in the final report on the investigation of the air crash of Malaysia Airlines’ Boeing-777-200, <https://www.onderzoeksrada.nl/en/page/3546/crash-mh17-17-july-2014>.

**Changes after 17 July 2014:**

National regulations and procedures regarding risk assessment in relation to threats to civil aviation security have been improved in line with updated ICAO Standards and Recommended Practices, Annexes 11, 17 to the Chicago Convention on International Civil Aviation, Doc 10084, and current legislation. In particular, the following have been adopted:

- Laws of Ukraine “On Combating Terrorism,” “On the Security Service of Ukraine,” “On Operational and Investigative Activities,” “On Counterintelligence activities.”

Ukraine has adopted the following legislative documents:

- Law of Ukraine “On the specifics of state policy to ensure the state sovereignty of Ukraine in the temporarily occupied territories in Donetsk and Luhansk regions” dated January 18, 2018 No 2268-VIII;
- State Civil Aviation Security Program, approved by the Law of Ukraine, dated March 21, 2017 No. 1965-VIII;
- Order of the Ministry of Infrastructure of Ukraine “On Approval of the Guidance to Assess the Level of Threat to Civil Aviation Security of Ukraine,” 17.06.2020 No356 registered by the Ministry of Justice of Ukraine on 01.10.2020, registration No 960/35243;
- New edition of the Regulations on Use of Airspace of Ukraine, approved by the decree of the Cabinet of Ministers of Ukraine, dated 06.12.2017 No 954.
- “Rules of the Use of Airspace of Ukraine,” approved by the Order of the State Aviation Administration of Ukraine and the Ministry of Defense of Ukraine, dated 11.05.2018 No 430/210, registered by the Ministry of Justice of Ukraine on 14.09.2018, registration No 1056/32508;
- Aviation Regulations of Ukraine “Air Traffic Service,” approved by the Order of the State Aviation Administration of Ukraine, dated 16.04.2019 No 475, registered by the Ministry of Justice of Ukraine on 04.07.2019, registration No 727/33698.



## APPENDIX D | QUESTIONNAIRE RESPONSES: UKRAINE STANDARD PROCEDURES AND THREAT KNOWLEDGE

**Q9. What analysis methodology or risk matrix is used to assess the likelihood of a threat presenting itself and the potential consequences for civil aircraft flying over the conflict zone?****Answer:**

An analysis methodology or risk matrix used to assess the likelihood of a threat and potential consequences for civil aircraft has been developed and approved in accordance with relevant regulatory documents. (Along with this, attention ought to be paid to the fact that at the time the air crash occurred, there was no concept or definition for a “conflict zone”).

**Responsible:**

- State Aviation Administration of Ukraine;
- Security Service of Ukraine;
- Foreign Intelligence
- Service of Ukraine;
- Ministry of Defense of Ukraine;
- Ministry of Internal Affairs of Ukraine.

**References:**

Law of Ukraine “On the State Civil Aviation Security Program” dated February 20, 2003 No 545-IV;

Regulation on Use of Airspace of Ukraine, approved by the decree of the Cabinet of Ministers of Ukraine, dated 29.03.2002 No 401;

Order of the Ministry of Transport and Communications of Ukraine “On Approval of the Guidance to Assess the Level of Threat to Civil Aviation Security of Ukraine” dated 11.05.2007 No 390 (restricted), registered by the Ministry of Justice of Ukraine on May 25, 2007, registration No 542/13809 (as amended).

These documents are developed in accordance with relevant ICAO provisions, in particular Annex 17 and ICAO Doc 8973.

**Process and timeline:**

In accordance with the legislation, the State Aviation Administration of Ukraine constantly conducts a general assessment of threats to civil aviation security on the basis of information received from the Security Service of Ukraine; Foreign Intelligence Service of Ukraine; Ministry of Defense of Ukraine; Ministry of Internal Affairs of Ukraine, air navigation service providers, and make a decision on establishing restrictions, prohibitions and terms on the use of airspace. The information mentioned above is specified in the final report on the investigation of the air crash of Malaysia Airlines’ Boeing-777-200.

<https://www.onderzoeksraa.d.nl/en/page/3546/crash-mh17-17-july-2014>.

**Actual implementation:**

**Describe if and how risk was assessed and what levels of security risk were determined for what airspace, what altitudes or what type of aircraft.**

According to the established procedures, the detailed information is specified in the final report on the investigation of the air crash of Malaysia Airlines’ Boeing-777-200. <https://www.onderzoeksraa.d.nl/en/page/3546/crash-mh17-17-july-2014>.

**Changes after 17 July 2014:**

National regulations and procedures regarding risk assessment in relation to threats to civil aviation security have been improved in line with updated ICAO Standards and Recommended Practices, Annexes 11, 17 to the Chicago Convention on International Civil Aviation, Doc 10084, and current legislation. In particular, the following have been adopted:

- Laws of Ukraine “On Combating Terrorism,” “On the Security Service of Ukraine,” “On Operational and Investigative Activities,” “On Counterintelligence activities.”

Ukraine has adopted the following legislative documents:

- Law of Ukraine “On the specifics of state policy to ensure the state sovereignty of Ukraine in the temporarily occupied territories in Donetsk and Luhansk regions” dated January 18, 2018 No 2268-VIII;
- State Civil Aviation Security Program, approved by the Law of Ukraine, dated March 21, 2017 No. 1965-VIII;
- Order of the Ministry of Infrastructure of Ukraine “On Approval of the Guidance to Assess the Level of Threat to Civil Aviation Security of Ukraine,” 17.06.2020 No356 registered by the Ministry of Justice of Ukraine on 01.10.2020, registration No 960/35243;
- New edition of the Regulations on Use of Airspace of Ukraine, approved by the decree of the Cabinet of Ministers of Ukraine, dated 06.12.2017 No 954;
- “Rules of the Use of Airspace of Ukraine,” approved by the Order of the State Aviation Administration of Ukraine and the Ministry of Defense of Ukraine, dated 11.05.2018 No 430/210, registered by the Ministry of Justice of Ukraine on 14.09.2018, registration No 1056/32508.

**Q10. What is the process to determine security mitigations that would permit civil aviation to overfly a conflict zone?**

**Answer:**

The process to determine security risk mitigations has been established on the basis of the analysis of identified threats in accordance with relevant regulatory documents. (To answer this question, the phrase “Security risk mitigations” has been used instead of the phrase “security mitigations”). (Additional information is provided in Appendix 3). (Along with this, attention ought to be paid to the fact that at the time the air crash occurred, there was no concept or definition for a “conflict zone”).

**Responsible:**

- State Aviation Administration of Ukraine;
- Security Service of Ukraine;
- Foreign Intelligence Service of Ukraine;
- Ministry of Defense of Ukraine;
- Ministry of Internal Affairs of Ukraine;
- air navigation service providers.

**References:**

Law of Ukraine “On the State Civil Aviation Security Program” dated February 20, 2003 No 545-IV;

Regulation on Use of Airspace of Ukraine, approved by the decree of the Cabinet of Ministers of Ukraine, dated 29.03.2002 No 401;

Order of the Ministry of Transport and Communications of Ukraine “On Approval of the Guidance to Assess the Level of Threat to Civil Aviation Security of Ukraine” dated 11.05.2007 No 390 (restricted), registered by the Ministry of Justice of Ukraine on May 25, 2007, registration No 542/13809 (as amended).

These documents are developed in accordance with relevant ICAO provisions, in particular Annexes 11 and 17, Doc 8973, Doc 9554, Doc 9433, Cir 330

**Process and timeline:**

In accordance with the legislation, the State Aviation Administration of Ukraine constantly conducts a general assessment of threats to civil aviation security on the basis of information received from the Security Service of Ukraine; Foreign Intelligence Service of Ukraine; Ministry of Defense of Ukraine; Ministry of Internal Affairs of Ukraine, air navigation service providers, and make a decision on establishing restrictions, prohibitions and terms on the use of airspace. The information mentioned above is specified in the final report on the investigation of the air crash of Malaysia Airlines’ Boeing-777-200. <https://www.onderzoeksraad.nl/en/page/3546/crash-mh17-17-july-2014>.

**Actual implementation:**

**Describe if and what security mitigations were determined that would permit civil aviation to overfly the conflict zone.**

According to the established procedures, the detailed information is specified in the final report on the investigation of the air crash of Malaysia Airlines’ Boeing-777-200. <https://www.onderzoeksraad.nl/en/page/3546/crash-mh17-17-july-2014>.

**Changes after 17 July 2014:**

National regulations and procedures regarding security risk mitigations based on identified threats to civil aviation have been improved in line with updated ICAO Standards and Recommended Practices, Annexes 11, 17 to the Chicago Convention on International Civil Aviation, Doc 10084, and current legislation. In particular, the following have been amended:

- Laws of Ukraine “On Combating Terrorism,” “On the Security Service of Ukraine,” “On Operational and Investigative Activities,” “On Counterintelligence activities.”

Ukraine has adopted the following legislative documents:

- Law of Ukraine “On the specifics of state policy to ensure the state sovereignty of Ukraine in the temporarily occupied territories in Donetsk and Luhansk regions” dated January 18, 2018 No 2268-VIII;
- State Civil Aviation Security Program, approved by the Law of Ukraine, dated March 21, 2017 No. 1965-VIII;
- Order of the Ministry of Infrastructure of Ukraine “On Approval of the Guidance to Assess the Level of Threat to Civil Aviation Security of Ukraine,” dated 17.06.2020 No356 registered by the Ministry of Justice of Ukraine on 01.10.2020, registration No 960/35243;
- New edition of the Regulations on Use of Airspace of Ukraine, approved by the decree of the Cabinet of Ministers of Ukraine, dated 06.12.2017 No 954.
- “Rules of the Use of Airspace of Ukraine,” approved by the Order of the State Aviation Administration of Ukraine and the Ministry of Defense of Ukraine, dated 11.05.2018 No 430/210, registered by the Ministry of Justice of Ukraine on 14.09.2018, registration No 1056/32508;
- Aviation Regulations of Ukraine “Air Traffic Service,” approved by the Order of the State Aviation Administration of Ukraine, dated 16.04.2019 No 475, registered by the Ministry of Justice of Ukraine on 04.07.2019, registration No 727/33698.

## APPENDIX D | QUESTIONNAIRE RESPONSES: UKRAINE STANDARD PROCEDURES AND THREAT KNOWLEDGE

**Q11. What are your normal (not during conflict) criteria for establishing restriction or segregation of airspace and what are the coordination procedures both internally and externally?****Answer:**

Criteria for the implementation of appropriate restrictions and reservations of airspace and coordination procedures have been established in accordance with relevant regulatory documents.

**Responsible:**

- State Aviation Administration of Ukraine;
- Security Service of Ukraine;
- Ministry of Defense of Ukraine;
- Ministry of Internal Affairs of Ukraine;
- air navigation service providers;
- air space users.

**References:**

Regulation on Use of Airspace of Ukraine, approved by the decree of the Cabinet of Ministers of Ukraine, dated 29.03.2002 No 401

Rules of aeronautical information service provision (Order of the Ministry of Transport and Communications of Ukraine (dated 01.07.2004 No564).

Instruction on planning and usage of temporarily reserved airspace and conditional ATS routes, approved by decree of the State Aviation Administration of Ukraine 22.05.2006 No 354

These documents are developed in accordance with relevant ICAO provisions, in particular Annexes 2, 11 and 15, Doc 9426, Doc 9554, Doc 9433, Cir 330, documents of EUROCONTROL, and EU legislation.

**Process and timeline:**

Prohibitions or restrictions on the use of airspace are established by the State Aviation Administration of Ukraine or the authorities involved in the Joint Civil-Military System at the request of the competent authorities and users of airspace.

The detailed information is specified in the final report on the investigation of the air crash of Malaysia Airlines' Boeing-777-200. <https://www.onderzoeksr.aad.nl/en/page/3546/crash-mh17-17-july-2014>.

**Actual implementation:**

**Not applicable—no answer required.**

According to the established procedures, the detailed information is specified in the final report on the investigation of the air crash of Malaysia Airlines' Boeing-777-200. <https://www.onderzoeksr.aad.nl/en/page/3546/crash-mh17-17-july-2014>.

**Changes after 17 July 2014:**

National regulations and procedures regarding the implementation of appropriate restrictions and reservations of airspace, with ensuring appropriate coordination procedures, have been improved in line with updated ICAO Standards and Recommended Practices Annexes 2, 11, 15 to the Chicago Convention on International Civil Aviation, Doc 10084, Doc 10066 documents of EUROCONTROL, and with current national and EU legislation considered. In particular, the following have been adopted:

- New edition of the Regulations on Use of Airspace of Ukraine, approved by the decree of the Cabinet of Ministers of Ukraine, dated 06.12.2017 No 954.
- “Rules of the Use of Airspace of Ukraine,” approved by the Order of the State Aviation Administration of Ukraine and the Ministry of Defense of Ukraine, dated 11.05.2018 No 430/210, registered by the Ministry of Justice of Ukraine on 14.09.2018, registration No 1056/32508;
- Aviation Regulations of Ukraine “Air Traffic Service,” approved by the Order of the State Aviation Administration of Ukraine, dated 16.04.2019 No 475, registered by the Ministry of Justice of Ukraine on 04.07.2019, registration No 727/33698.

**Q12. What are the decision processes for security of airspace, including establishing restriction or segregation of airspace in a conflict zone? What are the ANSP and military coordination procedures for active civil flights and their safety?**

**Answer:**

Procedures for decision-making and civil- military coordination in the introduction of bans, restrictions and terms on the use of airspace are established in accordance with relevant regulatory documents. (Additional information is provided in Appendix 3). (Along with this, attention ought to be paid to the fact that at the time the air crash occurred, there was no concept or definition for a “conflict zone”).

**Responsible:**

- State Aviation Administration of Ukraine;
- Security Service of Ukraine;
- Ministry of Defense of Ukraine;
- Ministry of Internal Affairs of Ukraine;
- air navigation service providers;
- air space users.

**References:**

Regulation on Use of Airspace of Ukraine, approved by the decree of the Cabinet of Ministers of Ukraine, dated 29.03.2002 No 401

Rules of aeronautical information service provision (Order of the Ministry of Transport and Communications of Ukraine (dated 01.07.2004 No564).

Instruction on planning and usage of temporarily reserved airspace and conditional ATS routes, approved by decree of the State Aviation Administration of Ukraine 22.05.2006 No 354

“Instructions on the organization of interaction between the bodies of the joint civil-military air traffic management system of Ukraine and the governing bodies of the Air Force of the Armed Forces of Ukraine” dated 29.02.2012;

These documents are developed in accordance with relevant ICAO provisions, in particular Annexes 2, 11 and 15, Doc 9426, Doc 9554, Doc 9433, Cir 330, documents of EUROCONTROL, and EU legislation.

**Process and timeline:**

Prohibitions or restrictions on the use of airspace are established by the State Aviation Administration of Ukraine or the authorities involved in the Joint Civil-Military System at the request of the competent authorities and users of airspace.

The detailed information is specified in the final report on the investigation of the air crash of Malaysia Airlines’ Boeing-777-200. <https://www.onderzoeksr.aad.nl/en/page/3546/crash-mh17-17-july-2014>.

**Actual implementation:**

**Describe who took what decisions for security of airspace, including establishing restriction or segregation of airspace. Describe what coordination took place between the ANSP and military regarding the security threats.**

According to the established procedures, the detailed information is specified in the final report on the investigation of the air crash of Malaysia Airlines’ Boeing-777-200. <https://www.onderzoeksr.aad.nl/en/page/3546/crash-mh17-17-july-2014>.

**Changes after 17 July 2014:**

National regulations and procedures regarding the implementation of appropriate restrictions and terms on the use of airspace, with ensuring civil-military coordination, have been improved in line with updated ICAO Standards and Recommended Practices Annexes 2, 11, 15 to the Chicago Convention on International Civil Aviation, Doc 10084, Doc 10066 documents of EUROCONTROL, and with current national and EU legislation considered. In particular, the following have been adopted:

- New edition of the Regulations on Use of Airspace of Ukraine, approved by the decree of the Cabinet of Ministers of Ukraine, dated 06.12.2017 No 954.
- “Rules of the Use of Airspace of Ukraine,” approved by the Order of the State Aviation Administration of Ukraine and the Ministry of Defense of Ukraine, dated 11.05.2018 No 430/210, registered by the Ministry of Justice of Ukraine on 14.09.2018, registration No 1056/32508;
- Aviation Regulations of Ukraine “Air Traffic Service,” approved by the Order of the State Aviation Administration of Ukraine, dated 16.04.2019 No 475, registered by the Ministry of Justice of Ukraine on 04.07.2019, registration No 727/33698;
- New edition of “Instructions on the organization of interaction between the bodies of the joint civil-military air traffic management system of Ukraine and the governing bodies of the Air Force of the Armed Forces of Ukraine” dated 29.02.2012.

**Q13. What organisations are involved and what are the procedures for coordinating airspace restrictions in the conflict zone among adjacent FIRs?**

**Answer:**

According to relevant regulatory documents, procedures for informing about the establishment of restrictions on the use of airspace in FIRs, including ones that belong to adjacent states, introduced in appropriate written agreements between area control centers, as well as between authorities responsible for air traffic management in adjacent states. (Along with this, attention ought to be paid to the fact that at the time the air crash occurred, there was no concept or definition for a “conflict zone”).

**Responsible:**

- State Aviation Administration of Ukraine;
- Ministry of Defense of Ukraine;
- air navigation service providers.

**References:**

The Air Code of Ukraine.

Regulation on Use of Airspace of Ukraine, approved by the decree of the Cabinet of Ministers of Ukraine, dated 29.03.2002 No 401

Rules of aeronautical information service provision (Order of the Ministry of Transport and Communications of Ukraine (dated 01.07.2004 No564).

Rules of flights and air traffic service in the classified airspace of Ukraine, approved by the order of the Ministry of Transport and Communications of Ukraine 16.04.2003 No293.

These documents are developed in accordance with relevant ICAO provisions, in particular Annexes 11 and 15, Doc 9426, documents of EUROCONTROL.

**Process and timeline:**

Information pertaining to restrictions on the use of airspace is published in aeronautical information documents and provided to the competent authorities of adjacent states.

**Actual implementation:**

**Describe if and how the airspace restrictions were coordinated with the adjacent FIRs and what organisations were involved in the coordination.**

According to the established procedures, the detailed information is specified in the final report on the investigation of the air crash of Malaysia Airlines’ Boeing-777-200. <https://www.onderzoeksr Aad.nl/en/page/3546/crash-mh17-17-july-2014>.

**Changes introduced after 17 July 2014:**

National regulations and procedures regarding the dissemination of information about implementation of appropriate restrictions and reservations of airspace, with ensuring appropriate coordination procedures, have been improved in line with updated ICAO Standards and Recommended Practices, Annexes 11, 15 to the Chicago Convention on International Civil Aviation, Doc 10084, Doc 10066 documents of EUROCONTROL. In particular, the following have been adopted:

- New edition of the Regulations on Use of Airspace of Ukraine, approved by the decree of the Cabinet of Ministers of Ukraine, dated 06.12.2017 No 954.
- “Rules of the Use of Airspace of Ukraine,” approved by the Order of the State Aviation Administration of Ukraine and the Ministry of Defense of Ukraine, dated 11.05.2018 No 430/210, registered by the Ministry of Justice of Ukraine on 14.09.2018, registration No 1056/32508;
- Aviation Regulations of Ukraine “Air Traffic Service,” approved by the Order of the State Aviation Administration of Ukraine, dated 16.04.2019 No 475, registered by the Ministry of Justice of Ukraine on 04.07.2019, registration No 727/33698.
- Aviation Regulations of Ukraine “Aeronautical Information Service Provision,” approved by the Order of the State Aviation Administration of Ukraine dated on 13.05.2019 No 582, registered by the Ministry of Justice of Ukraine on 09.07.2019, registration No 760/33731.

**Q14. What is the process to decide if there is a need for aeronautical information publication and to choose the communication tool for it (e.g. NOTAMs, AIC)?**

**Response:**

The decision-making process on the need to publish aeronautical information and the procedure for its publication has been established in accordance with relevant regulatory documents.

**Responsible:**

- State Aviation Administration of Ukraine;
- Ministry of Defense of Ukraine;
- air navigation service providers.

**References:**

The Air Code of Ukraine.

Regulation on Use of Airspace of Ukraine, approved by the decree of the Cabinet of Ministers of Ukraine, dated 29.03.2002 No 401

Rules of aeronautical information service provision (Order of the Ministry of Transport and Communications of Ukraine (dated 01.07.2004 No564).

These documents are developed in accordance with relevant ICAO provisions, in particular Annexes 11 and 15, Doc 9554, Doc 8126, documents of EUROCONTROL.

**Process and timeline:**

Aeronautical information is published by the decision of the State Aviation Administration of Ukraine in coordination with the state authorities concerned.

**Actual implementation:**

**Describe how it was decided if there is a need for aeronautical information publication and how it was chosen what communication tool for it (e.g. NOTAMs AIC).**

According to the established procedures, the detailed information is specified in the final report on the investigation of the air crash of Malaysia Airlines' Boeing-777-200. <https://www.onderzoeksr Aad.nl/en/page/3546/crash-mh17-17-july-2014>.

**Changes introduced after 17 July 2014:**

National regulations and procedures regarding the publication of aeronautical information have been improved in line with updated ICAO Standards and Recommended Practices Annexes 11, 15 to the Chicago Convention on International Civil Aviation, Doc 10084, Doc 10066, documents of EUROCONTROL, and current legislation. In particular, the following have been adopted:

- New edition of the Regulations on Use of Airspace of Ukraine, approved by the decree of the Cabinet of Ministers of Ukraine, dated 06.12.2017 No 954.
- "Rules of the Use of Airspace of Ukraine," approved by the Order of the State Aviation Administration of Ukraine and the Ministry of Defense of Ukraine, dated 11.05.2018 No 430/210, registered by the Ministry of Justice of Ukraine on 14.09.2018, registration No 1056/32508;
- Aviation Regulations of Ukraine "Air Traffic Service," approved by the Order of the State Aviation Administration of Ukraine, dated 16.04.2019 No 475, registered by the Ministry of Justice of Ukraine on 04.07.2019, registration No 727/33698.
- Aviation Regulations of Ukraine "Aeronautical Information Service Provision," approved by the Order of the State Aviation Administration of Ukraine dated on 13.05.2019 No 582, registered by the Ministry of Justice of Ukraine on 09.07.2019, registration No 760/33731.

## APPENDIX D | QUESTIONNAIRE RESPONSES: UKRAINE STANDARD PROCEDURES AND THREAT KNOWLEDGE

**Q15. What organisations are involved in and what are the processes to prepare, verify if ICAO AIS procedures and terminology are used, validate for correctness and transmit aeronautical information to the users of it (e.g. airlines and ANSPs)?**

**Response:**

The processes of preparation, verification and application of ICAO procedures and terminology, confirmation of correctness and transfer of aeronautical information to its users have been established in accordance with relevant regulatory documents.

**Responsible entity:**

- State Aviation Administration of Ukraine;
- Ministry of Defense of Ukraine;
- air navigation service providers;
- EUROCONTROL;
- ICAO.

**References:**

The Air Code of Ukraine.

Regulation on Use of Airspace of Ukraine, approved by the decree of the Cabinet of Ministers of Ukraine, dated 29.03.2002 No 401

Rules of aeronautical information service provision (Order of the Ministry of Transport and Communications of Ukraine (dated 01.07.2004 No564).

These documents are developed in accordance with relevant ICAO provisions, in particular Annex 15, Doc 8126, and EU legislation.

**Process and timeline:**

The State Aviation Administration of Ukraine, the Ministry of Defense of Ukraine, and air navigation service providers in accordance with their competence, check draft documents of aeronautical information published by the Aeronautical Information Service (AIS) according to the decision of the State Aviation Administration of Ukraine and provided to airspace users.

The State Aviation Administration of Ukraine supervises the established procedures.

**Actual implementation:**

**Please describe the organizations involved in the preparation of aeronautical information, verification of**

**the use of the ICAO AIS procedures and terminology, and validation of the correctness and transmission of the aeronautical information to its users.**

According to the established procedures, the detailed information is specified in the final report on the investigation of the air crash of Malaysia Airlines' Boeing-777-200. <https://www.onderzoeksvaard.nl/en/page/3546/crash-mh17-17-july-2014>.

**Changes introduced after 17 July 2014:**

National regulations and procedures regarding the publication of aeronautical information and dissemination of information among users have been improved in line with updated ICAO Standards and Recommended Practices Annexes 11, 15 to the Chicago Convention on International Civil Aviation, Doc 10084, Doc 10066, documents of EUROCONTROL, and current legislation. In particular, the following have been adopted:

- New edition of the Regulations on Use of Airspace of Ukraine, approved by the decree of the Cabinet of Ministers of Ukraine, dated 06.12.2017 No 954.
- “Rules of the Use of Airspace of Ukraine,” approved by the Order of the State Aviation Administration of Ukraine and the Ministry of Defense of Ukraine, dated 11.05.2018 No 430/210, registered by the Ministry of Justice of Ukraine on 14.09.2018, registration No 1056/32508;
- Aviation Regulations of Ukraine “Air Traffic Service,” approved by the Order of the State Aviation Administration of Ukraine, dated 16.04.2019 No 475, registered by the Ministry of Justice of Ukraine on 04.07.2019, registration No 727/33698.
- Aviation Regulations of Ukraine “Aeronautical Information Service Provision,” approved by the Order of the State Aviation Administration of Ukraine dated on 13.05.2019 No 582, registered by the Ministry of Justice of Ukraine on 09.07.2019, registration No 760/33731.

**Q16. What are the procedures for disseminating civil aviation security threat information to operators within and outside the conflict zone FIR?**

**Response:**

The procedure for disseminating information about threats to the civil aviation security has been established in accordance with relevant regulatory documents. (Along with this, attention ought to be paid to the fact that at the time the air crash occurred, there was no concept or definition for a “conflict zone”).

**Responsible:**

- State Aviation Administration of Ukraine;
- Ministry of Defense of Ukraine;
- air navigation service providers.

**References:**

Law of Ukraine “On the State Civil Aviation Security Program” dated February 20, 2003 No 545-IV;

Regulation on Use of Airspace of Ukraine, approved by the decree of the Cabinet of Ministers of Ukraine, dated 29.03.2002 No 401;

Order of the Ministry of Transport and Communications of Ukraine “On Approval of the Guidance to Assess the Level of Threat to Civil Aviation Security of Ukraine” dated 11.05.2007 No 390 (restricted), registered by the Ministry of Justice of Ukraine on May 25, 2007, registration No 542/13809 (as amended);

Rules of flights and air traffic service in the classified airspace of Ukraine, approved by the order of the Ministry of Transport and Communications of Ukraine 16.04.2003 No293.

Rules of aeronautical information service provision (Order of the Ministry of Transport and Communications of Ukraine (dated 01.07.2004 No564).

These documents are developed in accordance with relevant ICAO provisions, in particular Annexes 11, 15 and 17, ICAO Doc 8973, Doc 8126, Doc 9554, Doc 9433, and documents of EUROCONTROL.

**Process and timeline:**

The procedure for conveying information on threats to civil aviation security to airspace users is determined and carried out by the State Aviation Administration of Ukraine, the Ministry of Defense of Ukraine, including via air navigation service providers.

**Actual implementation:**

**Please describe whether and, if so, how the civil aviation security threat information was disseminated to operators within and outside the conflict zone FIR?**

According to the established procedures, the detailed information is specified in the final report on the investigation of the air crash of Malaysia Airlines’ Boeing-777-200.

<https://www.onderzoeksraa.d.nl/en/page/3546/crash-mh17-17-july-2014>.

**Changes introduced after 17 July 2014:**

National regulations and procedures regarding dissemination of information about threats to civil aviation security have been improved in line with updated ICAO Standards and Recommended Practices Annexes 11, 15, 17 to the Chicago Convention on International Civil Aviation, Doc 10084, Doc 10066, the documents of EUROCONTROL, and current legislation. In particular, the following have been adopted:

- State Civil Aviation Security Program, approved by the Law of Ukraine, dated March 21, 2017 No. 1965-VIII;
- Order of the Ministry of Infrastructure of Ukraine “On Approval of the Guidance to Assess the Level of Threat to Civil Aviation Security of Ukraine,” dated 17.06.2020 No356 registered by the Ministry of Justice of Ukraine on 01.10.2020, registration No 960/35243
- New edition of the Regulations on Use of Airspace of Ukraine, approved by the decree of the Cabinet of Ministers of Ukraine, dated 06.12.2017 No 954.
- “Rules of the Use of Airspace of Ukraine,” approved by the Order of the State Aviation Administration of Ukraine and the Ministry of Defense of Ukraine, dated 11.05.2018 No 430/210, registered by the Ministry of Justice of Ukraine on 14.09.2018, registration No 1056/32508;
- Aviation Regulations of Ukraine “Air Traffic Service,” approved by the Order of the State Aviation Administration of Ukraine, dated 16.04.2019 No 475, registered by the Ministry of Justice of Ukraine on 04.07.2019, registration No 727/33698.
- Aviation Regulations of Ukraine “Aeronautical Information Service Provision,” approved by the Order of the State Aviation Administration of Ukraine dated on 13.05.2019 No 582, registered by the Ministry of Justice of Ukraine on 09.07.2019, registration No 760/33731.

**Appendixes to the responses provided by Ukraine:**

- 1) Ukrainian proposals based on recommendations made by DSB in the Final Report on the Crash of Malaysia Airlines, Flight MH17
- 2) Progress overview of ICAO conflict zone working programme 2017-2020.
- 3) General information on setting the Prohibited/Restricted Airspace over armed conflict zones.

The information from appendixes to the responses provided by Ukraine has been included in the discussion of the specific answers wherever the appendix was referred by Ukraine.



## Appendix E

### Clarifying Questions Responses from Ukraine

This appendix contains the responses received from Ukraine to clarifying questions. The responses are provided as received without additional editing or modification.

**CQ1** — On 17 July 2014, before the downing of Flight MH17, a post from @ostro\_v (as reported and translated into English during the Flight MH17 criminal prosecution court sessions at The Hague) said, “In Donetsk, at the Intersection of Ilyich Avenue at 9.15, there was a “Buk” on a tractor, surrounded by militiamen.” Was that Twitter post known about prior to the downing of Flight MH17 and by which state authorities?

**Answer:**

At the time of the downing of MH17 flight, there were no means for real-time analysis of the content of all social networks.

**CQ2** — Apart from what is referred to in CQ1, what other social media threat information about the presence in eastern Ukraine of air defence equipment that was not controlled by government forces and which could have reached the respective airspace in UKDV FIR above Flight Level 250 was identified, when and by which authority? This includes social media posts about a BUK missile system being seen.

**Answer:**

At the time of the downing of the flight MH17 there were no technical means for real-time analysis of all social networks.

**CQ3** — What weapon was used in the attack on a Ukraine An-26 military transport aircraft that occurred on 14 July? What knowledge of this weapon did the authorities responsible for security risk analysis have prior to the downing of the Flight MH17?

**Answer:**

An-26 aircraft flew along the state border and due to a missile hit, his crew was forced to land. Ukraine did not have access to the aircraft after it crashed in territory controlled by pro-Russian armed forces. Based on the available information, there was a belief that the plane was hit by an air-to-air missile.

**CQ4** — What authority or authorities knew prior to the downing of Flight MH17 about the threat information contained in the 150,000 intercepted telephone conversations mentioned on 28 September 2016, during the Joint Investigative Team (JIT) presentation of the first results of the Flight MH17 criminal investigation,

namely the exchange in the morning of 17 July 2014 between Dubinskiy, Semenov, Kharchenko and Pula-tov about [the] presence in eastern Ukraine of Buk-M?

**Answer:**

The analysis of the specified telephone conversations was made after the event.

**CQ5** — What authority or authorities knew prior to the downing of Flight MH17 about the threat information described by Vitaly Nayda, the head of counterintelligence for the Ukrainian State Security Service, on 19 July 2014 at a news conference in Kiev, that the first information “hinting” at a Buk launcher in the possession of the armed non-state forces was received on 14 July? Did State Aviation Administration of Ukraine know prior to the downing of Flight MH17 about this information?

**Answer:**

There was no confirmation of the mentioned information, therefore, the State Aviation Administration of Ukraine did not have information about the presence of the “Buk” missile system in the conflict zone.

**CQ6** — Apart from what is referred to in CQ1, CQ3, CQ4 and CQ5, what other threat information about the presence in eastern Ukraine of air defence equipment that was not controlled by government forces and which could have reached the respective airspace in UKDV FIR above Flight Level 250 was identified, when and by which authority prior to the downing of Flight MH17?

**Answer:**

There was no such information.

**CQ7** — What intent to attack aircraft in eastern Ukraine with air defence equipment that was not controlled by government forces and which could have reached the respective airspace in UKDV FIR above Flight Level 250 was identified, when and by which authority prior to the downing of Flight MH17?

**Answer:**

There was no such information.

**CQ8** — What threat information about the presence of air defence equipment in eastern Ukraine that was not controlled by government forces and which could have reached the respective airspace in UKDV FIR above Flight Level 250 was known and how did it become known by the State Aviation Administration

**of Ukraine prior to the downing of Flight MH17? How was the associated security risk assessed and what airspace management decision was taken?**

**Answer:**

There was no information on the presence of air defense systems in pro-Russian armed formations with the possibility of defeat above the FL 250 echelon.

**CQ9 — What risk factors for unintentional attack became known by the State Aviation Administration of Ukraine prior to the downing of Flight MH17 and how did this information affect their security risk assessment?**

**Answer:**

Prior to the crash of MH17, the State Aviation Administration of Ukraine was unaware of the threat of an unintentional attack above the FL 250 echelon.

**CQ10 — The Netherland DSB investigation report notes that, “After an emergency beacon was activated**

**at around 1320, indicating that flight MH17 had crashed, UkSATSE made the decision at 1500, at the tactical level, to also restrict the airspace above FL 320.” It could be deduced that UkSATSE was responsible for threat and risk analysis, but the responses received notes that “the State Aviation Administration of Ukraine constantly conducts a general assessment of threats to civil aviation security.” In that respect, which authority was responsible prior to the downing of Flight MH17 for the threat and risk analysis and assessment?**

**Answer:**

UkSATSE made a decision at the tactical level to limit the airspace above the FL320 echelon as an immediate response to the disappearance of the MH17 aircraft, as stated in paragraph 6.3 of Part B of the final report of the MH17 crash investigation issued by the Dutch Safety Board. This fact is fully consistent with the information set out in section 6.1 of the Final Report.

## References

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- [1] ICAO, 2018, Doc 10084 “Risk Assessment Manual for Civil Aircraft Operations Over or Near Conflict Zones,” Second Edition, INTERNATIONAL CIVIL AVIATION ORGANIZATION, Quebec, Canada
- [2] Dutch Safety Board, 2015, “Crash of Malaysia Airlines flight MH17 Hrabove, Ukraine, 17 July 2014,” The Hague, The Netherlands
- [3] International Civil Aviation Organisation, Doc 10066 “Procedures for Air Navigation Services, Aeronautical Information Management,” First Edition 2018, Montreal, Canada
- [4] International Civil Aviation Organisation, Doc 8126 “Aeronautical Information Services Manual,” Sixth Edition 2003, Montreal, Canada



**Annex 394**

Opinions of the Office of Legal Counsel of the United States Department of Justice, United States Assistance to Countries that Shoot Down Civil Aircraft Involved in Drug Trafficking, 1994



## United States Assistance to Countries that Shoot Down Civil Aircraft Involved in Drug Trafficking

The Aircraft Sabotage Act of 1984 applies to the police and military personnel of foreign governments. In particular, the Act applies to the use of deadly force by such foreign governmental actors against civil aircraft in flight that are suspected of transporting illegal drugs. There is accordingly a substantial risk that United States Government officers and employees who provide flight tracking information or certain other forms of assistance to the aerial interdiction programs of foreign governments that have destroyed such aircraft, or that have announced an intent to do so, would be aiding and abetting conduct that violated the Act.

July 14, 1994

### MEMORANDUM OPINION FOR THE DEPUTY ATTORNEY GENERAL\*

This memorandum summarizes our earlier advice concerning whether and in what circumstances United States Government (“USG”) officers and employees may lawfully provide flight tracking information and other forms of technical assistance to the Republics of Colombia and Peru. The information and other assistance at issue have been provided to the aerial interdiction programs of those two countries for the purpose of enabling them to locate and intercept aircraft suspected of engaging in illegal drug trafficking.

Concern over the in-flight destruction of civil aircraft as a component of the counternarcotics programs of foreign governments is not novel. In 1990, soon after the inception of the USG assistance program, the United States made an oral *démarche* to the Colombian government informing that government that Colombian use of USG intelligence information to effect shootdowns could result in the suspension of that assistance.

More recently, we understand that the government of Peru has used weapons against aircraft suspected of transporting drugs and that the government of Colombia has announced its intention to destroy in-flight civil aircraft suspected of involvement in drug trafficking. The possibility that these governments might use the information or other assistance furnished by the United States to shoot down civil aircraft raises the question of the extent to which the United States and its governmental personnel may lawfully continue to provide assistance to such programs.

On May 1, 1994, in light of these concerns, the Department of Defense suspended a variety of assistance programs. Thereafter, in a draft opinion, an inter-agency working group concluded that the United States aid was probably unlawful.

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\* Editors Note: In response to this opinion, Congress enacted Pub. L. No. 103-337, § 1012, 108 Stat. 2663, 2837 (1994) (codified at 22 U.S.C. § 2291-4 (1994)).

*United States Assistance to Countries that Shoot Down Civil Aircraft Involved in Drug Trafficking*

In addition to the Chicago Convention, the United States has ratified the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Sabotage), *done* Sept. 23, 1971, 24 U.S.T. 567, 10 I.L.M. 1151 (1971) (“the Montréal Convention”). Article 1 of the latter Convention specifies certain substantive offenses against civil aircraft: in particular, Article 1,1(b) states that “[a]ny person commits an offence if he unlawfully and intentionally . . . destroys an aircraft in service or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight.” Article 1,2 makes it an offense to attempt to commit a previously enumerated offense, or to be an accomplice of an offender.<sup>8</sup> Further, Article 10 requires states “in accordance with international and national law,” to “endeavour to take all practicable measures for the purpose of preventing” substantive offenses.

The Montréal Convention imposes on states certain duties with respect to offenders or alleged offenders. Article 3 declares that the contracting states “undertake[] to make the offences mentioned in Article 1 punishable by severe penalties.” This obligation is specified by requiring states to take measures to establish jurisdiction over certain offenses (Article 5), to take custody of alleged offenders within their territory (Article 6), and either to extradite the alleged offender or to submit the case to their competent authorities for prosecution (Article 7). Further, states have the obligation to report the circumstances of an offense, and the results of their extradition or prosecution proceedings, to the ICAO (Article 13).

Nearly all nations with a significant involvement in air traffic are parties to the Montréal Convention, and have thus incurred the responsibility to execute it. The United States implemented the Convention in 1984 by enacting the Aircraft Sabotage Act, Pub. L. No. 98-473, §§ 2011-2015, 98 Stat. 1837, 2187-90 (1984). Congress specifically stated that legislation’s purpose was “to implement fully the [Montréal] Convention . . . and to expand the protection accorded to aircraft and related facilities.” *Id.* § 2012(3); *see also* S. Rep. No. 98-619 (1984), *reprinted in* 1984 U.S.C.C.A.N. 3682.<sup>9</sup> The criminal prohibition now codified at 18 U.S.C. § 32(b)(2) was enacted as part of that legislation.

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Comp. L J 513, 519-20 (1994) *But see* D J Harris, *Cases and Materials on International Law* 221 (4th ed 1991)

<sup>8</sup> In general, the furnishing of information or assistance to another nation in circumstances that clearly indicate a serious risk that the information or assistance will be used by that nation to commit a wrongful act may itself be a wrongful act under international law. *Cf.* Article 27 of the International Law Commission’s Draft Convention on State Responsibility, which provides that “[a]id or assistance by a State to another State, if it is established that it is rendered for the commission of an internationally wrongful act carried out by the latter, itself constitutes an internationally wrongful act, even if, taken alone, such aid or assistance would not constitute the breach of an international obligation.” *Report of the International Law Commission on the Work of its Thirty-Second Session*, [1980] 2 Y.B. Int’l L. Comm’n 33, U.N. Doc. A/35/10.

<sup>9</sup> It is undoubtedly within Congress’s power to provide that attacks on civil aircraft should be criminal acts under domestic law, even if they were committed extraterritorially and even absent any special connection between this country and the offense. An attack on civil aircraft can be considered a crime of “universal concern” to the community of nations. *See United States v Yunis*, 924 F.2d 1086, 1091 (D.C. Cir. 1991),



**Annex 395**

Commonwealth Secretariat, Implementation Kits for the International Counter-Terrorism  
Conventions



## CHAPTER FOUR

### CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF CIVIL AVIATION 1971 (‘Montreal Convention’)

1. The offence established by the Hague Convention requires the seizure of, or other exercise of control over, an aircraft in flight, or an attempt to do so. It can be committed only by a person on board the aircraft. Similarly, the conduct of an accomplice must also take place on board. These limitations restrict the scope of the offence. In particular they exclude from its ambit cases where force is applied from outside the aircraft. Moreover, the offence under the Hague Convention does not extend to acts of sabotage and destruction of aircraft. Unhappily, such conduct has occurred frequently. Between 1949 and 1970, 22 aircraft were destroyed and over 400 persons killed as a result of the detonation of explosives on board. A further treaty was therefore needed to co-ordinate means for the deterrence and punishment of such acts.

2. ICAO convened a diplomatic conference at Montreal and on 23 September 1971 it adopted the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation. The Convention entered into force on 26 January 1973. As of September 2002 it had 176 Parties, including 47 Commonwealth States. The United Kingdom ratified the Convention on 25 October 1973 also in respect of all its overseas territories. A number of them have since attained independence, some of which have formally succeeded to the Convention. The text of the Convention is at page 83 below, and the complete list of signatures, ratifications and accessions, territorial extensions and successions as of September 2002 is at page 90 below.

#### **Object and scope of the Convention**

3. The approach adopted by the Montreal Convention is very similar to that of the Hague Convention and many of their provisions are identical. The Montreal Convention begins by establishing a number of offences (*Article 1*). Each Party is required to take such measures as may be necessary to establish its jurisdiction over the offences in certain defined circumstances (*Article 4*). Each Party, if satisfied that the circumstances so warrant, is under a duty to take an alleged offender into custody or to take other measures to secure the presence of the person (*Article 6*). A Party in whose territory an alleged offender is found is under a duty, if it does not extradite to submit the case to its competent authorities for the purpose of prosecution (*Article 7*). The Convention also deals with extradition (*Article 8*).

4. The Convention applies to civil aircraft only, not to aircraft used in military, customs or police services (*Article 4(1)*). This provision is identical to *Article 1(4)* of the Tokyo Convention<sup>39</sup> and *Article 3(2)* of the Hague Convention.

5. The acts (except those concerning air navigation facilities in *Article 1(1)(d)*) set out in *Article 1* are only offences under the Convention in the following circumstances:

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<sup>39</sup> For more details see page 12, para 3, above.

## NOTES

1. Date of commencement or procedure by which the Statute is to be brought into force.
2. Name of country.
3. List relevant offences in law of acceding State.
4. The Montreal Convention is intended to apply only to civil aircraft and provides that it shall not apply to aircraft used in military, customs or police services. (Article 4(1)). This provision is, therefore, not required in order to ensure compliance with the Montreal Convention. However, similar provisions have been included in enacting legislation in a number of Commonwealth States.
5. Maximum penalty.
6. The Attorney General or other responsible Law Officer. The purpose of this provision is to prevent prosecutions for infringements of this Statute without the consent of the Government.
7. Extradition Act or other relevant Statute or law.
8. Specify how notification is to be made e.g. by publication in official government publication.
9. Specify manner of application e.g. by publication in official government publication.

**Annex 396**

Max Van Der Werff, *MH17 properly investigated?*



# MAX VAN DER WERFF

## MH17 properly investigated?



In this article the contents of four leaked MH17 Joint Investigation Team documents are analysed by me on behalf of Bonanza Media:

DOC 1. Is a 'Record Of Interview' (ROI) between an officer of the Australian Federal Police and journalist Billy Six.

DOC 2. As part of 'OPERATION AVANELLA' imagery specialist Shaun Ellis and geospatial specialist Tim Johns from Australia examined four images.

DOC 3. WITNESS TESTIMONY is a Record Of Interview with a witness refuting the claim Ukrainian Air Force did not fly.

DOC 4. LETTER about BUK Positions from the Dutch Military Information and Investigation Service legal affairs department addressed to the public prosecutor at the National Prosecutor's Office on Counter Terrorism.

BILLY SIX

DOC 1.

**UNCLASSIFIED**

**AFP RECORD OF INTERVIEW (NOT TO BE SHARED WITH UKRAINE)**

**Phone (02) 6131 3000**

**RECORD OF INTERVIEW BETWEEN AFP OFFICER TWO ONE FIVE THREE TWO AND BILLY SIX CONDUCTED AT SCHIPHOL POLICE UNIT, AMSTERDAM, NETHERLANDS ON MONDAY TWELVE OCTOBER TWO THOUSAND AND FIFTEEN**

**PERSONS PRESENT: AFP OFFICER TWO ONE FIVE THREE TWO  
NPN OFFICER ONE SEVEN ONE NINE TWO  
BILLY SIX**

**TIME COMMENCED: FIVE SEVENTEEN PM**

**AFP TWO ONE FIVE THREE TWO: This is a digital record of interview conducted between Australian Federal Police Officer two one five three two and witness Mr Billy SIX conducted at Schiphol Police Unit, Amsterdam, the Netherlands on Monday the twelfth of October two thousand and fifteen.**

One of the unpublished documents is a 'Record Of Interview' (ROI) between an officer of the Australian Federal Police and journalist Billy Six. The latter confirmed to me he was interviewed a day before the Dutch Safety Board held a press conference on 13 October 2015. This information matches with the transcript mentioning 12 October 2015 as the date of the ROI, a strong indication that the batch of JIT documents leaked to us is authentic.

The full 15 page record can be read [here](#) (PDF link).

The words "Not to be shared with Ukraine" might come as a surprise for some, but exactly the same precondition I made before agreeing to be interviewed by Dutch officers of the MH17 Joint Investigation Team myself. The officers assured me Ukraine will have no access to my data.

DOC 2. OPERATION AVANELLA





## IMAGE REPORT

Report in the matter of AFP Case Reference No. 5667342 (Operation AVANELLA)

This is a joint report by Imagery Specialist Shaun ELLIS and Geospatial Specialist Tim JOHNS on the examinations conducted in relation to AFP Case Reference No. 5667342 (Operation AVANELLA) between the 22 April 2015 and 2 July 2015.

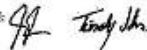
If required, a full report can be provided detailing continuity of items, general examinations, methods and results obtained.

Section 1: Refers to the examination of the metadata of four images provided for camera and Global Positioning System (GPS) information. The image file names provided were:

- Donetsk01.jpg
- Donetsk02.jpg
- Snizhne01.jpg
- Torez.jpg

No visual observations were conducted on the image files to identify their location they were taken. Adobe Bridge was the software package used to display the image thumbnails and metadata below.

Section 2: Refers to the extraction of embedded data within the images from section 1 and two images and two movie files provided by Geoffrey BIGGS, AFP Audio Video Technician. The analysis of this data and verification of objects in the imagery to identify the locations where it was captured. Coordinates in this report may appear in the form Degrees, Minutes and Seconds; Degrees, Decimal Minutes; or Decimal Degrees depending upon their source.

Signed: 

Signature witnessed by: 

Page 1 of 12

Between 22 April 2015 and 2 July 2015 “in the matter of AFP Case Reference No. 5667342 (Operation AVANELLA)” took place. Imagery specialist Shaun Ellis and geospatial specialist Tim Johns from Australia examined four images related to this operation.



Metadata and assessments mentioned in their report.

Quote:

“NOTE: Metadata contains General: Image, Video and Audio information. Metadata should only be used as a guide as data fields can be altered manually. The following

extraction has been selected for this report:

File Name: Donetsk01.jpg  
File type: JPEG file  
File size: 470 kb  
Dimensions: 1380 x 945  
Date created: 24/07/2014, 1:41:30PM  
Modified: 24/07/2014, 7:42:38PM

File Name: Donetsk02.jpg  
File type: JPEG file  
File size: 303 kb  
Dimensions: 940 x 626  
Date created: 30/06/2015, 10:53:51PM  
Modified: 19/08/2014, 10:41:42PM

File Name: Snizhne01.jpg  
File type: JPEG file  
File size: 157 kb  
Dimensions: 800 x 1423  
Date created: 30/06/2015, 10:54:09PM  
Modified: 20/08/2014, 12:09:08PM

File Name: Torez.jpg  
File type: JPEG file  
File size: 130 kb  
Dimensions: 1024 x 768  
Date created: 30/06/2015, 10:54:09PM  
Modified: 18/07/2014, 5:52:04PM

The extracted metadata from these four files appears to have been manipulated. For example, the date modified is prior to the date the file was created. Various reasons could explain why this is so, none can be proved without additional information. The image dimensions vary suggesting that the images have been cropped. The image files are small also suggesting the files have been resaved to be smaller and are not primary images that were taken.”

End quote.

Let's split up this information in smaller bits and have a closer look.

Files Donetsk02.jpg, Snizhne01.jpg and Torez.jpg have been created 30 June 2015. That is two days before the end of Operation AVANELLA. Writers of the report surely would have mentioned if the images were created later than they conducted their analysis. Therefore it is fair to assume the image files were analyzed by them after 30 June 2015.

Thus two questions come to mind:

*Why nearly a year passed before the Australian police obtained and analyzed these images?*

*Why would the Australian police waste precious time and resources analyzing four non primary images?*

The 'Donetsk01.jpg' was published by the French magazine Paris Match in small format on 23 July 2014, eight days after the tragedy. The Donetsk02.jpg' was also published by Paris Match on 25 July 2014.

That these are non primary images is very obvious since the Paris Match logo was inserted into the originals and had then to be resaved.

More important, Paris Match star reporter Alfred de Montesquiou claimed the first published image was taken in Snizhne he later had to correct to Donetsk, about 70 kilometers to the west. Then the story changed again and it was explained that not a Paris Match journalist but a freelancer had taken the images, which later again was changed into the story that a hired driver of the French journalists crew had taken a video and went back to the hotel in Donetsk to show it to the French who initially did not pay much attention to it.

*Who is this driver?*

*Why Paris Match only published two images but not the video?*

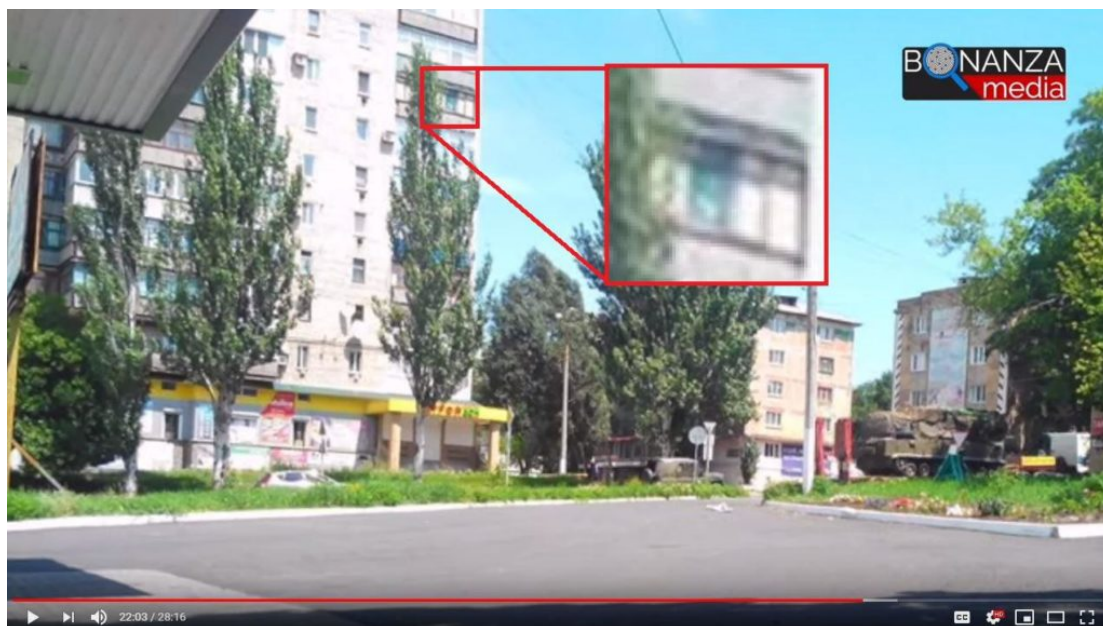
And, why were the Australians analyzing non primary images/screenshots and not the 'originals' from Paris Match even a year after the tragedy?



The Snizhne01.jpg image analyzed by the AFP team has dimensions 800 x 1423.

Visually identical image (with dimensions 337 x 600 pixels) was posted on Twitter on 17 July 2014 by an anonymous account named GirkinGirkin. Aspect ratios of 800 x 1423 and 337 x 600 are the same.

Note. The process of downsizing photos reduces the pixel count used by objects in the photo. Together with artificial noise, this process can be used to conceal some of the object's details. Most importantly, if something was added to the photo with Photoshop and had flaws visible to the naked eye, resizing it to a smaller size may either hide the flaws or make them less obvious.



In the documentary “MH17 – Call for Justice” a witness testifies and explains why image Torez.jpg could not have been taken on 17 July 2014.

Same questions as for Snizhne01.jpg:

*Where is the original image, when was it taken, who took it?*

and

*Why is the date modified prior to the date the file was created?*

For more detailed information about issues with these four images I refer to examinations of evidence from social media by Sergey Mastepanov published   and .

DOC 3. WITNESS TESTIMONY (refuting the claim Ukrainian Air Force did not fly)



Team Generieke Opsporing 10 (DLR)

**PROCES-VERBAAL van Bevindingen.**

Proces-verbaalnummer: 26DLRPrimo4905  
 Onderzoek: Primo / 261497602  
 Betreft: Proces verbaal bevindingen getuige A26

**PROCES-VERBAAL**

Ik verbalisant, 17-183, brigadier van politie, senior tactisch onderzoeker werkzaam bij de Landelijke Eenheid, Dienst Landelijke Recherche verklaart het volgende:

O, 28 July 2015, around 16:00hrs, I heard the following witness over the telephone:

First names: A26  
 Surname:  
 Country of birth: Ukraine  
 Gender: male  
 Nationality: Unknown  
 Plaats:  
 Country: Ukraine

Witness appeal

As a result of an appeal for witnesses this witness sent an email message on 2 April 2015, stating as follows:

"Good day. I want to tell you something about that happened in the town of Torez last summer. It was 17 July around 17:00hrs (I cannot exactly recall) local time. At that point in time I was beside my house in the village of Krupskoje (This village comes under the town of Torez). There was military activity at the time, aircraft were circling overhead all day (fighter jets of the Ukrainian BBC (remark translator: airforce). Before that Boeing fell down, I heard a very loud bang over my head. I saw that the sky was overcast. Between the clouds I saw something falling down. I focussed on this object and when the airplane was no longer in the clouds I saw it was an airliner coming down. A couple of minutes before the fall, I saw a fighter jet in the sky, which circled over the town. No missiles were fired from the surface, in the town.

Record Of Interview Nr 26DLRPrimo4905 was conducted by a Dutch police officer on 28 July 2015. Interviewee is a male witness from Ukraine. Prior to the interview the witness has sent an email on 2 April 2015 with following content:

"Good day. I want to tell you something about that happened in the town of Torez last summer. It was 17 July around 17:00hrs (I cannot exactly recall) local time. At that point in time I was beside my house in the village of Krupskoje (This village comes under the town of Torez). There was military activity at the time, aircraft were circling overhead all day (fighter jets of the Ukrainian BBC (remark translator: airforce). Before that Boeing fell down, I heard a very loud bang over my head. I saw that the sky was overcast. Between the clouds I saw something falling down. I focussed on this object and when the airplane was no longer in the clouds I saw it was an airliner coming down. A couple of minutes before the fall, I saw a fighter jet in the sky, which circled over the town. No missiles were fired from the surface, in the town.

This photograph that served as evidence of the missile is erroneous, since the photograph showed different weather conditions. Because at that time the sky was rather heavily overcast. The position of the sun in that photograph is unlike the sun you see at 17:00hrs. In the evening. I can clarify this / tell you in a simpler way, at that moment no sun could be seen because of the clouds. In the photograph you can see my village, in the centre, store nr. 95 and the MTC tower (remark translator: MTC = telephone antenna of company from Moscow).

\*privacy sensitive information deleted by me\*

That photo was taken from the location of a lot of farms. After this Boeing went down, I went with my father to the crash site by car. When we arrived, everything was cordoned off and we were not allowed to go further. In the ploughed field next to the road I saw 2 naked dead bodies. I cannot tell anything else about this.”

Comment: The reporting officer contacted the witness by telephone in presence of a Russian interpreter on 28 July 2015. The witness speaks Russian only and an interpreter translates everything the witness and the criminal officer say.

C = criminal investigator

W = witness

I = interpreter

[...]

C :How many airplanes did he see?

I :How many aircraft were in the air at that moment?

W :Two airplanes were audible, not the big one, the Boeing, but fighter jets were audible since these were constantly flying overhead, the noise had already become familiar.

I :Two fighter jets, that is what I could clearly hear, so not the sound of the Boeing. Why? Because where we live the fighter jets were in the sky on a daily basis, so then you immediately recognize them as fighter jets.

C :And this sound was not different from the fighter jets?

I :Did the sound resemble the sound of fighter jets or didn't it?

W :The exact sound of fighter jets and it was not on its own, there were two of them.

I :It was the sound of fighter jets.

W :One of them [interpreter: fighter jets]

I :Hold on, please, the sound of fighter jets. There were two fighter jets in the sky

I :What else? Please continue what you stated.

W :The sound of fighter jets flying overhead, and after that...at some point they were, I was outside at that point, there was a bang overhead, a very loud bang. And after that I deliberately started gazing at the sky, at what [had] exploded over my head and I saw a vapor trail in the sky. Whether the smoke came from the airplane or from a missile, or was from a missile.. [interpreter inaudible] but in between the clouds..was just a trail.

I :I have not been able to understand this. You said: "was the smoke..the trail came from the airplane or from a missile, you were unable to tell"?

W :Yes, it was a trail, I saw it between the clouds, there were heavy clouds.

I :One moment you saw a trail in the clouds. One moment.

I :So, fighter jets in the sky, I could clearly hear that. At some point there was a bang. I was outside at that moment and was obviously curious to know where that sound came from. I looked up to the sky, it was very cloudy that day, and I saw a clear trail, but I do not know if it was the trail of an airline or a missile, I do not know this. But I could clearly see a trail.

C :What exactly does he mean when he says a trail? Can he describe the sound of the explosion?

I :You were telling about a trail. What kind of trail was that? Could you describe it? And the sound of the explosion, can you describe that as well? So in short: the sound and the trail.

W :It was a loud bang, a heavy bang, because..how can I describe that more clearly...this here in the chest was thumping, a very loud bang, not clear but rather muffled [interpreter: subdued??], a muffled loud bang.

I :One moment, a loud bang, but it was somewhat muffled, as if it was a thump, not like...clear, but really a muffled bang. And what about the trail?



W :The trail was, if you...I saw this from the ground, which was roughly about 200 meters. If you...look at the trail from the ground. And it was white.

I :What colour?

W :It was white.

I :Clear in white.

W :Not dark or turbid...not grey but in white.

I :So you were looking up and you saw a white-coloured trail, about 200 meters in length. Did I understand that correctly?

W :Yes.

I :I looked up in the sky and saw a white-coloured trail of about 200 meters in length, so it was not gray or what have you, it was white.

W :White. Was it horizontal or vertical trail?

I :This trail. What was the line of the trail in the sky, was it horizontal or vertical?

W :The trail was horizontal, but not in a line, it was already blurred, maybe because I saw it too late. The trail of..a bit already..it was no longer straight line.

I :That was not a line, it was already a bit blurred, as if all of it had dispersed a bit, may be I saw the trail late, I don't know, but I did not see one straight line, but [it was] rather a bit blurry.

W :Matches the photograph this gentleman forwarded, of which he said that photograph cannot be fully correct as there where heavier clouds [remark translator Dutch-English: this is probably the criminal investigator speaking, not the witness]

I :You sent us a photograph, correct?

W :Yes, I sent that photograph to refute the allegation that it could have been launched from my village. From a Buk or something like that.

\*privacy sensitive information deleted by me\*

I :That is my village.

\*privacy sensitive information deleted by me\*

And I sent that photograph especially to refute the allegations that the missiles was supposedly launched from my village.

[...]

W :The trail I have told you about, wether that was the trail of a missile or of an airplane was not clear to me. With my eyes I searched for the cause. I looked at the sky and saw this plane coming down.

I :Do you refer to the Boeing?

W :Yes, I saw the Boeing and how it was falling down from the sky. I saw it crashing down, the smoke coming from the airplane went up.. black smoke. I saw something after it [interpreter: airplane] had come down, it looked like strips of ribbons, they came down.

I :Ribbons?

W :Ribbons, long white ribbons.

I :one moment. So, a loud bang, I looked up and saw [interpreter: inaudible] some kind of trail from a missile or an aircraft, I cannot define it. I saw the Boeing falling down, so basically from the sky it came down and I saw black smoke and after the aircraft had crashed, I saw white ribbons in the sky, they were also falling down.

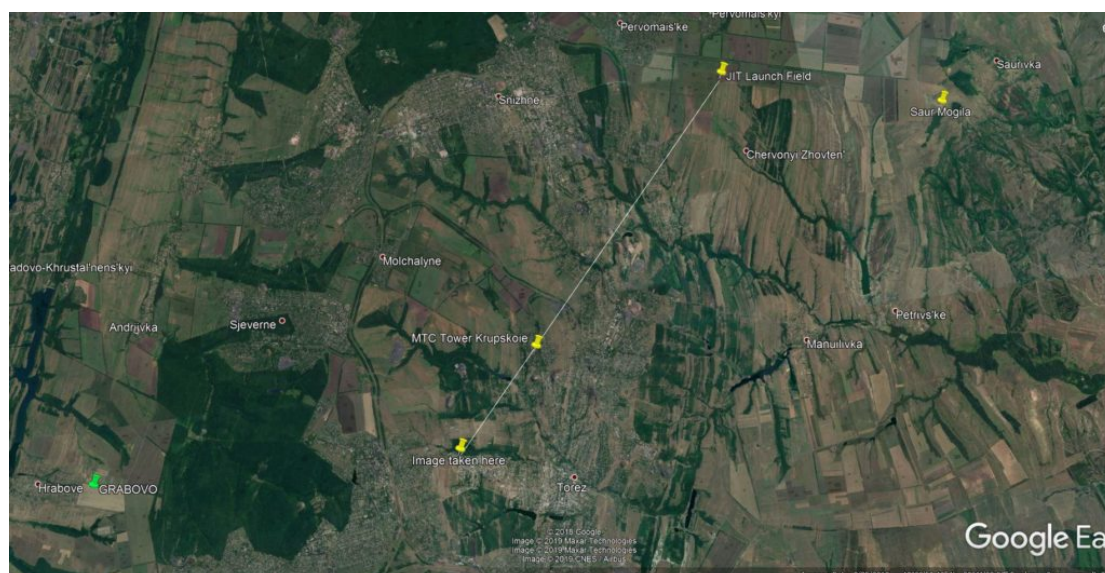
[...]

Connection was cut due to technical problems.

End of transcription.



This is the image the witness sent by email to the Investigation team. He mistakenly thinks on internet is claimed a missile was fired from his village (visible in the image) while the appointed launch location is about nine kilometers away near the village of Pervomaiskyi.



Map: left bottom crash site Grabovo, white line is line of sight from where image was taken to the alleged launch field. Witness lives in village Krupskoie, which lies exactly on the line of sight and right behind the village is the highest point which blocks the view of what's behind it.

Important is what the witness saw and heard himself, he:

- reports 2 fighter jets in the sky, which circled over the town a few minutes before the Boeing went down.
- heard a loud bang over his head, looked at the sky and saw a HORIZONTAL white trail. (unclear remains in what direction he looked when he saw the trail)
- watched the Boeing coming down
- describes long white ribbons coming down after the crash. This matches with what has been reported by the Dutch Safety Board ( appendix K page 73) and identified as textile rolls.

DOC 4. LETTER about BUK Positions (Russian and Ukranian)

Letter from the Dutch Military Information and Investigation Service legal affairs department addressed to the public prosecutor at the National Prosecutor's Office on Counter Terrorism.

return address: P.O. Box 20701 2500 ES The Hague

The public prosecutor at  
the National Prosecutor's Office on Counter Terrorism.  
P.O. Box 395  
3000 AJ Rotterdam

Military Information and  
Investigation Service  
legal affairs dept.  
Van Alkemadeaan 765  
MPC-58 B  
P.O. Box 20701  
2500 ES The Hague

Date: 21 September 2016  
Re: Official Notice

Herewith I am informing, pursuant to Section 38 of the Intelligence and Security Services Act 2002, of data that is possibly of importance for the criminal investigation into the crashing of flight MH17.

Date 21 September 2016

Re Official Notice

Herewith I am informing, pursuant to Section 38 of the Intelligence and Security Services Act 2002, of data that is possibly of importance for the criminal investigation into the crashing of flight MH17.

In addition to my official notice of 24 June 2015 MIVD has, on the basis of reliable sources and analyses of locations relating to the 9K37M1 Buk-M1 (SA-11A GADFLY) that were listed in the official notice of 24 June 2015, examined whether 9A310M1

radar and launch vehicles on these locations could have been involved in the downing of MH17.

In addition, MIVD looked into the other ground based air defence systems present in the region in July 2014 and that were, as far as operational deployability, specifications, performance and location goes, capable of hitting flight MH17.

In July 2014 the Ukrainian armed forces had operational S-300PS Volkhov-M6 systems (referred to as SA-10B GRUMBLE by NATO) at their disposal.

In July 2014 operational S-300 PM2 Favorit [systems] (referred to as SA-20B GARGOY by NATO) of the Russian armed forces were present the border region with Ukraine.

The table below lists the 9K37M1 Buk-M1 systems (referred to as SA-11A GADFLY by Nato) mentioned in my official notice of 24 June 2015, including their operational status, deployability and distance to the point of impact with flight MH17

9K37M1 Buk-M1 Air Defence Systems present in the region (range 42km).

COUNTRY	LOCATION	DATE 2014	DISTANCE
1 Ukraine	<u>48°36'38.00"N 39°14'00.00"E</u>	No	67 km
2 Ukraine	<u>48°5'58.00"N 37°45'13.00"E</u>	No	66 km
3 Ukraine	<u>47° 6'25.00"N 37°28'28.00"E</u>	No	135 km
4 Ukraine	<u>45°13'11.00"N 33°22'42.00"E</u>	June + July	515 km
5 Ukraine	<u>49° 0'34.00"N 37°18'42.00"E</u>	June + July	137 km
6 Ukraine	<u>48°42'23.00"N 37°38'1.00"E</u>	June + July	98 km
7 Ukraine	<u>48°13'14.00"N 36° 1'20.00"E</u>	June + July	191 km
8 Ukraine	<u>47°58'12.00"N 36°34'26.00"E</u>	June + July	154 km
9 Russia	<u>48°44'14.00"N 40° 1'36.00"E</u>	11 – 19 July	122 km
10 Russia	<u>48°38'54.00"N 39°50'18.00"E</u>	From 18 July	106 km

11 Russia 48°17'51.00"N 40° 4'42.00"E From 20 July 108 km

From the table it becomes apparent that flight MH17 was flying beyond the range of all identified and operational Ukrainian and Russian locations where 9K37M1 Buk M1 systems were deployed.

In view of the locations of the systems identified and the speed with which these can be moved, as well as the nature, development and conflict and border zone of the fight against the separatists on July 2014 it is unlikely that a 9A310M1 launch vehicle originating from the Ukrainian armed forces could have been moved in time for flight MH17 to come within its range and be hit.

All operational Ukrainian S-300PS Volkov-M6 identified were at least 250 kms away from the point where MH17 was hit. The S-300PS Volkov-M6 system has a maximum range of 75kms. On this basis MIVD draws the conclusion that S-300PS Volkov-M6 system was not used for the downing of flight MH17.

The only operational system identified with a range wide enough to shoot down flight MH17 concerned two Russian S-300PM2 Favorit systems near the Russian town of Rostov na Donu. MIVD does have (partner) information that would indicate the use of the 36N85 (referred to as TOMB STONE by NATO) fire control radar for the guidance of and/or launch of a surface-to-air missile from the 48NS series (referred to as GARGOYLE by NATO) on 17 July 2014.

These locations are in the immediate vicinity of large population centres and the launch of a missile would most likely have led to messages on social media or other public media. MIVD is not aware of such publications.

By order of the

THE MINISTER OF DEFENCE

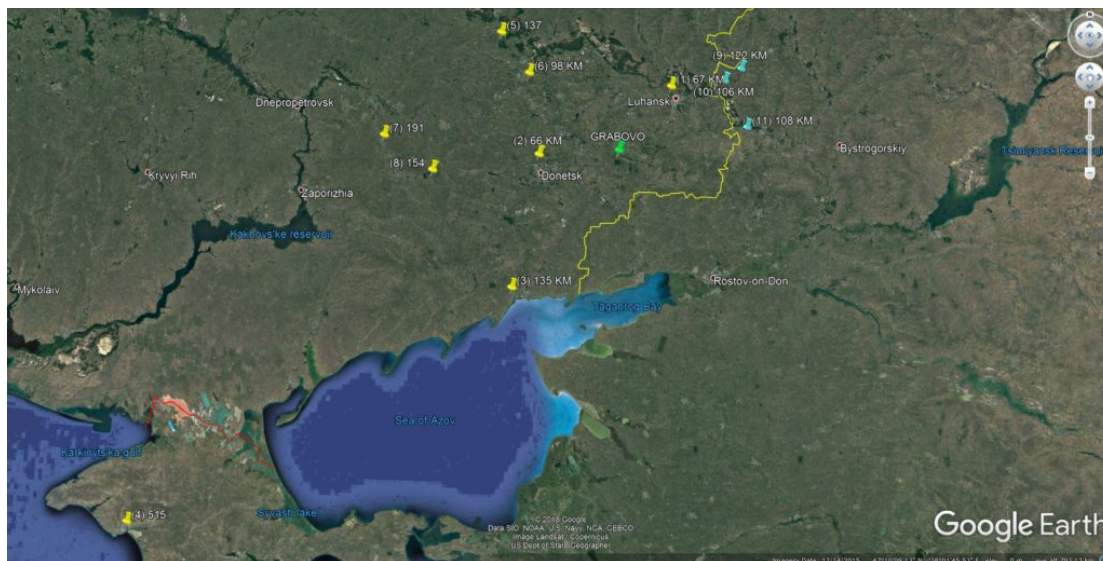
The Director of the Military Intelligence and Security Service

O. Eichelsheim

Major general

End of Official Notice.

Plotting the given coordinates of eleven locations on a map gives this result:



Green pin : crash site Grabovo

Yellow pins: Ukrainian Buk M1 locations according to [MIVD](#)

Blue pins : Russian Buk M1 locations according to MIVD.

Yellow line : Border Ukraine – Russia

One of the conclusions that can be drawn from this Official Notice by the Dutch Military Intelligence and Security Service is that on the basis of sources it considers reliable it “becomes apparent that flight MH17 was flying beyond the range of all identified and operational Ukrainian and Russian locations where 9K37M1 Buk M1 systems were deployed.”

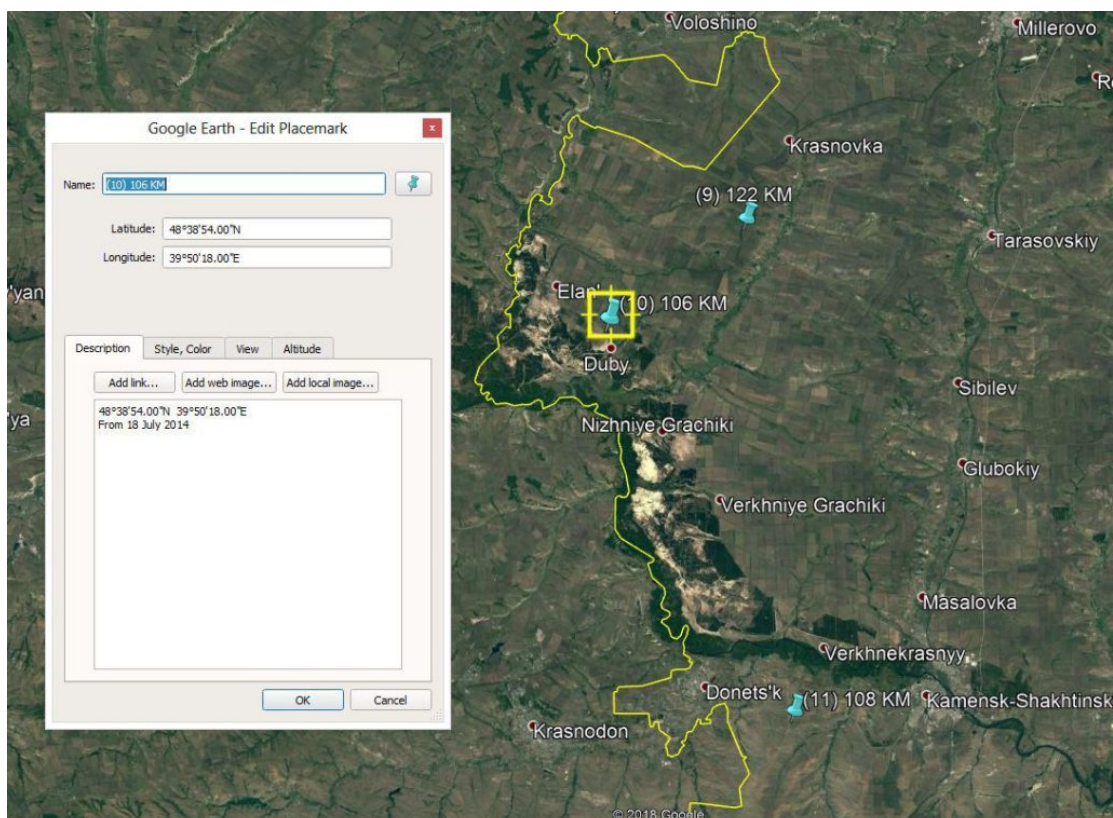
The main conclusion: the Dutch Military Intelligence and Security Service on 21 September 2016 (ONE WEEK before the JIT press-conference on 28th September 2016) had no information from any reliable source that any Russian Buk-M1 had crossed the border with Ukraine during any time during the conflict.

*How is that possible?*

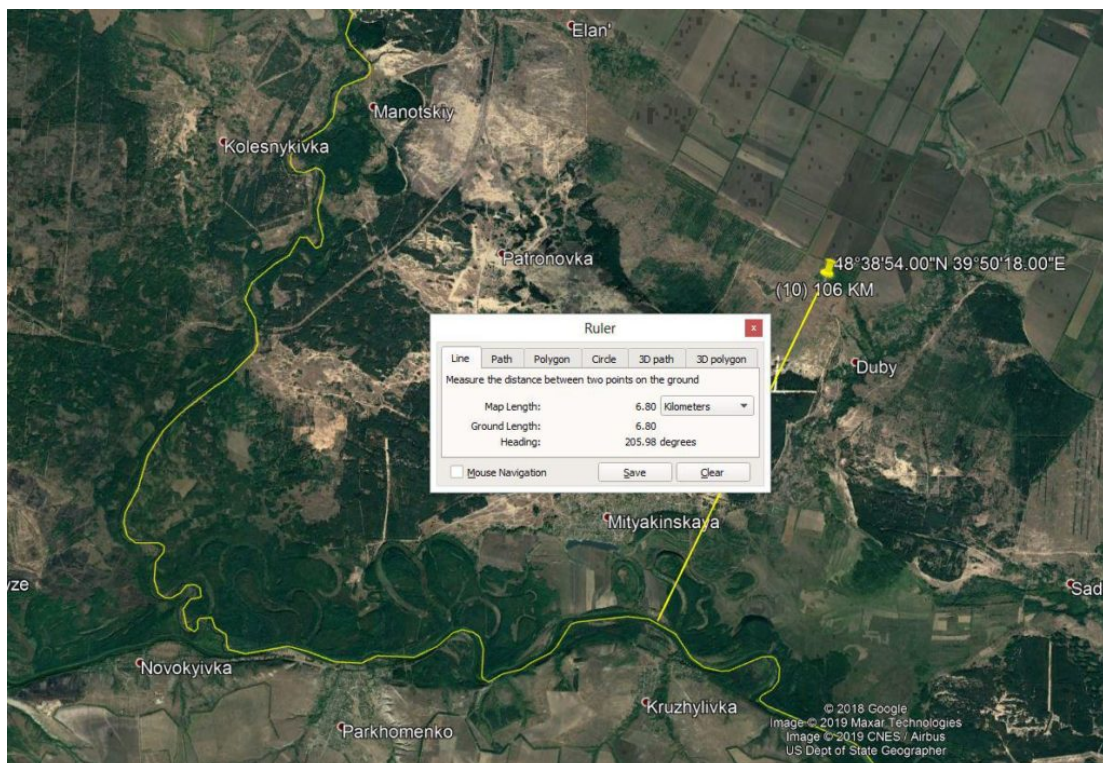
When we zoom in on the map and look at the three locations (blue pins) of Russian Buk-M1 we notice these three locations are not only too far from the crash site, but even on the Russian side of the border.



Now let's have a closer look at Location (10)  $48^{\circ}38'54.00''N$   $39^{\circ}50'18.00''E$  where according to MIVD a Buk-M1 was stationed 18 July 2014 and onwards is only 6,8km from the border with Ukraine.

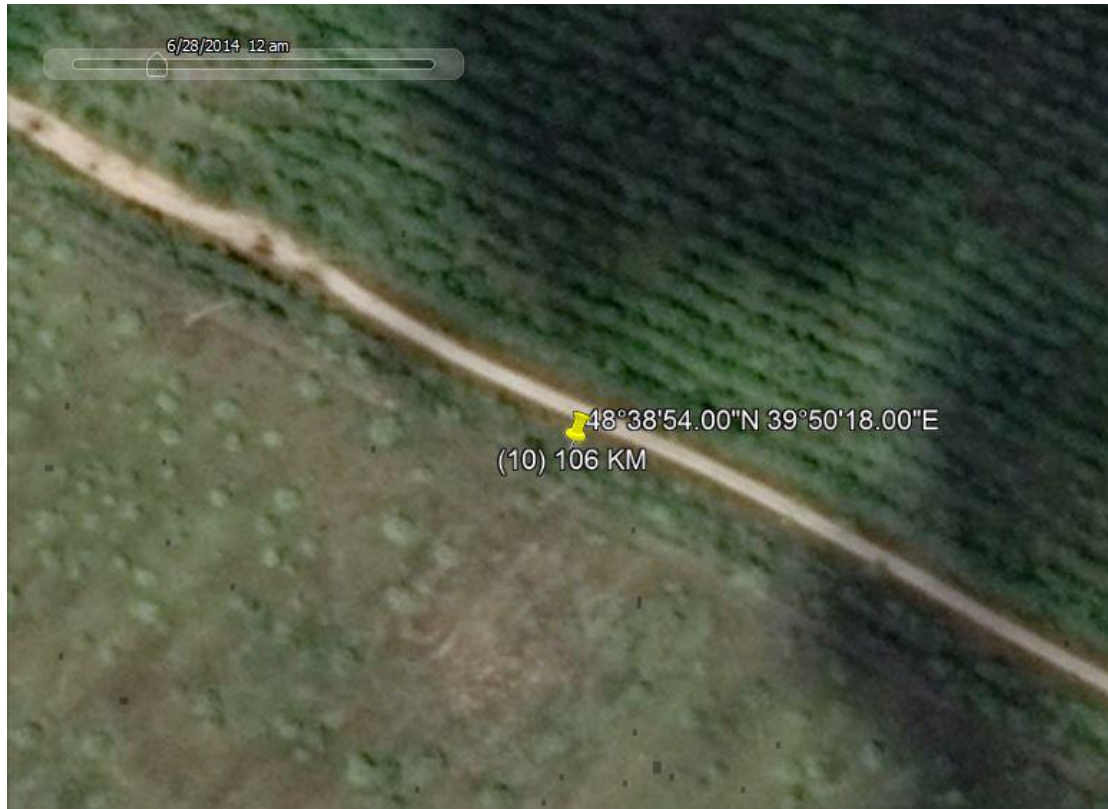




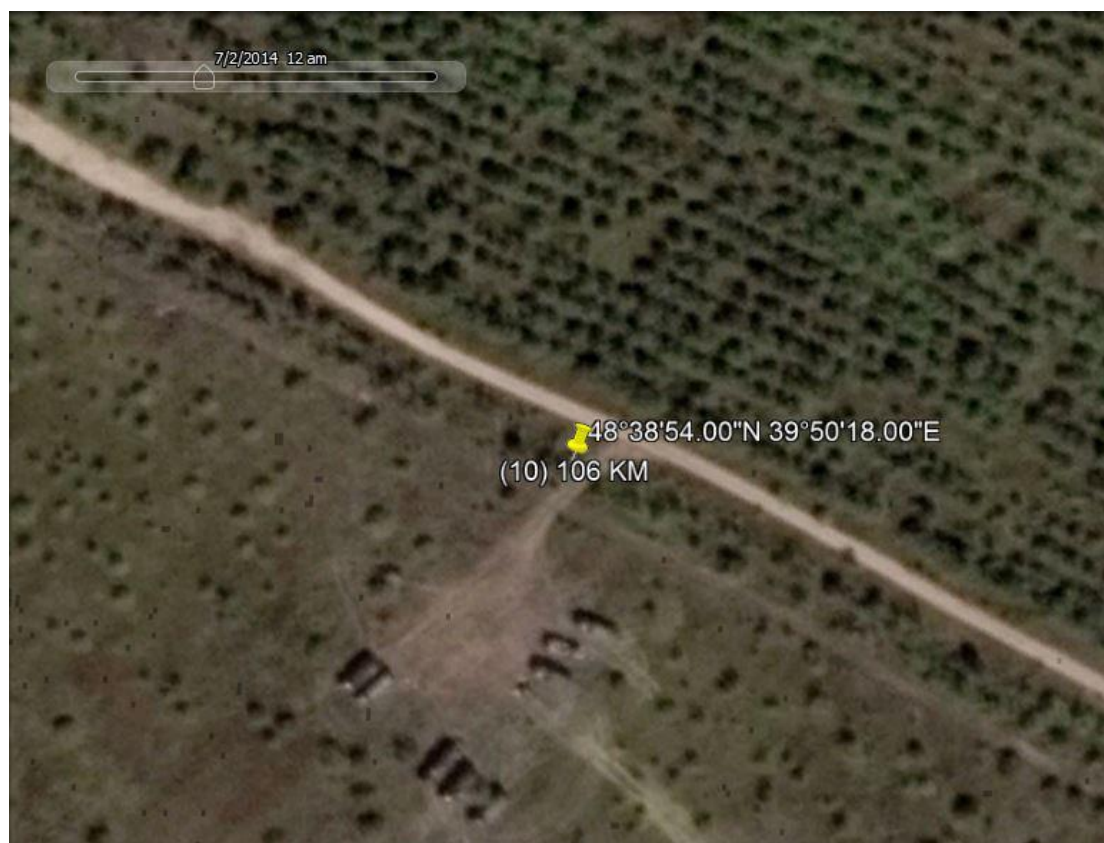


Google Earth has limited options to chose satellite images by date. We checked this location and four different dates showed:

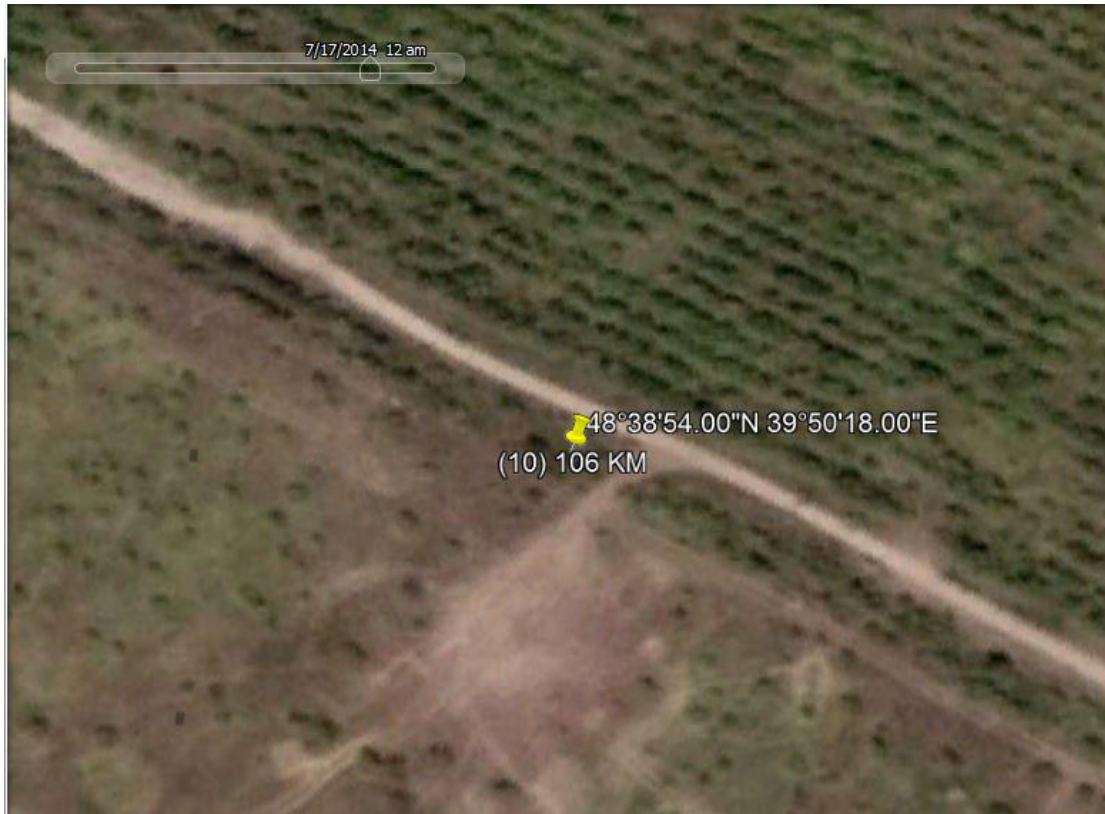
28 June 2014 – no vehicles



2 July 2014 – 8 vehicles visible



17 July 2014 – no vehicles



25 July 2014 – no vehicles



No Google Earth data for 18 July 2014 is available for this location.

Striking is the fact that the Dutch military has detailed information about positions of mobile Russian Buk system positions thus not stationed on their regular bases, while most Ukrainian Bucs are only mentioned at stationary positions at their military bases.

Is it credible Ukraine kept almost all its Buk systems at their bases and did not at any moment during the 'Anti Terrorist Operation' (ATO) move its air defense assets to mobile locations outside their bases? How likely is that, knowing 12 July 2014 Ukrainian air defense forces have been put on full combat alert?

Coming back to the question raised at the beginning of this article: was MH17 properly investigated?

From the analyses I conducted over the years I have substantiated doubts and the content of the freshly leaked information from these four documents only makes my doubts stronger.

Stay tuned and subscribe to the Bonanza Media newsletters for more to come.

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 UNCATEGORIZED

**Annex 397**


YouTube, *(English) Vitaly Nayda. UCMC, 19th of July 2014* (19 July 2014)





**Excerpt  
Transcript**

YouTube, (English) Vitaly Nayda. UCMC, 19th of July 2014 (19 July 2014), available at: <https://www.youtube.com/watch?v=PWtH8AA42Fc&feature=share>



(English) Vitaly Nayda. UCMC, 19th of July 2014

Ukraine Media Center  
29,4 тыс. подписчиков

Подписаться

9

Поделиться

2 643 просмотра 19 июл. 2014 г.

**Transcript (19:00 – 20:00)**

[...]

[19:00]

Back to your information that the rebels have in their possession at least three BUK-M1 missile systems. You showed us on your slide an apparent confirmation of the receipt of one BUK-M1. Can you tell us when your intelligence information shows their first receipt of their first missile system. When they came across your border?

[19:26]

The first information...Let's say hinting or giving the first information was on July 14<sup>th</sup>, but we could not confirm directly that it was BUK-missile launch that trespassed illegally Ukrainian territory. It was counterintelligence units who got this information from the field. And right now, we know for sure that three missile launchers...BUK-M1, they left territory of Ukraine. This information is confirmed.

[20:00]

[...]

**Annex 398**

*TSN, In Lvov Protesters Seize Main Law Enforcement Buildings and Weapons Arsenal*

(19 February 2014)

(translation)



**Translation**

TSN, *In Lvov Protesters Seize Main Law Enforcement Buildings and Weapons Arsenal* (19 February 2014), available at: <https://tsn.ua/ukrayina/u-lvovi-protestuvalniki-zahopili-golovni-budivli-silovikiv-ta-arsenal-zbroyi-335205.html>.

## **In Lvov protesters seize main law enforcement buildings and weapons arsenal**

*TSN editorial office*

**After the siege and storming, activists seized a number of law enforcement buildings.**

Activists in Lvov have taken control of the city prosecutor's office, the police department building, the SBU headquarters and the military unit No. 4114 of the Internal Troops of Ukraine.

The protesters seized the prosecutor's office and settled on all floors, throwing documents and criminal cases out of the windows. At the same time, another group of Lvov activists seized the building of the regional office of the Ministry of Internal Affairs.

In addition, after a long siege, the protesters entered the territory of the military unit No. 4114 of the Internal Troops of Ukraine, located on Stryiskaya Street. According to ZAXID.NET correspondents, there are about 10 thousand people on the street near the unit. Some buildings on its territory are on fire.

At the same time, there is no unified leadership in the crowd, and while some activists are trying to extinguish the fire, others continue to throw Molotov cocktails.

As a result of the negotiations between the protesters and the leadership of the military unit, an agreement was reached that the security forces would leave the military unit unarmed and the arsenal would be sealed.

Lvov activists also took control of the regional SBU building, which was stormed by about two hundred people. Reportedly, no resistance was offered by the Security Service. Currently, tires are burning under the windows of the SBU headquarters, and paper and portraits of Viktor Yanukovich are flying out of the windows.

Administrative buildings were also seized in Ternopol, where outraged protesters set fire to a police station and stormed the regional state administration with Molotov cocktails.



**Annex 399**

Centre for Analysis of the Radical Right, *Can new educational reforms in Ukraine be seen as a tool for forced assimilation of national minorities?* (8 September 2020)







INSIGHTS

# Can new educational reforms in Ukraine be seen as a tool for forced assimilation of national minorities?

VALERY ENGEL · SEPTEMBER 8, 2020



## Introduction

The crisis in Ukraine has several aspects. One of the most important problems is the issue of language. The law “[on education](#)”, adopted in 2017, as well as the law “[ensuring the functioning of the Ukrainian language as the state language](#)”, adopted in 2019, actually introduced a ban on obtaining secondary education in any languages except Ukrainian, as well as on the use of other languages in the process of contacting the authorities. In addition, the law imposed significant restrictions on the work of the mass-media in the languages of national minorities.

The ban on teaching minority languages in secondary education within Ukraine is especially alarming, since it directly affects the self-identification of children from families of national minorities. Indeed, not only the general educational level of the child, but also their feeling of belonging to a particular social group depends on the language in which the [child’s intellectual and conceptual apparatus](#) will be formed.

### **The Politics of Linguistics and Childhood Development**

The child’s intellectual and conceptual apparatus revolve around their primary knowledge about the world around them at an objective level. If this knowledge is formed in a non-native language, then there is an obvious tendency to change identification towards an intellectual internal habit of this non-native language. If knowledge is not formed in their native language at all, then this language is gradually lost by the child and [will be replaced by a non-native language, and the processes of \(forced\) assimilation in this case will be more active](#).

In the event that a child from a family of national minorities does not have a choice of the language of primary education and he is obliged to study in the language of the ethnic majority, there is a threat of forced assimilation, which is prohibited by [international law](#) and by the recommendations of various [international organizations](#).

This is exactly what the Ukrainian government is accused of by opponents of the language reform in Ukraine inside the country. The same position was taken by the governments of a number of other countries. For example, the Russian leadership saw this as [discrimination against the Russian linguistic minority](#), even Hungary [declared discrimination against Hungarians in this country](#) and blocked Ukraine's participation in joint activities with NATO. Moreover, the governments of Romania, Moldova and a number of other countries have also voiced their disquiet on the issue.

Meanwhile, the Ukrainian official authorities deny the forcible assimilation of national minorities, saying that the reform is being carried out [in their interests](#), in strict accordance with the [international obligations of Ukraine](#), and the linguistic minorities, especially Russians, with the Ukrainian government alleging that the Russian linguistic minority has made a 'free choice' for a long time [in favor of the Ukrainization in state school education](#).

The purpose of this article is to dispassionately understand how this is true. After all, if minorities choose assimilation themselves (and then this is a completely normal phenomenon), the level of their knowledge of the state language has *de facto* increased, and in general the reform leads to an increase in the quality of education, then some may argue that all the statements of opposition of the reform may possibly miss a beneficial side effect of the reforms.

Recently, the Ukrainian Institute of Politics (Director Mr. Ruslan Bortnik) sent formal inquiries and received responses from two of Ukraine's main think-tanks dealing with education in the country. We are talking about the Ukrainian Center for the Assessment of the Quality of Education and the Institute of Educational Analytics. The main statistics on secondary education in Ukraine are concentrated in this two institutions and forms the basis of our analysis.

## How many schools and students are there in the Ukraine??

First, we need to understand what overall dynamics exist in terms of the number of students and schools themselves in Ukraine. From [present data it follows](#) that the total number of schools in Ukraine decreased from 21,276 in 2004 to 15,000 in 2020. The overall drop in the number of schools was 29.8%. Of these, about a third – 2,232 schools – dropped out of statistics due to the loss of control over Crimea, as well as parts of Donetsk and Luhansk regions in 2014. The total number of secondary educational institutions in the country decreased by 6,276 in 16 years.

At the same time, the population of Ukraine decreased over the same period by [5,720,000 people](#) or by 12% (excluding Crimea).

At the same time, the [total number of students decreased](#) from 5,563,530 in 2004 to 4,072,559 children in 2020. Moreover, the reduction was progressive and sustained until 2014, when Ukraine lost control over schools in Crimea and in the separatist regions of the LPR / DPR. In 2014 the number of pupils in schools in Ukraine, according to statistics, decreased to [3,675,076 people](#), but then the numbers gradually went up.

Thus, in general, we see that the rate of reduction of secondary educational institutions in Ukraine does not correspond to the rate of general decline in the population. Consequently, due to the loss of Crimea and part of the Donbass, the objective aging of the population were not the main reasons for the reduction in the number of secondary educational institutions. In all likelihood, the main reason is the so-called “densification” of educational institutions, when two or more schools are combined into one, which entails an increase in the number of classrooms, but allows to reduce the cost of education. Actually, [this is not hidden and is an explicit policy of the Ministry of Education and Science itself](#).

## Statistics of Ukrainian Educational Delivery in Different Languages

Against this backdrop, it is interesting to trace Ukrainian dynamics of the number of schools and the number of students by the primary language in which it is delivered. Schools with the Ukrainian as the primary language of educational delivery suffered the least from the general reduction in schools. If in the 2004-05 academic year their number of schools was [17,044](#), then in 2019-20 the total number of such educational institutions was [13,584 units](#). Moreover, until the 2008-09 academic year, their number, albeit insignificantly, was growing. The peak was in 2006-07, when [17,117 Ukrainian-language schools](#) functioned in the country. But since 2008 their number has been steadily decreasing. It is interesting that the upheaval of 2014 had absolutely no influence on this process. If from 2008 to 2014 the number of Ukrainian schools decreased from 85 to 300 units per year, then after 2014 the decrease was from [200 to 600 educational institutions](#) per year. The average rate of reduction ranged from 0.5% in 2011 to 4% in 2018.

The number of Russian schools declined at a much more rapid pace. In the 2004-05 academic year, the number of schools with Russian as the primary language of education in Ukraine was [1,555 units](#). Until 2014, it steadily decreased – down to the [target figure of 2020 in 1,275 schools](#), i.e. an average of 4-5% per year. In 2014, the number of Russian schools fell sharply by more than two times – to 621 schools – primarily due to the withdrawal from the statistics of the Crimea and parts of the Luhansk and Donetsk regions, where the majority of the Russian-speaking population lives. However, until 2017, the number of Russian schools declined by no more than 5.3% per year. The turning point began in 2016, when it became clear that a ban on teaching in the languages of national minorities was being prepared, and the Ukrainian authorities did not hide the fact that [the educational reform was primarily directed against the Russian language](#), and not against the languages of the EU countries. As a result, already in 2017-18, the number of Russian-language

schools was artificially reduced by 15.5%, and in 2018-19, it was reduced further by 58.8%. In the 2019-20 academic year, their number in Ukraine was [125 units](#). Thus, from 2004 to 2020, the number of Russian schools in Ukraine has decreased 12 times.

At the same time, one must understand that the reform does not destroy schools of national minorities as such. Yes, according to the law of Ukraine “[on education](#)”, the education in the languages of national minorities has remained since 2018 only in elementary school, i.e. from first to fourth grades. Indeed, from September 1, 2020, it is planned to transfer all Russian-language schools to full teaching in Ukrainian, and schools in the languages of the European Union will be transferred to Ukrainian from September 1, 2023. But this does not mean that schools of national minorities should disappear. They will remain, albeit in a truncated form. In particular, it will be possible to study in their native language and literature in the language of a national minority.

However, no other school, except the Russian one, experienced such a sharp reduction. For example, the [Hungarian school system](#) lost eight schools by 2014, but by 2019-20, their number increased again by six units. As a result, if in 2004 the number of Hungarian schools was 74, then in 2020, it was 72. The number of Polish schools did not decrease at all, and also one German-speaking school appeared. The Romanian school also experienced a reduction, but by less than 30%. If in 2004 there were 95 of them, then in 2020, there was only 68. Finally, the number of schools in the Moldovan language has decreased by four times (from eight to only two).

So, Russian schools have experienced the greatest reduction. Meanwhile, as part of the entire population, Russian is one of the [two most common languages of communication among the population of Ukraine](#). During the 2001, the All-Ukrainian Population Census showed 29.6% of participants named Russian as their native language, including 14.8% of Ukrainians. However,

[independent estimates](#) show a much greater prevalence of the Russian language and its actual predominance over Ukrainian; this is because Russian is underestimated census results are usually explained by the fact that many people who consider themselves Ukrainians named Ukrainian as their native language because of their national identity, although their first language (or one of their native languages) is Russian. It is also worth adding that in 2012-2018, in accordance with the 2012 law "[On the Foundations of State Language Policy](#)", it was the official language in the southern and eastern regions of the country. The law was repealed in 2018, but has only effectively ceased to operate since 2014.

Now let's see what is the situation with the number of students in the languages of education? The number of students in Ukrainian schools has decreased over 15 years [from 4,408,567 in 2004 to 3,753,305 in the 2019-20 academic year](#), i.e. a decrease of 14.8%. The number of students in Russian schools [in 2004 was 1,242,764, and in 2019, it was 281,257 students](#), that is, an overall decrease of 77.3%. The decline took place in waves, and in some years, for example, in 2011/12 and 2013/14, it grew. The main drop in numbers coincided with the 2014/15 academic year, when Crimea and the territories of the self-proclaimed DPR-LPR did not record the statistics. Then the number of students was reduced by almost half – [from 703,572 to 356,262](#) children. After that, it gradually decreased by about 1.5% until 2018, when the new law "On Education" came into force. After that, in 2019-2020, the drop in the number of students in Russian-language schools was 8% and 12%, respectively.

Interestingly, the number of students in Hungarian schools has not decreased by much. It slowly but purposefully decreased from 2004 (19,996 people) to 2014 (15,001 students), and then went up and reached [17,192 students](#). A sharp decrease in line with the decrease in the number of schools occurred with students of secondary educational institutions in the Moldovan language of education. [From 6,128 students in 2004 to 2,498 in 2019](#), or by 59.2%. The

number of children studying in Romanian schools decreased at a slightly slower pace – [from 26,400,000 in 2004 to 16,100,000 in 2020](#). However, it should be said that in 2018/19 and in the 2019/20 academic years, the number of students in Romanian schools remained practically unchanged.

The only exception to the negative dynamics of the number of students in Ukrainian schools by language of education is the Crimean Tatar classes. Specifically, classes (not schools), since after 2014, when Ukraine lost political and military control over Crimea, the schools of the peninsula no longer appeared in official statistics, but Crimean Tatar classes were created in ordinary schools. This practice began in 2017, when the first 11 students of such classes were recorded. Their number increased [to 53 people in 2019](#).

Thus, the number of students in all schools in Ukraine, regardless of the languages of education, with the exception of the Crimean Tatars has been falling over 16 years. However, how did the number of schools decrease in proportion to the number of students?

### **Is there a basis for a social inquiry into national minority schools in Ukraine?**

If we [compare the number of schools with the number of students](#), we will see a critical overcrowding of two schools; those with Russian and Moldovan as the primary language of education. In 2020, one Russian school had on the average 2,250 pupils, and one Moldovan school had 1,200 pupils. This is compared with one Ukrainian school which usually has an average of 276 children. Thus, the pupil density of Russian schools today is eight times that of its Ukrainian speaking counterparts, and for Moldovan-speaking schools, it's four times higher than that of Ukrainian ones. The pupil density of all other schools is not so significant in comparison with Ukrainian ones, and sometimes it is even less. For example, the pupil populations of Hungarian and Romanian schools is lower than that of Ukrainian ones – on average 208 and 236 students per



school, respectively, the workload of Polish schools is less than in two times higher than that of Ukrainian ones, etc.

Of course, the events of 2014 hit Russian schools the most. Roughly after the loss of Crimea and the separation of parts of the Luhansk and Donetsk regions, Ukraine lost approximately 650 Russian-teaching schools. But another 496 (80% of the rest) were transferred to the status of bilingual or Ukrainian-speaking in six years! But, as can be seen from the above figures, the *social demand* for education in Russian has not decreased. Consequently, the reduction of Russian schools on such a scale clearly did not meet the interests of the Russian-speaking population and was an artificial step towards the *de facto* forced assimilation.

This conclusion is also prompted by the difference in the transition period to the Ukrainian language for schools of education in the languages of the EU countries (five years) and in other languages, which actually include schools in Russian and Moldovan languages (two years), fixed in the new law "[On Education](#)" and in the law "[On ensuring the functioning of the Ukrainian language as a state language](#)." Therefore, the authorities' assurances that Russian-speaking citizens of Ukraine [voluntarily choose the Ukrainian language of education](#) do not stand up to criticism.

Thus, the main victim of the educational reform was precisely the Russian linguistic minority of this country. The decline in all other schools was broadly in line with the decline in the number of children wishing to study in their native languages. This is a definite merit of both the communities themselves, who managed to fight for their rights in an organized manner, and their countries of origin from among the EU members. It was the tough position of Romania and especially Hungary that forced the Ukrainian authorities to make concessions to the so-called "EU languages". That is why the Moldovan community suffered

also, as their language, like Russian, does not belong to this group of languages.

Considering this, as well as the high level of social demand for the native language among the national minorities of Ukraine, it can be argued that the educational reform in this country is aimed at their forcible assimilation. National minorities themselves speak of this. In particular, in July 2020, the “National Council of Romanians in Ukraine” complained to the Romanian authorities about the violation of the rights of their community to education in their native language and administrative reform projects. They stated that they were subjected to systematic [forced Ukrainization in all spheres](#). This was reported by the [Romanian service of Radio Liberty](#). It is safe to say that the same is happening with respect to other national minorities.

### **Conclusion: What about the quality of education?**

Another question we can pose is: Can it be argued that, in spite of everything, the educational reform gives an overall increase in the quality of education, at least in schools in the Ukrainian language? Unfortunately, the answer here is “no”. Despite the fact that the reform will end for Russian and Moldovan schools on September 1, 2020, when the teaching of general education subjects in their native language will be completely prohibited there, and for all other schools of national minorities on September 1, 2023, the transition period already allows preliminary conclusions to be drawn.

This is how the Ukrainian Institute of Politics evaluates this experience. In their research [“Dynamics of the number of schools and students by languages of instruction in Ukraine”](#), the experts of the Institute write:

“Simultaneously with the reduction in the number of schools, the densification of the number of students in classes and the elimination of education in

Russian, the results of external independent testing of students are also deteriorating: -if in 2008 only 4.58% did not pass Mathematics, in 2014 – 6.07% , then in 2019 – more than 18%; -in 2008, 9.73% of students did not pass Physics, in 2019 – 14.97%; -in 2008, did not pass the Ukrainian language and literature 8, 81%, in 2019 – 14.97%; – in 2008, 9.09% did not pass the History of Ukraine, in 2019 – 16.22%. We also observe a sharp increase in the number of students who did not pass mathematics and physics ... “And what about the Ukrainian language? To what extent has the reform improved the knowledge of Ukrainian by pupils of national minority schools? “Despite the allegedly promoting the Ukrainian language policy of Ukraine,” says the analytical note of the Ukrainian Institute of Politics, “the test results in the Ukrainian language also worsened: the number of those who could not pass the Ukrainian language in the exam has almost doubled since 2008 , and the growth in the number of those who did not pass began after 2017 – that is, after the adoption of the law “On Education.” It is likely that the adoption of the new spelling in 2019 will even more negatively affect this indicator if its norms are used on exam – because of their artificiality and inconsistency with the living Ukrainian language.”

Thus, it can be assumed that the full implementation of the 2019 reform will lead not only to the forcible assimilation of national minorities, but also to an even greater backwardness of children and, as a result, to a further loss of their competitiveness in the labor market of Ukraine.

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Valery Engel



Serious Issue. Serious Analysis.

#### **Annex 400**

Federal Law No. 402-FZ “On Peculiarities of the Legal Regulation of Relations in the Field of Mass Media in Connection with the Admission of the Republic of Crimea to the Russian Federation and the Establishment of the Republic of Crimea and the Federal City of Sevastopol as New Constituent Entities of the Russian Federation”, 1 December 2014

(excerpt, translation)



**Excerpt  
Translation**

**Federal Law No. 402-FZ “On Peculiarities of the Legal Regulation of Relations in the Field of Mass Media in Connection with the Admission of the Republic of Crimea to the Russian Federation and the Establishment of the Republic of Crimea and the Federal City of Sevastopol as New Constituent Entities of the Russian Federation”, 1 December 2014.**

1 December 2014

No. 402-FZ

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**RUSSIAN FEDERATION**

**FEDERAL LAW**

**ON PECULIARITIES OF  
THE LEGAL REGULATION OF RELATIONS IN THE FIELD OF MASS MEDIA IN  
CONNECTION WITH THE ADMISSION OF THE REPUBLIC OF CRIMEA TO  
THE RUSSIAN FEDERATION AND THE ESTABLISHMENT OF THE REPUBLIC  
OF CRIMEA AND THE FEDERAL CITY OF SEVASTOPOL AS NEW  
CONSTITUENT ENTITIES OF THE RUSSIAN FEDERATION**

Adopted by  
the State Duma  
on 19 November 2014

Approved by  
the Federation Council  
on 26 November 2014

<...>

**Article 2. Peculiarities of the Legal Regulation of Relations in the Field of Mass Media in the Republic of Crimea and the Federal City of Sevastopol**

1. Those mass media outlets whose products are intended for distribution in the Republic of Crimea and the federal city of Sevastopol as constituent entities of the Russian Federation may be registered and get licences for TV and radio broadcasting in the Republic of Crimea and the federal city of Sevastopol without the need to pay a fee until 1 April 2015.
2. Those mass media outlets registered by Ukrainian governmental authorities shall be permitted to distribute their products, including TV and radio broadcasting, in the Republic of Crimea and the federal city of Sevastopol pursuant to their documents received from such authorities, until 1 April 2015.
3. In connection with the admission of the Republic of Crimea to the Russian Federation and the establishment of the Republic of Crimea and the federal city of Sevastopol as new

constituent entities of the Russian Federation, the Government of the Russian Federation may issue resolutions on matters of the legal regulation of relations in the field of mass media, including TV and radio broadcasting.



**Annex 401**

Federal Law No. 273-FZ “On Education in the Russian Federation”, 29 December 2012

(excerpt, translation)



**Excerpt**  
**Translation**

**Federal Law No. 273-FZ “On Education in the Russian Federation”, 29 December 2012.**

**Federal Law No. 273-FZ dated 29 December 2012**  
**(as amended on 29 December 2022)**  
**“On Education in the Russian Federation”**  
**(as amended and supplemented; effective from 11 January 2023)**

[...]

**Article 14. Language of Education**

1. In the Russian Federation, education in the state language of the Russian Federation as well as a choice of the language of instruction and upbringing shall be guaranteed to the extent of the opportunities provided by the educational system.
2. In educational organisations, educational activities shall be carried out in the state language of the Russian Federation, unless otherwise provided in this Article. The state language of the Russian Federation as part of the government-accredited educational programmes shall be taught and studied in accordance with the federal state and other applicable educational standards.
3. In state-owned and municipal educational organisations located in a Republic of the Russian Federation, the teaching and study of the state languages of such Republic may be introduced in accordance with the laws of such Republic. The state languages of the Republics of the Russian Federation shall be taught and studied as part of government-accredited educational programmes in accordance with the federal state and other applicable educational standards. The state languages of the Republics of the Russian Federation may not be taught or studied in prejudice to the teaching and studying the state language of the Russian Federation.
4. Citizens of the Russian Federation shall have the right to obtain pre-school, primary general and basic general education in their native language(s) from among the languages of the peoples of the Russian Federation as well as the right to study their native language(s) from among the languages of the peoples of the Russian Federation, including Russian as a mother tongue, to the extent of the opportunities provided by the educational system, in accordance with the procedures established by the education laws. The exercise of those rights shall be ensured by establishing the necessary number of relevant educational organisations, classes and groups as well as by enabling the functioning thereof. The native languages from among the languages of the peoples of the Russian Federation, including Russian as a native language, shall be taught and studied as part of the government-accredited educational programmes, in accordance with the federal state and other applicable educational standards.

(as amended by Federal Law No. 317-FZ dated 3 August 2018)

(see the unamended text)

5. Education may be obtained in a foreign language in accordance with an educational programme and in the manner prescribed by the education laws and the local regulations adopted by an organisation carrying out educational activities.
6. The language(s) of education shall be prescribed by local regulations to be adopted by an organisation carrying out educational activities under the educational programmes it implements, in accordance with the laws of the Russian Federation. The language of education as well as the native language from among the languages of the peoples of the Russian Federation, including Russian as the native language, and the state languages of the Republics of the Russian Federation to be studied shall be freely chosen upon request of the parents (legal representatives) of minor students when admitted (transferred) for training under preschool educational programmes or government-accredited primary general or basic general educational programmes.

(as amended by Federal Law No. 317-FZ dated 3 August 2018)

(see the unamended text)

**Annex 402**

Defusing the Nuclear Threat, *Transcript of Estonian FM Bombshell Revelation* (19 June 2014)



## Defusing the Nuclear Threat

*You are the key to defusing the nuclear threat.*

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### Transcript of Estonian FM Bombshell Revelation

Posted on June 19, 2014 by Martin Hellman

My [March 6 post](#) introduced the bombshell revelation contained in Estonian Foreign Minister Urmas Paet's intercepted, leaked, and authenticated phone conversation, in which he says, "there is now stronger and stronger understanding that behind [the] snipers ... it was not Yanukovych, but it was somebody from the new coalition." I have been surprised not to be able to find a complete transcript of the almost 11 minute conversation, so I produced one and include it immediately after my signature line below. I believe it to be at least 99% accurate, but if anyone finds an error or has a different interpretation of what was said, please post it as a comment, indicating where in the [YouTube audio](#) it is located. Some other useful information:

1. German public television sent an investigative reporting team, which interviewed wounded protesters and gathered other evidence. They independently concluded that there was a serious possibility that Paet's allegation was correct. See my [April 14 post](#) for details and links.

2. Mainstream American media continue to either ignore this significant evidence, or to cover it in misleading ways. In particular, as of this writing (11:30 PM PDT on 19 JUNE 2014):

- A Google search for the words *Paet Ashton Kiev* produced no relevant hits within the *New York Times* web site. The same was true for the *Wall Street Journal*, and *TIME* magazine.
- The *Los Angeles Times* covered the conversation [only once](#), on May 20, over two months after the information surfaced. Even then, the article misrepresented the content of the conversation by concluding, "But the pair [Paet and Ashton] discussed only the conspiracy theories, according to the 11-minute call posted on YouTube and confirmed by Estonia." Read the transcript, or even better listen to the YouTube audio, and reach your own conclusion.
- The Daily Beast (formerly *Newsweek* magazine) also delayed coverage of the conversation, this time by several weeks, [on March 30](#). The article presents photographs which it says "appear to reveal the truth about who carried out the shootings in Independence Square on that day." But the alleged truth here is that "Russian trained killers" were responsible, not violent elements within the protesters, as claimed by Paet. The article refers to Paet's allegation as "a weird post-script" to the massacre. The article quotes Dr. Olga Bogomolets as saying that, "she has no idea how Paet could think that was what she was saying." But, as the transcript below shows, Paet never said that Bogomolets was the source of the allegation that the snipers were from the new coalition. That is an understandable inference from the order in which he says things, but it is not what he said. Furthermore, Paet's allegation is a "declaration against interest," which deserves investigation, especially in light of the corroborating investigative report by German public television mentioned above. [Another Daily Beast article](#) a few days later similarly does not give the allegation the credence it deserves, and again focuses on Dr. Bogomolets denial.
- Coverage in the *Washington Post* was similarly delayed until [March 25](#) and [April 3](#), and emphasized that the call was "presented to appear more controversial than they should," or Dr. Bogomolets' denial.
- The *Christian Science Monitor's* coverage was slightly better, but still inadequate. It was prompt ([March 8](#)), but started with the Ukrainian government's allegation that Russia was responsible for the snipers. Only later does it get to Paet's allegation.

3. My [June 4 post](#) presents strong evidence that the new Ukrainian government's National Guard has killed unarmed protesters – behavior that, in February, [President Obama said](#) would not be tolerated by Yanukovich.

[Martin Hellman](#)

**BEGIN TRANSCRIPT OF PAET-ASHTON 26 FEB 2014 CONVERSATION**

[**NOTE:** Words in square brackets with question marks on either side of them are ones where I was not certain, for example [?Regane?]. Times are noted at a number of points in the transcript to ease correspondence with the [YouTube audio](#).]

0:00 phone rings, and a woman answers in a foreign language.

Man 1: Hello. Good afternoon, madam. This is [?Regane?] from the Center Action Service.

Woman 1: Yes, yes, hello.

Man 1: Surely, hello. (laughs) Should we go ... you think it's going to be possible straight away?

Woman 1: To connect to Mr. Paet?

Man 1: Yes.

Woman 1: Yes, yes.

Man 1: So please go on. I am connecting with the Lady Ashton cabinet. [Catherine Ashton is EU Commissioner for External Relations.]

Woman 1: Yes, thank you.

Man 1: You're welcome. (0:34)

Woman 2: Yes, hello. This is Miriam speaking.

Man 1: Yes, it is for the conference with the Estonian Foreign Minister. They are on line. Please stay on.

Woman 1: Hello. [Note: Women 1 and 2, here and below, may be new participants, but it does not affect the conversation.]

Woman 2: Yes, hello. Can you put me through please?

Woman 1: Yes, I will connect you to Minister Paet. One moment.

Woman 2: Thank you. 1:02

music plays while they are on hold, phone rings 1:20

Woman 2: Hello, minister?

Paet: Hello.



08.03.2023, 16:18

Transcript of Estonian FM Bombshell Revelation | Defusing the Nuclear Threat

Woman 2: Hi. I put you through. Thank you very much.

Paet: Yes, thank you.

phone rings 1:37

Paet: Hello.

long silence 1:54

phone rings

Ashton 2: Hello.

Paet: Hello.

Ashton: Hello, how are you?

Paet: I am fine.

Ashton: Good.

Paet: And you? 2:00

Ashton: Good. I am good. I just wanted to catch up with you on what you thought when you were there.

Paet: oK, yes. I returned last night already, so that I was one day.

Ashton: Yeah. Impressions?

Paet: Impressions are sad.

Ashton: Um hum.

Paet: I met with representatives of Regions Party [originally Yanukovich's party, but it had dissociated from him by this point in time], also new coalition representatives, and also civil society [Ukrainian non-governmental organizations or NGOs]. There is this lady called Olga [Dr. Olga Bogomolets, who was tending to wounded protesters] who is head of the doctors. Yes, yes. You know her?

Ashton: I do. 2:30

Paet: Yes, so that, well, my impression is indeed sad that there is, well, no trust towards also these politicians who will return now to the coalition. Well, people from Maidan and from civil society, they say that they know everybody who will be in new government – all these guys have a dirty past. 2:52

Ashton: Yeah

Paet: So that, well, they made some proposals to the same Olga and some others from civil society to join new government. But this Olga, for example, she says directly that she is ready to go to the government only in the case if she can take with her, her team of foreign experts to start real health care reforms. 3:16

Ashton: Yeah.

Paet: So that, well, basically, it is that the trust level is absolutely low. On the other hand, all the security problems, this integrity problems, Crimea, all this stuff. Regions Party was absolutely upset. They say that, well, they accept, they accept this that now there will be new government. And there will be external elections. But there is enormous pressure against members of parliament – that there are uninvited visitors during the night ... to party members.

Well, journalists ... some journalists who were with me, they saw during the day that one member of parliament was just beaten in front of the parliament building by these guys with the guns on the streets. 4:10

Ashton: Yeah.

Paet: So that all this mess is still there. And, of course, this Olga and others from civil society, they were absolutely sure that people will not leave the streets before they see that the real reforms will start. So that it's not enough that there is just change of government. So that that is the main impression. 4:27

So that, from EU's and also well Estonia's point of view, of course, we should ready to put this financial package together. Also together with others. This very clear message is needed that it's not enough that there is change of government, but they say real reforms – you know, real action to increase the level of trust. Otherwise, it will end badly.

Because the Regions Party also said that, well, we will see that if the people from the eastern part of Ukraine will really wake up, and will start to demand their rights. Some people also with me, they were also in Donetsk. There people said that, well, we can't wait. How long still the occupation of Ukraine lasts in Donetsk. That it is real Russian city, and we would like now to see that, well, Russia will take over. So that well ... short impressions. 5:26

Ashton: No, very, very interesting. I just had a big meeting here with Olli Rehn [EU Commissioner for Economic and Monetary Affairs] and the other commissioners about what we can do. I mean, we're working on financial packages – short, medium, long-term. Everything from how we get money in quickly. How we support the IMF. And how we get a kind of ... investment packages and business leaders and so on. 5:49

On the political side, we've worked [?out?] what resources we have got, and I offered to civil society, and to Yatsenyuk [Aresniy Yatsenyuk became the interim prime minister when what is now the “new coalition” became the interim Ukrainian government] and Klitchko [Vitali Klitchko, one of the leaders of the new coalition, a former boxer, and now mayor of Kiev], and everybody I met yesterday: “We can offer you people who know how to do political and economic reform. The countries that are closest to Ukraine have been going through dramatic changes and have done big political and economic reforms. So we have got loads of experience to give you, which we're happy to give.”

I said to the people in Maidan, “Yes, you want real reforms, but you've got to get through the short-term first. So you need to find ways in which you can establish a process that will have anticorruption at its heart, that will have people working alongside until the elections, and that you could be confident in the process. 6:41

Then I said to Olga, “You may not be Health Minister now, but you need to think about becoming Health Minister in the future, because people like you are going to be needed to be able to get and make sure that [?reform?] happens.

I also said to them, “If you simply barricade the buildings now, and the government doesn't function, we cannot get money in, because we need a partner to partner with. 7:04

Paet: Absolutely.

08.03.2023, 16:18

Transcript of Estonian FM Bombshell Revelation | Defusing the Nuclear Threat

Ashton: And I said to the opposition leaders, shortly to become government, “You need to reach out to Maidan. You need to be, you know, engaging with them. You also need to get ordinary police officers back on the streets under a new sense of their roles, so that people feel safe. 7:21

I said to the Party of the Regions people, “You have to go and lay flowers for the people [who] died. You have to show that you understand what you have ... what has happened here. Because what you were experiencing is anger of people who have seen the way that Yanukovych lived and the corruption. And they assume you are all the same.” 7:40

And, also the people who have lost people and who feel that, you know, he ordered that to happen. There is quite a lot of shock I think in the city. A lot of sadness and shock, and that is going to come out in some very strange ways if they are not careful. I think all of us, we just have to work on this. We did a big meeting here today to try and get this in place.

But, yeah, very interesting, your observations. 8:04

Paet: It is. And, well, actually, the only politician [whom] the people from civil society mentioned positively was Poroshenko [Petro Poroshenko, known as “the chocolate king” was elected president of Ukraine in the May 25 election].

Ashton: Yeah, yeah. 8:15

Paet: So that he has some sort of, how to say, trust among all this Maidan people and civil society. 8:20

And, in fact, what was quite disturbing, the same Olga told that, well, all the evidence shows that people who were killed by snipers, from both sides, among policemen and then people from the streets, that they were the same snipers, killing people from both sides. [8:38]

Aston: Well, that’s ... yeah.

Paet: So that, then she also showed me some photos. She said that as [a] medical doctor she can, you know, say that it is the same handwriting, the same type of bullets, and it’s really disturbing that now the new coalition, that they don’t want to investigate what exactly happened. [8:58] So that there is now stronger and stronger understanding that behind [the] snipers, they were ... it was not Yanukovych, but it was somebody from the new coalition. [9:10]

Ashton: I think we do want to investigate. I mean, I didn’t pick that up. It’s interesting. Gosh. 9:14

Paet: Yeah. So that it was [?indeed?] disturbing that, if it starts now to live its own life very powerfully, that it already discredits [sic] from [the] very beginning also this new coalition. 9:24

Ashton: I mean this is what they have got to be careful of as well, that they need to demand great change, but they have got to let the Rada [Ukrainian Parliament] function. If the Rada doesn’t function, then they have complete chaos. So that, it’s all, you know, being an activist and a doctor is very, very important. But it means that you’re not a politician. And somehow they’ve got to come to a kind of accommodation for the next few weeks, which is how the country is actually going to run. And then we get the elections and things can change. And that’s, I think, going to be quite pop... I am planning to go back early next week, probably on Monday. 9:55

Paet: It’s really important that now, well, people from Europe and also [the] West show up there so that it’s absolutely...

08.03.2023, 16:18

Transcript of Estonian FM Bombshell Revelation | Defusing the Nuclear Threat

Ashton: Well, [Verislav?] is going with the Visegrad Group [an alliance of the Czech Republic, Hungary, Poland, and Slovakia] Friday. Friday, Saturday. William Haig (unintelligible) on Sunday. I will be back again Monday.

Paet: Yes, I heard also that Canadian Minister is going on Friday. And yesterday also William Burns [the American Deputy Secretary of State] was there, so we met ...

Ashton: Yes, I saw Bill.

Paet: We met also with Burns there in Kiev yesterday.

Ashton: Yeah, good. Yeah, I didn't know that John Baird was going. I will get hold of him. Okay, my friend. It was great to talk to you. 10:26

Paet: Well, thanks for these comments, and wish you well. Nice Australia.

Ashton: Yeah. What?

Paet: Nice Australia. Enjoy!

Ashton: I am not going to go. I got to delay it because I'm going to do more Ukraine instead.

Paet: OK, good, good.

Ashton: All right, my friend ...

Paet: OK. Thank you. Thank you. And all the best to you. Bye.

Ashton: Bye.

## **END OF TRANSCRIPT**



### **About Martin Hellman**

I am a professor at Stanford University, best known for my invention of public key cryptography -- the technology that protects the secure part of the Internet, such as electronic banking. But, since 1982, my primary interest has been how fallible human beings can survive possessing nuclear weapons, where even one mistake could be catastrophic. My latest project is a book, co-written with my wife Dorothie, with the audacious subtitle "Creating True Love at Home & Peace on the Planet." It's on Amazon and a free PDF can be downloaded from its website: <https://anewmap.com>.

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**Defusing the Nuclear Threat**

*Blog at WordPress.com.*

**Annex 403**

Statement of the Council of Crimean Tatars under the auspices of the Head of the Republic of  
Crimea, 6 March 2023

(translation)



**Translation****Statement of the Council of Crimean Tatars under the auspices of the Head of the Republic of Crimea, 6 March 2023.****Statement  
of the Council of Crimean Tatars  
under the auspices of the Head of the Republic of Crimea**

6 March 2023

Simferopol

The Republic of Crimea since 2014 is part of a large and close-knit Russian family. Great opportunities and prospects are now open for us. In the Republic of Crimea, as in our entire multi-national country, there are no discrimination of any type, rights and freedoms of all are guaranteed regardless of their race, ethnic, religious or linguistic affiliation, the maintenance and development of cultural and linguistic diversity is enshrined at the constitutional and legislative levels.

Decree No. 268 of 21 April 2014 of the President of the Russian Federation ‘On Measures of Rehabilitation of Armenian, Bulgarian, Greek, Italian, Crimean Tatar and German peoples and State Support of their Revival and Development’ was an important event in the life of the Republic of Crimea: the good name of deported peoples of Crimea was restored, and the act of deportation recognized as a crime.

The reunification of Crimea and Russia has brought much good. Crimean Tatars, along with all other Crimeans, obtained an opportunity to revive, keep up and develop their own language, history and culture, broadcast the national and cultural originality of the Crimean Tatar people. The Crimean Tatar language is recognized as one of the state languages of the Republic of Crimea. Socially important literature is published in Crimean Tatar; Crimean Tatar mass media are active in their business.

The Head of the Republic of Crimea declares holidays and off days on the main Muslim holidays Oaza-Bairam and Kurban-Bairam every year; the Republic of Crimea celebrates freely and widely traditional Crimean Tatar holidays: spring holidays of Navrez and Khydyrlez, the Day of Crimean Tatar Flag, the Day of Crimean Tatar Letters and Culture, the autumn holiday of Derviza.

Crimean Tatars enjoy all the rights of citizens of the Russian Federation. Within the framework of the state national policy of the Russian Federation, systematic work is performed to realize infrastructure development projects aimed at the provision and improving the places of compact residence of rehabilitated peoples: kindergartens, schools, houses of culture, roads, gas, water, drainage and electricity supply networks are built. Citizens from among rehabilitated peoples of Crimea are provided with housing, land plots, receive compensations for the connection to gas, drainage and electricity networks.

Under the auspices of President of the Russian Federation Vladimir Putin and with support from the Head of the Republic of Crimea, construction is being carried out of a cathedral mosque of Crimea in the city of Simferopol. The cathedral mosque will be the biggest temple in the peninsula.

Decree of the Head of Republic of Crimea No. 93-u dated 29.03.2018 created the Council of Crimean Tatar under the auspices of the Head of the Republic of Crimea (hereinafter – the ‘Council’). The members of the Council were elected at the extraordinary meeting of the Qurultay of Crimean Muslims from among distinguished and influential workers of science, education, culture, religion, sports and other spheres.

One of the areas of activity of the Council is effective implementation in the Republic of Crimea of Decree 268 dated 21.04.2014 of the President of the Russian Federation ‘On Measures

of Rehabilitation of Armenian, Bulgarian, Greek, Italian, Crimean Tatar and German peoples and State Support of their Revival and Development’ in terms of restoration of historical justice, political, social and spiritual revival of Crimean Tatars subjected to illegal deportation and ethnicity-based political repressions.

The Council invites representatives of state authorities, members of local self-governing bodies and non-governmental organizations, experts and lawyers, specialists in various spheres and others to work in cooperation with it, which makes the work of the Council more effective and fruitful.

At the present time, the Council is an influential and effective collegial, deliberative and consultative body of Crimean Tatars under the auspices of the Head of the Republic of Crimea, with the main objective of monitoring of Crimean Tatar people problems in Republic of Crimea and assisting in solution thereof, planning and realization of a set of measures aimed at restoring historical justice, political, social and spiritual revival of the Crimean Tatar nation.

Crimean Tatars take active part in social and political life of the Republic of Crimea and develop civic society institutions, being an inseparable part of the political, social, economic and cultural life of the Republic of Crimea and the Russian Federation.

We, members of the Council of Crimean Tatars under the auspices of the Head of the Republic of Crimea, do not support members of the Mejlis organization (banned in the Russian Federation) and its provocative actions, and call on Crimeans to not trust declarations of pseudo-leaders using the Crimean Tatar issue to destabilize the social and political situation.

The Council categorically disagrees with the thesis that some refugees from Crimea, calling themselves ‘leaders’ and ‘chairpersons’ of various kinds of foreign non-governmental formations of a private nature, pose as representatives of the Crimean Tatar people, which lives in its homeland. Former members of the Mejlis (banned in the Russian Federation) R. Chubarov, M. Dzhemilev, L. Islyamov, E. Bariev and other betrayers of the interests of the Crimean Tatar people, who are in Ukraine, Turkey and some other European countries now, act in the interests and under direction of Kiev, actively disseminate false information about the situation of Crimean Tatars in Crimea.

Those individuals do not live in Crimea and do not represent interests of Crimean Tatars, so their unilateral declarations, statements and sayings about the situation in Crimea cannot be considered true and reflecting the real situation of the Crimean Tatar people living in Crimea.

Those functionaries mislead the international community with their untrue words in relation to the rights and interests of Crimean Tatars and the status of the Crimean Tatar historical heritage in Crimea. They are not authorized to make any statements and speak on international platforms and at organizations on behalf of the Crimean Tatar people. Openly illegal actions in the form of energy, food and water blockades organized with active participation of the aforesaid persons caused hardships and tribulations for the entire population of Crimea, including Crimean Tatars. But in spite of the fact that those provocations were aimed at inciting national enmity and discord between the peoples of Crimea, they have not succeeded, and made Crimeans even more unified.

The said persons try to continue their extremist activities in Crimea: they threaten physical reprisals against representatives of the Crimean Tatar community, and perform actions aimed at the creation of an atmosphere of enmity and interethnic discord between the Crimean Tatar people and other ethnicities.

The Council considers declarations and statements of Ukraine, as well as former members of the (banned in the Russian Federation) Mejlis R. Chubarov, M. Dzhemilev, L. Islyamov, E. Bariev about discrimination of Crimean Tatars false, and declares that all issues related to the realization of rights and interests of Crimean Tatars are dealt with in interaction with the power bodies of the Republic of Crimea and multiple ethnic communities of the peninsula.

|                         |                                                               |
|-------------------------|---------------------------------------------------------------|
| Emirali Seitibraimovich | Chairman of the Centralised religious organization ‘Spiritual |
|-------------------------|---------------------------------------------------------------|



|                                |                                                                                                                                                                                                                                                                                          |
|--------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| ABLAYEV                        | Administration of Muslims of the Republic of Crimea and the city of Sevastopol (Tavrida Muftiyat)', Mufti of Muslims of Crimea, Deputy Chair of the Council                                                                                                                              |
| Chingiz Fevziyevich YAKUBOV    | Rector of the State Budgetary Institution of higher education of the Republic of Crimea 'Fevzi Yakubov Crimean Engineering and Pedagogical University' CSci (Engineering), Assistant Professor, Deputy Chair of the Council                                                              |
| Lemara Sergeevna SELENDILI     | DSci (Philology), Professor of the department of Crimean Tatar philology, Institute of Philology, Federal State Autonomous Educational institution of higher education 'V.Vernadsky Crimean Federal University', Secretary of the Council                                                |
| Elmira Ebazerovna ABIBULLAYEVA | Head of Ismail Gasprinskiy Memorial Museum, State Budgetary Institution of the Republic of Crimea 'Bakhchisarai History, Culture and Archeological Museum-Reserve', member of the Council                                                                                                |
| Aider Ametovich ADJIMAMBETOV   | Executive secretary of the Mufti of Muslims of Crimea                                                                                                                                                                                                                                    |
| Ruslan Takyatovich BAIROV      | Deputy Mufti of Muslims of Crimea, member of the Council                                                                                                                                                                                                                                 |
| Zenife Emiraliyevna VELI       | Head of the department for organization of religious events of the Centralised religious organization 'Spiritual Administration of Muslims of the Republic of Crimea and the city of Sevastopol (Tavrida Muftiyat)', member of the Council                                               |
| Aider Suleimanovich ISMAILOV   | Deputy Mufti of Muslims of Crimea, member of the Council                                                                                                                                                                                                                                 |
| Rustem Abdullayevich KAZAKOV   | Olympic champion in Greco-Roman wrestling, President of the regional NGO 'Crimean Federation of the Kuresh national wrestling', member of the Council                                                                                                                                    |
| Refik Dzaferovich KURTSEITOV   | Head of the department of social sciences and humanities of the State Budgetary Institution of higher education of the Republic of Crimea 'Fevzi Yakubov Crimean Engineering and Pedagogical University', CSci (Sociology), Assistant Professor, member of the Council                   |
| Ervin Kyazimovich MUSAYEV      | Advisor to the Head of the Republic of Crimea, director of the Institute of Media Communications and Design, Federal State Autonomous Educational institution of higher education 'V.Vernadsky Crimean Federal University', CSci (Economics), Assistant Professor, member of the Council |
| Liliya Amzayevna MUSTAFAYEVA   | Doctor-in-Chief, State Budgetary Healthcare Institution of the Republic of Crimea 'Consultative and Diagnostic Centre for Deported Peoples'', member of the Council                                                                                                                      |
| Aider Akhtemovich TIPPA        | Chairman of the State Committee for Interethnic Affairs of the Republic of Crimea, member of the Council                                                                                                                                                                                 |
| Safie Lyumanovna EMINOVA       | Director, State Budgetary Healthcare Institution of the Republic of Crimea 'Crimean Tatar Museum of Cultural and Historical Heritage', member of the Council                                                                                                                             |



**Annex 404**

Kremlin, *News conference following Russian-Belarusian talks* (18 February 2022)



## News conference following Russian-Belarusian talks

Vladimir Putin and President of Belarus Alexander Lukashenko held a joint news conference following Russian-Belarusian talks.

February 18, 2022 17:00 The Kremlin, Moscow

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**President of Russia Vladimir Putin:** Mr President, colleagues, ladies and gentlemen,

First of all, I would like to express my gratitude to the President of the Republic of Belarus for accepting my invitation and coming to Moscow today.

We understand that the President has a very busy schedule right now, in connection with the necessary preparations for an important domestic event: the upcoming nationwide referendum of the new version of the Belarusian Constitution on February 27. Of course, we wish our Belarusian friends success in holding it.

Let me note that our talks today were held in a constructive, business-like and friendly atmosphere, like we have had for many, many years.

As both sides have stressed many times, Russia and Belarus are good neighbours, close allies and strategic partners. We are deeply connected by a common history, moral values and family ties. Diverse bilateral cooperation is always built on the principles of mutual respect, support and consideration of each other's interests.

Of course, we have always paid and will pay special attention to the expansion of trade and economic ties. Despite the coronavirus-related difficulties, trade is growing: it increased by more than a third in 2021, or 34.4 percent, and amounted to a significant amount of US\$38.5 billion.

Almost half of all products manufactured in Belarus are exported to Russia, and Russia

is a leading investor in the real sector of the Belarusian economy. Russian investment accounts for about 30 percent of total foreign investment in Belarus. And we will certainly try to create even more comfortable conditions for the business communities of the two countries and encourage entrepreneurial initiatives.

Of course, matters related to building the Union State and promoting integration within it were among the central topics in our talks with the President of Belarus.

We carefully studied the progress of implementing the strategic decisions approved at the November 4, 2021, meeting of the Union State Supreme State Council. We also discussed efforts to implement the 28 sectoral programmes of the Union and in general the provisions of the Treaty Establishing the Union State. During the talks, we noted that the 28 programmes we are talking about build on our long-standing cooperation and integration efforts in the relevant fields.

Both sides noted that relevant agencies of Russia and Belarus have been working together effectively on promoting integration across the board. The high-level group for coordinating our integration cooperation has been gathering momentum. It held a regular meeting in mid-December.

Our respective governments have also maintained close contact. Let me remind you that our prime ministers held eight meetings last year. In fact, they remain in touch constantly, almost on a weekly basis, if necessary.

Of course, Mr Lukashenko and I keep the implementation of integration-related process under our personal control. We can outline several areas where we have achieved tangible progress recently.

In particular, in the transport and logistics sector there was a significant increase in transits of Belarusian exports in many categories across Russian territory to third countries. We will continue our consistent efforts to build a common freight and passenger market within the Union State.

In the lending and financial sector, we have been cooperating to overcome and minimise the consequences of illegitimate sanctions imposed by some countries with a view to worsening the socioeconomic situation in our countries.

In addition, we have been working on integrating our payment systems and creating a new payment framework, as well as harmonising tax, customs, and labour laws of the two countries, and unifying our markets in the gas, oil, petrochemical, and electric power sectors.

I would like to note that our joint efforts to implement the economic agenda of the Union State are ultimately designed to ensure economic growth and to improve the living standards of our people.

Our other major integration projects have the same goals. I am referring to the Eurasian Economic Union, in the framework of which we are creating a truly common Eurasian market for goods, services, capital and workforce. It is important that all EAEU member states feel the practical effects of these processes.

During our talks today we had an in-depth discussion on strengthening the common defence space of Russia and Belarus. We have agreed to continue taking the necessary collective measures to ensure the security of our two states in light of the growing military activity of the NATO states on the external border of the Union State.

In this context, we praised the Allied Resolve 2022 military exercises, the active phase of which will run until February 20 in Belarus. I would like to point out that these exercises are purely defensive and do not threaten anyone. As you know, the defence ministries of our two states in due time announced the essence and goals of these planned – I would like to emphasise this – planned manoeuvres. As the President of Belarus, who attended them, said today, many foreign representatives and military attachés are attending the exercises and can see the whole thing with their own eyes.

Responding to a request from President Lukashenko, I talked about my recent meetings with foreign leaders on the provision by the US and NATO of long-term and legally binding security guarantees for Russia. We believe it is both logical and understandable that this issue also concerns our Belarussian allies.

We discussed the situation with Russia's requests for the West, the most important of which concern NATO's non-expansion, the non-deployment of strike weapons systems in close proximity to the Russian border, and the return of the bloc's military potential and infrastructure in Europe to the state of 1997 when the Russia-NATO

Founding Act was signed.

As I said earlier, unfortunately, the United States and other members of the alliance do not appear ready to sincerely consider these three pivotal elements of our initiative. At the same time, they have advanced a number of ideas of their own concerning European security, specifically, intermediate-range and shorter-range missiles, and military transparency, which Russia is open to discussing. We are ready to continue the negotiation track provided that all items are considered in their entirety, in conjunction with Russia's main proposals, which are an unconditional priority for us.

President Lukashenko and I touched on the intra-Ukrainian conflict as well. The settlement process remains stalled; despite all our efforts, neither the contacts at the level of advisers to the leaders of the Normandy Format countries nor the consultations with our partners are helping.

Kiev is not complying with the Minsk Agreements and, in particular, is strongly opposed to a direct dialogue with Donetsk and Lugansk. Kiev is essentially sabotaging the agreements on amending the Constitution, on the special status of Donbass, on local elections and on amnesty – on all the key items in the Minsk Agreements. Besides, basically, human rights are massively and systematically violated in Ukraine, and discrimination against the Russian-speaking population is being fixed at the legislative level.

The President of Belarus and I agreed that the Minsk Agreements are the key to restoring civil peace in Ukraine and relieving tension around that country. All Kiev needs to do is sit down at the negotiating table with representatives of Donbass and agree on political, military, economic and humanitarian measures to end the conflict. The sooner this happens, the better. Unfortunately, right now, we are witnessing the opposite – the situation in Donbass is worsening.

In conclusion, I would like to express my gratitude to Mr Lukashenko for our productive cooperation. I am confident that today's talks will serve to further strengthen the entire scope of allied relations between Russia and Belarus. Tomorrow, as we agreed, we will take part in several regular events related to our joint military activities.

Go ahead please, Mr President.



**President of the Republic of Belarus Alexander Lukashenko:** Friends,

Our meeting with President Putin is taking place against the backdrop of an unprecedented escalation of military-political tensions in the world, as the President just said.

Considering the urgency of the situation, the President and I have devoted much attention today to this issue and discussed potential joint actions as a response to the aggressive behaviour of our Western partners. I would like to emphasise once again: nobody wants a war, or even an aggravation of the situation or any conflict. We, Russians and Belarusians, do not need this.

As people well versed in this issue, you probably understand that this no longer depends even on our neighbours, including Ukraine. You also see clearly who the escalation of tensions near our borders depends on. For the first time in decades, we have found ourselves on the threshold of a conflict that could, unfortunately, pull much of the entire continent into a maelstrom.

We are seeing the irresponsibility and, excuse me for being blunt, stupidity of some Western politicians at its best. There is no logic or reasonable explanation for the conduct of the leaders of neighbouring countries, their truly morbid desire to walk the edge.

The President of Russia has very mildly described the aggravation of the situation in Donbass. Unfortunately, it is true. People there are ready to flee the area and are probably already fleeing, as we know. This is not normal. I have the impression that some politicians who hold high and responsible positions in the so-called free world are simply pathologically dangerous to both their associates and, most importantly, to their own people.

As you heard, Union Resolve 2022, Belarusian-Russian joint military exercises, will end in a few days. Tomorrow, Mr Putin and I will hold joint events in the Russian Federation, about which the media will be informed.

As for the 2022 exercises that are nearing completion, I explained the basic point of this. The President just talked about it: given the growing military threat on our borders and the pumping of Ukraine with weapons, Belarus and Russia are compelled

to look for adequate means of repelling a potential attack on their borders, including on our borders, the southern borders for Belarus. There is nothing surprising about this, we are looking at these borders in the south of Belarus – they are almost 1,500 km long. We are concentrating on this to defend ourselves; we are looking for points where we should basically build our defences.

Belarus and the Russian Federation have a common air defence system, a joint regional military force, that is, a joint army, joint training centres, and finally, there is the Military Doctrine of the Union State. We have never hidden these documents or these areas of activity from anyone, everyone knows this.

This is why it was our joint situational decision to hold these exercises. We conduct these exercises as transparently as possible in our own territory; we are not hiding anything from anyone; everything happens in full view of an entire army of attachés and the press.

In talking about foreign policy we have not forgotten the Union State integration process. Four and a half months have passed since the Declaration of the Union State Supreme State Council was signed. It approved the main directions for the implementation of the provisions of the Treaty Establishing the Union State for 2021–2023 as well as the 28 Union State programmes.

These programmes are about 30 percent complete. A lot has been said about what has been done under these programmes and how, as Mr President said just now. In particular, we are focusing on the following areas: taxation, customs cooperation, and establishing a common gas market.

By the way, those who have moved the war of sanctions to the front lines will suffer equally, if not much more. This is a subject that President Putin and I have paid special attention to because this banditry and attempt to impose an economic war on us – it has already broken out – has cost us a lot. Of course, we have already learned how to counter the sanctions; as we have said, we have become stronger, as our bilateral trade shows. Nevertheless, we still have to focus a lot on countering the pressures of the sanctions. We have discussed this in detail.

I am grateful to the President of Russia – to you, Mr Putin – for the instructions you have just passed to the Russian leadership in my presence, without hiding anything.

I would like to thank you for this.

It is clear that we, Russians and Belarusians, will survive this hybrid war. We can see how our cooperation has improved in industry; there are dozens of new goods in the structure of our trade; and foreign trade is diversifying. The world is big: you can't lock all the gates and you can't block all transport routes.

Another part of our talks was devoted to the economy. It is gratifying that we did so well last year. Despite the pandemic and various virus strains, we increased our trade to almost 40 billion. And this is something to be taken into account, and then exports and imports between people – there are no borders between Belarus and Russia – this is billions of dollars too. It is important that both the Belarusian and Russian economies grew throughout the year in terms of gross domestic product, industrial production, and in many other areas of the real sector of the economy.

Of course, we talked more about problem areas not about our successes. There are fewer of them, but they still exist. We discussed measures to support the economy, strengthen financial stability, increase business activity, and develop cooperation.

Naturally, I informed the President of Russia of how Belarus is preparing for the most important political event – the constitutional referendum. We will hold it with dignity, in the interests of the Belarusian people, and this will in no way contradict our relations with brotherly Russia.

The West is actively trying if not to destabilise then to at least aggravate the situation in the country with the help of our defectors. However, they have no illusions that the events of August 2020 will be repeated. This is important because it strengthens our confidence that together we will be able to overcome the most difficult situations, confront any challenge or threat and build a common future. And no one should expect us to back down from any difficulty, challenge or problem.

Let me repeat what I just said: we do not want war, but if someone refuses to be still, our response will be asymmetric. Anyone in the world can understand this. And in this situation, in protecting the security of our peoples in our states, we will act appropriately.

The President of Russia noted, and I absolutely agree with him: they are trying to tear

us apart, to separate us, not only Russia and Belarus, but all those states that are set on unity. This is the wrong approach: it will never work. Kazakhstan is evidence of this. We appreciate that.

Thank you for your attention.

**Kommersant newspaper correspondent Andrei Kolesnikov:** You recently said that if the West remains aggressive, you will be an eternal president. In this connection, how do you assess the Belarusian people's chances of losing you? I think they are increasingly more negligible.

And a question for the President of Russia. Mr President, how did you “survive” Russia's invasion of Ukraine the previous night?

Thank you.

**Vladimir Putin:** Let me go first, if you do not mind.

I just did not pay attention to it. There is a lot of fake news, and constantly reacting to it is not worth it.

We are doing what we feel we need to do, and we will keep going this way. Of course, we are watching the developments in the world and around us; however, we have clear and understandable benchmarks corresponding to the national interests of the Russian people and the Russian state.

**Alexander Lukashenko:** Mr Putin, we did not invade Ukraine, and the poor things are so upset, they are looking for a new pretext to push Ukraine into some sort of provocations.

As to my, pardon me, tenure in office, we will just discuss it with the elder brother and make a decision. Why are you worrying? Everything will be all right. As to your words (you said it right, I am even surprised that these words come from Kommersant) that those people's chances of breaking Belarusians' forces are negligible as you said. It cannot be said any better.

And they will get more negligible further, they will not make it. And it has nothing to do

with the Belarusian people, that we are allegedly a dictatorship and bend, pressure and persecute. It is fiction. Nobody pressures or persecutes anyone – we are just appropriately responding to those who push, used to push, towards a coup d'état in Belarus. That is the agenda as it is. They wanted to repeat exactly what they did in Ukraine; they failed and will fail again. I had a reason to mention Kazakhstan, it included.

**Alyona Syrova:** STV Channel.

Mr Lukashenko, Mr Putin, my question is addressed to both of you.

You mentioned in your speeches the sanction war waged against us and against you. We see the pressure being systematically ramped up. The latest is the closure of potassium fertiliser transit. Russia is being threatened with preventive sanctions never seen before.

And here is the question in this regard. Mr Lukashenko, you said a number of decisions and orders have been made right now, during the talks. How do you see possible anti-sanction counteractions? We often say that the power is in cooperation in the context of integration, so in the context of countering the sanctions, where is cooperation and who can help us here?

**Vladimir Putin:** We must help ourselves in this respect, and this is the goal of our current meeting. We primarily focused, as Mr Lukashenko has already said, on economic issues, on issues of economic cooperation.

The President of Belarus was very eloquent. He said the world is big, and one cannot put a lock on everything. This is exactly what it is in reality, and I join this assessment. We talked about the entire range of problems, including the one you mentioned. I will not go into detail now, but there is always a solution.

As for what direction we should move in overall – I have already talked about this and would like to emphasise it again. First, this sanctions pressure is absolutely illegitimate. This is a gross violation of international law. Those who talk about this law care about it only when they stand to benefit. When there is nothing to gain, they conveniently forget all norms of international public law. We understand this perfectly well. Unfortunately, we have lived in this paradigm for many, many years because

the powers that be believe they run the show and always interpret everything in their own favour, ignoring the interests of others. The only way out is to grow stronger from within, primarily in the economy.

You are talking about sanctions. They will be imposed in any event. Whether there is some excuse today, for instance, linked with the events in Ukraine, or there is no excuse – one will be found because the goal is different. The goal is to impede the development, in this case, of Russia and Belarus. Those who pursue this objective will always come up with an excuse to introduce various restrictions. I will repeat that these restrictions are illegitimate. They amount to unfair competition.

In fact, this is the whole point. In the past eight years, Russia has done much in this area, and this is called import substitution. We have not done everything we planned, but we have accomplished more than 90 percent of the tasks we set for ourselves. We still have to do more, and this is called enhancing economic sovereignty.

Many countries of the world, even US allies, are facing today's restrictions. But they simply shut their mouth and bear it. As I said many, many years ago, nobody likes this. Nobody likes secondary sanctions or direct sanctions pressure. This boil will certainly burst eventually.

It is important for us today to enhance our economic sovereignty and be more competent and up to date. We must give new impetuses to the modern areas of economic progress: digitalisation, artificial intelligence and genetics, to name a few. This is a complicated and big job – it is impossible to resolve this issue overnight, but we must move in this direction.

The integration processes we are dealing with are aimed at precisely this goal – to become more competitive. Proceeding from this, we will be striving to improve the living standards of our people.

I think this is all that may be said in the format of a news conference.

**Alexander Lukashenko:** What was the general idea for our talks? In short, we mostly talked about economic issues, including pressure from the sanctions. The President just said what it was about: no matter what we do and no matter how hard we try to do anything – though we think, first, in terms of our interests and our people and so on –

they will find a pretext for pushing this economic war further, regardless. These are not simply sanctions – rather, an economic war unleashed against our alliance – this is the gist of the matter.

As for some details, the Russian President preferred to omit them – some particularly important issues were discussed in detail. For example, you raised the issue of potassium fertilisers: I am grateful to the President for his instructions, as I requested.

We need a port. In violation of international agreements, we have been denied access to the ports we used to use. This is not the right approach: no country that has a coast has the right to cut access to the sea to a landlocked country. Take Russia, which has an outlet to the sea – it does not deny anyone access to the sea. Lithuania, Latvia and Ukraine have closed their routes to the sea [for us]. This is a violation. I just wanted to refresh your memory.

The Russian President issued an instruction – I asked him about this – to let Russia help us, without foot-dragging and red tape, to build a port terminal for our use near St Petersburg and use it to tranship millions of tonnes of cargo; it is not a matter of funding – we have money to do this. He gave instructions in my presence to begin construction without delay. We will tranship millions of tonnes of cargo over 12 to 18 months – I do not know how long exactly; you can ask the ambassador who is sitting over there and who has been dealing with this issue. But if we withdraw from Ukraine and Lithuania – revenue from the transhipment of our cargo used to make up 30 percent of the latter's budget – we will never go back.

We will hold out. It was the right thing to say that no matter what the situation is like, sanctions also mean new opportunities and, most importantly, the opportunity to engage in import substitution – we will make do. President Putin says that [Russia's import substitution objectives] have been 90 percent achieved, so cooperation between Belarus and Russia will take care of the remaining 10 percent. We will find a way out of this situation one way or another. Even when it comes to the most sensitive things for us, Belarusians and especially Russians, like the most cutting-edge and sophisticated technologies. We can produce anything.

Which country was the first to release a vaccine when the pandemic started? It was Russia. Russia supplied the vaccine to Belarus and then we started producing it. The Russian President said: "You did well!" We have already produced about 2.5 million

doses in Belarus using Russian technology. We are also developing our own technology. Have we coped with this? We have. We will also cope with other issues.

Thank you.

**Publication status**

Published in sections: News, Transcripts

Publication date: February 18, 2022, 17:00

Direct link: [en.kremlin.ru/d/67809](http://en.kremlin.ru/d/67809)

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**Annex 405**

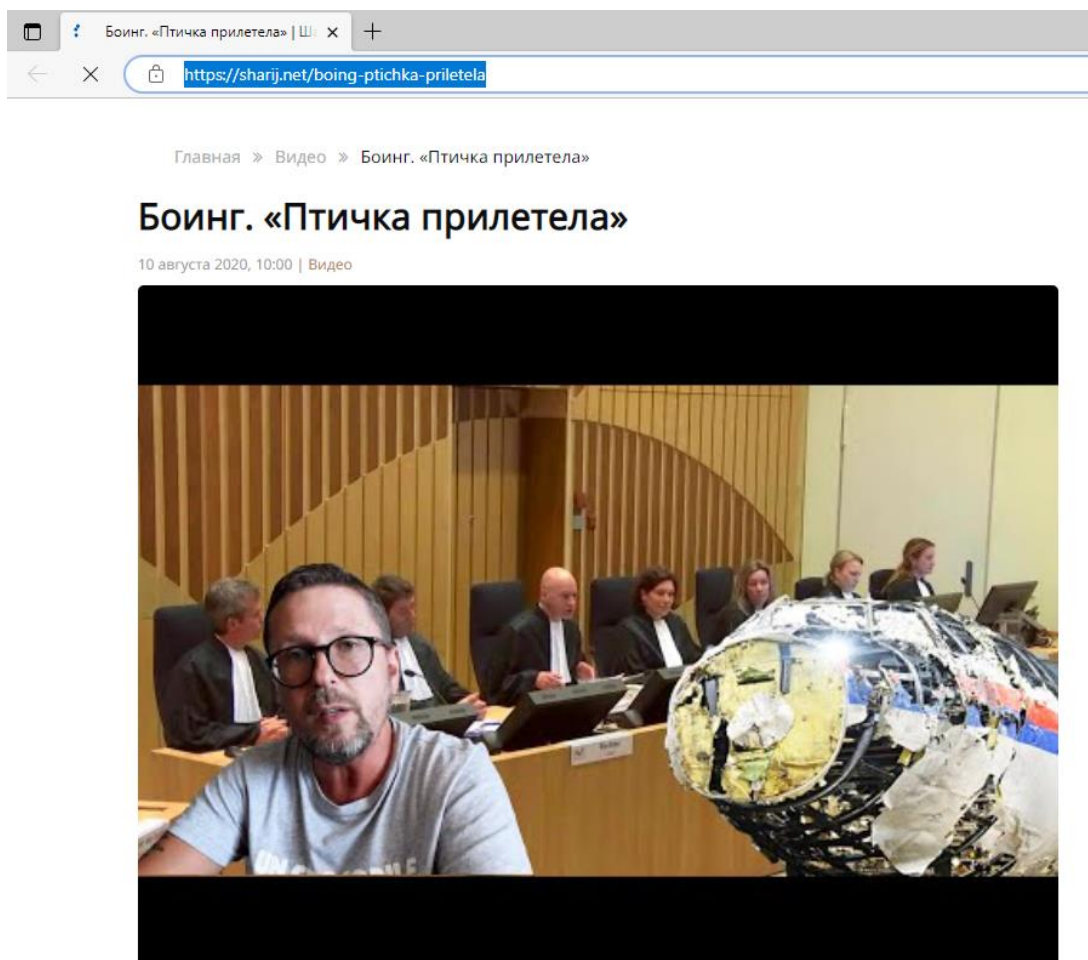
Sharij.net, *BOEING. The bird has come* (10 August 2020)

(translation)



**Transcript  
Translation**

Sharij.net, *BOEING. The bird has come (10 August 2020)*, available at: <https://sharij.net/boing-ptichka-priletela>.

**Transcripts (translation)**

[...]

[05:03]

A plane has just been shot down. The Minera group. It went down outside Yenakiyevo.

[05:11]

Pilots? Where are the pilots?

[05:13]

They went looking for and making photos of a downed plane. It smokes...

[05:16]

How many minutes has it been?

[05:19]

Well, thirty minutes ago somewhere.

[05:23]

This was published by the Security Service of Ukraine. And this is what the Ukrainian Security Service, the Ukrainian state, came up with to try to "push" Dutch justice. There is a full record.

[05:37]

Yes, Vasiliy Nikolaevich.

[05:39]

Igor, tell me, what is this all about <...>?

[05:42]

Yes, that's it <...> Crimea, it's... it's all right.

[05:45]

Ahh... I... got it. <...>.

[05:47]

A plane has just been shot down. The Minera group. It went down outside Yenakiyevo.

[05:54]

Pilots? Where are the pilots?

[05:58]

They went looking for and making photos of a downed plane. It smokes...

[06:00]

How many minutes has it been?

[06:03]

Well, thirty minutes ago somewhere.

[06:05]

It was about half an hour ago, yeah. Which one? Another "SU"?

[06:06]

Yes. It was "SU"...

[06:08]

Which one? Another "SU"? The SU was shot down. But of course, in order not to say that the SU had been shot down, the SBU cut out this part of the footage. This means: The SBU clearly knew what it was talking about. Nevertheless, it blatantly falsified this evidence. They also talked about ejected pilots. It is clear that pilots could not have ejected from a passenger plane.

[...]



**Annex 406**

Roskomnadzor, Report on Registration of Media Outlets, 2016

(translation)





Translation

**Roskomnadzor, Report on Registration of Media Outlets, 2016, available at: <https://rkn.gov.ru/mass-communications/smi-registration/p885/>.**

### Mass Media Registrations in 2016

The Department of Permits, Monitoring and Supervision in Mass Communications (the “Department”) and the territorial offices of the Federal Service for Supervision of Communications, Information Technology, and Mass Media (“Roskomnadzor”) perform their functions related to the registration of printed and electronic mass media outlets (“media”) in accordance with Russian Federation Law No. 2124-I dated 27 December 1991 “On Mass Media” (the “Mass Media Law”) and the Administrative Regulations for the Provision by the Federal Service for Supervision of Communications, Information Technology, and Mass Media of the Governmental Service Related to the Registration of Mass Media as approved by Russian Communications Ministry Order No. 362 dated 6 April 2012.

#### 1.1. Media Registrations by Roskomnadzor’s Central Office

As of **31 December 2016**, the total number of the media outlets registered with the Unified All-Russian Register of Mass Media **amounted to 80,606 – 4% less than in 2015 (83,884)**.

**In the 4<sup>th</sup> quarter (12 months) of 2016**, the Department received **1,518 (5,926) applications for media (re)registrations – 20% less (1% more) than in the same period of 2015 (1,903 (5882))**. **1,063 (3,573), 365 (1,747) and 90 (606) of those applications were filed for initial registrations, re-registrations and amendments to previously issued registration certificates**, respectively.

In the 4<sup>th</sup> quarter (12 months) of 2016, **981 (3,621) registration certificates** were issued. In the 4<sup>th</sup> quarter (12 months) of 2015, **1,320 (3,738) registration certificates** were issued.

The number of media outlets registered in the 4<sup>th</sup> quarter (12 months) of 2016 as compared to 2014 and 2015 as split by form of distribution is shown in Table 1 below.

**Table 1**

| Key indicator                                                  | 2014 Q4<br>(12 months) | 2015 Q4<br>(12 months) | 2016 Q4<br>(12 months) |
|----------------------------------------------------------------|------------------------|------------------------|------------------------|
| Indicators characterising the scope of registration activities |                        |                        |                        |
| Total registrations, including:                                | 1,013 (3,617)          | 1,320 (3,738)          | 981 (3,621)            |
| printed media                                                  | 502 (1,893)            | 766 (1,868)            | 354 (1,766)            |
| news agencies                                                  | 26 (67)                | 32 (73)                | 14 (58)                |
| electronic media                                               | 160 (587)              | 183 (601)              | 133 (525)              |
| online media                                                   | 325 (1,070)            | 339 (1,196)            | 480 (1,272)            |

**In the 4<sup>th</sup> quarter (12 months) of 2016**, **4 (17) duplicates** of media (re)registration certificates were issued – **20% (6%) less than in the same period of 2015 (5 (18))**.

**In the reporting period of 2016, the Department excluded 547 (2,020) media** from the Unified All-Russian Register of Mass Media, including:

**73 (351)** media outlets excluded by court orders; and

**474 (1,669)** media outlets excluded by decisions of their founder(s) – **29.3% (36.5%)** more than in the 4<sup>th</sup> quarter (12 months) of 2015 (**423 (1,282)**).

Comparative details of media closures are shown in Table 2 below.

**Table 2**

| <b>Reason for exclusion</b> | <b>2015 Q4</b> | <b>2016 Q4</b> | <b>12 months of 2015</b> | <b>12 months of 2016</b> |
|-----------------------------|----------------|----------------|--------------------------|--------------------------|
| Court order                 | 137            | 73             | 360                      | 351                      |
| Decision by the founder(s)  | 286            | 474            | 922                      | 1,669                    |

## **1.2. Media Registrations by *Roskomnadzor's* Territorial Offices**

**In the 4<sup>th</sup> quarter (12 months) of 2016, *Roskomnadzor's* territorial offices received 711 (2,895) applications for media (re)registrations – 15% (22%) less than in the 4<sup>th</sup> quarter (12 months) of 2015 (834 (3,729)). 303 (1,360), 333 (1,269) and 75 (266) of those applications were filed for initial registrations, re-registrations and amendments to previously issued registration certificates, respectively.**

**In the reporting period (12 months) of 2016, 660 (2,651) registration certificates were issued. In the 4<sup>th</sup> quarter (12 months) of 2015, 795 (3,371) registration certificates were issued. Thus, the number of registration certificates issued decreased by 17% (21%).**

In the 4<sup>th</sup> quarter (12 months) of 2016, *Roskomnadzor's* territorial offices excluded **968 (4,028)** media from the Unified All-Russian Register of Mass Media, including:

**288 (1,583)** media outlets excluded by court orders; and

**680 (2,445)** media outlets excluded by decisions of their founder(s).

In the same period of 2015, *Roskomnadzor's* territorial offices excluded **1,389 (4,825)** media from the Unified All-Russian Register of Mass Media, including:

**614 (2,440)** media outlets excluded by court orders; and

**775 (2,385)** media outlets excluded by decisions of their founder(s).

Thus, the number of the media outlets excluded from the Unified All-Russian Register of Mass Media by *Roskomnadzor's* territorial offices in the 4<sup>th</sup> quarter (12 months) of 2016 decreased by **30.4% (16.5%)** compared to Q4 (12 months) 2015.

**Annex 407**

Commercial Court of Kiev, Case No. 910/7790/16, Decision, 15 June 2016

(excerpt, translation)



**Excerpt  
Translation**

**Commercial Court of Kiev, Case No. 910/7790/16, Decision, 15 June 2016, available at: <https://reyestr.court.gov.ua/Review/58490173>.**

COMMERCIAL COURT OF KIEV

01030, Kiev, 44-V B. Khmelnytskoho Street, tel. (044) 284-18-98, E-mail:  
inbox@ki.arbitr.gov.ua

DECISION

IN THE NAME OF UKRAINE

15.06.2016

Case No. 910/7790/16

Claimant Public Joint Stock Company “Ilyich Iron and Steel Works of Mariupol”

Respondent Public Joint Stock Company “Ukrainian Railways”

[...]

On 25.07.2014, DTEK Rovenkianthracite LLC sent car No. 62110754, consignment note No. 51542678 (anthracite, cargo weight 70,000 kg, determined by the sender on car scales) from the Lobovskie Kopy station to the Mariupol-Sort station of the Donetsk railway to the recipient Public Joint Stock Company “Ilyich Iron and Steel Works of Mariupol”.

[...]

As established by the court, on 25.07.2014 DTEK Rovenkianthracite LLC made the shipment car No. 62110754 according to consignment note No. 51542678 (anthracite, cargo weight 70,000 kg, determined by the sender on the car scales) from the station Lobovskie Kopy to the Mariupol-Sort station of the Donetsk railway to the recipient Public Joint Stock Company “Ilyich Iron and Steel Works of Mariupol”.

[...]



**Annex 408**

Commercial Court of Kiev, Case No. 910/10009/16, Decision, 30 June 2016

(excerpt, translation)





**Excerpt  
Translation**

**Commercial Court of Kiev, Case No. 910/10009/16, Decision, 30 June 2016, available at:  
<http://reyestr.court.gov.ua/Review/58808523>.**

COMMERCIAL COURT OF KIEV

01030, Kiev, 44-V B. Khmelnytskoho Street, tel. (044) 284-18-98, E-mail:  
[inbox@ki.arbitr.gov.ua](mailto:inbox@ki.arbitr.gov.ua)

DECISION

IN THE NAME OF UKRAINE

30.06.2016

Case No. 910/10009/16

Claimant Public Joint Stock Company “Mariupol Metallurgical Factory n.a. Ilyich”

Respondent Public Joint Stock Company “Ukrainian Railways”

[...]

As established by the court, 25.07.2014 DTEK Rovenkianthracite LLC sent cars No. 53602272, No. 56964265, No. 56953185 and No. 58916560 with consignment note No. 51549178 (anthracite, cargo weight of 70,000 kg in each of the wagons, determined by the sender on the car scales) from Fashevka station to Mariupol-Sort. Station of Donetsk railway to the recipient Public Joint Stock Company “Ilyich Iron and Steel Works of Mariupol”.

[...]



**Annex 409**

Commercial Court of Kiev, Case No. 910/9327/16, Decision, 30 June 2016

(excerpt, translation)



**Excerpt  
Translation**

**Commercial Court of Kiev, Case No. 910/9327/16, Decision, 30 June 2016, available at: <https://reyestr.court.gov.ua/Review/58808518>.**

COMMERCIAL COURT OF KIEV

01030, Kiev, 44-V B. Khmelnytskoho Street, tel. (044) 284-18-98, E-mail:  
inbox@ki.arbitr.gov.ua

DECISION

IN THE NAME OF UKRAINE

30.06.2016

Case No. 910/9327/16

Claimant Public Joint Stock Company “Ilyich Iron and Steel Works of Mariupol”

Respondent Public Joint Stock Company “Ukrainian Railways”

[...]

As established by the court, on 22.12.2015 and 23.12.2015 DTEK Rovenkianthracite LLC sent cars No. 53626935 and No. 53115473, respectively, with consignment note No. 50641489 (anthracite, cargo weight of 70,000 kg in each of the wagons, determined by the sender on the car scales) from Fashevka station to Mariupol-Sort. Station of Donetsk railway to the recipient Public Joint Stock Company “Mariupol Metallurgical Factory n.a. Ilyich”.

[...]



**Annex 410**

Commercial Court of Lugansk Region, Case No. 913/1184/16, Decision, 21 November 2016

(excerpt, translation)





**Excerpt  
Translation**

**Commercial Court of Lugansk Region, Case No. 913/1184/16, Decision, 21 November 2016,  
available at: <https://reyestr.court.gov.ua/Review/62911633>.**

DECISION

IN THE NAME OF UKRAINE

21 November 2016

Case No. 913/1184/16

Proceedings No. 1/913/1184/16

According to the claim of the claimant Public Joint Stock Company "Ukrainian Railways", Kiev, represented by the regional branch "Pridneprovsk Railway" PJSC "Ukrainian Railway", Dnepr, to the defendant Private Joint-Stock Company "Krasnodonugol", Severodonetsk, Lugansk region

[...]

Thus, when considering the case, the court found that during the passage of coal cars No. 61871950 according to consignment notes No. 52488616 and No. 66647843, according to consignment note No. 52457439 on the route from Krasnodon station of the Donetsk railway to PJSC MK "Azovstal" overhang control of the specified cars was carried out.

[...]



**Annex 411**

Commercial Court of Donetsk Region, Case No. 905/3455/15, Decision, 18 February 2016

(excerpt, translation)



**Excerpt  
Translation**

**Commercial Court of Donetsk Region, Case No. 905/3455/15, Decision, 18 February 2016, available at: <https://reyestr.court.gov.ua/Review/56514743>.**

COMMERCIAL COURT OF DONETSK REGION

61022, Kharkov, Nauki Avenue, 5

DECISION

IN THE NAME OF UKRAINE

18.02.2016

Case No. 905/3455/15

Economic Court of Donetsk Region composed of Judge Ovsyannikova O. V.,

with the secretary of the court session Voronoi I. V.,

having considered in open court session in the premises of the Commercial Court the case on the claim

Public Joint Stock Company "Ukrainian Railways" represented by a regional branch "Pridneprovsk Railway" of Public Joint Stock Company "Ukrainian Railways", Dnepropetrovsk to Public Joint Stock Company "Mine Management "Donbass",

[...]

On 23 June 2015 Public Joint Stock Company "Mine Management "Donbass" (consignor) shipped t-grade coal to the address of Public Joint Stock Company "Centrenergo Trypilska TES" (consignee) in car No. 67891077 under consignment note No. 52379773 from Nizhnekrinka station to the Trypolska -Dneprovskoye station.

[...]



**Annex 412**

Commercial Court of Zaporozhye Region, Case No. 908/286/15-g, Decision, 5 March 2015

(excerpt, translation)





**Excerpt  
Translation**

**Commercial Court of Zaporozhye Region, Case No. 908/286/15-g, Decision, 5 March 2015,  
available at: <https://reyestr.court.gov.ua/Review/43033419>.**

COMMERCIAL COURT OF ZAPOROZHYYE REGION

DECISION

IN THE NAME OF UKRAINE

05.03.2015

Case No. 908/286/15-g

according to the claim of the state enterprise "Pridneprovsk Railway" (49600, Dnepropetrovsk, Karl Marx Avenue, 108)

to the defendant: Public Joint Stock Company "Mine Management "Donbass" (83059, Donetsk city, Budyonnovsky district)

[...]

According to the railway consignment note No. 50854777, on 10.07.2014, the consignor, PJSC "Mine Administration "Donbass", sent car No. 68719327 with the cargo, coal of the T-low grade. 0-200., from the departure station of Nizhnokrynka of the Donetsk Railway to the consignee, PJSC Centrenergo Zmiyevskaya TPP, to the station of Lyman of the Southern Railway. According to the cars and items list 19, 24 of the rail waybill, the weight of the cargo in car No. 65296154 was 71,000 kg, and the weight of the tare was 20,900 kg.

[...]



**Annex 413**

Commercial Court of Donetsk Region, Case No. 905/1544/14, Decision, 12 May 2014

(excerpt, translation)



**Excerpt  
Translation**

**Commercial Court of Donetsk Region, Case No. 905/1544/14, Decision, 12 May 2014, available at: <https://reyestr.court.gov.ua/Review/38632669>.**

COMMERCIAL COURT OF DONETSK REGION

83048, Donetsk, Artema str., 157, tel. 381-88-46

**DECISION**

**in the name of Ukraine**

12.05.2014

Case No. 905/1544/14

**The Commercial Court of the Donetsk Region, composed of judge Yu.V. Sych,**

with the secretary of the court session L.M. Shchytova,

having considered the case materials in an open court session

according to the lawsuit of Public Joint Stock Company “Kharkov Machine-Building Plant “Svet Shakhtyora”, Kharkov (identification code 00165712)

against the defendant Public Joint Stock Company “O.F. Zasiadko Mine”, Donetsk (identification code 00174846)

regarding recovery of principal debt in the amount of UAH 499,860.00, inflation in the amount of UAH 4,745.19, penalty in the amount of UAH 32,151.83, 3% per annum in the amount of UAH 7,671.13.

on behalf of the plaintiff: did not arrive

on behalf of the defendant: Tsikra K.O. under power of attorney No. 45/Юр dated 18.03.2013.

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On 15.07.2013, Public Joint Stock Company “Kharkov Machine-Building Plant “Svet Shakhtyora” (contractor) and Public Joint Stock Company “O.F. Zasiadko Mine” (customer) concluded agreement No. 38/715 for the repair of products (hereinafter referred to as the Agreement), under the terms of which the contractor undertakes at its own risk and at the request of the customer to perform repair work of products from its own materials in the range, in quantities and within the terms specified by the parties in the specifications attached to the Agreement, which are integral parts thereof (clause 1.1. of the Agreement).



**Annex 414**

Commercial Court of Poltava Region, Case No. 917/482/17, Decision, 23 May 2017

(excerpt, translation)





**Excerpt  
Translation**

**Commercial Court of Poltava Region, Case No. 917/482/17, Decision, 23 May 2017, available at: <http://reyestr.court.gov.ua/Review/66713571>.**

**COMMERCIAL COURT**

**OF POLTAVA REGION**

36000, Poltava, Zyhina str., 1 tel. (0532) 610-421, fax (05322) 2-18-60, E-mail  
i n b o x @ p l . a r b i t r . g o v . u a

**DECISION**

**IN THE NAME OF  
UKRAINE**

**23.05.2017 Case No. 917/482/17**

According to the lawsuit of Private Enterprise “Poltava Enterprise of Geophysical Works”, Komarova str., 9-A, Poltava, 36008

against State Enterprise “Poltava Department of Geophysical Works”,  
Zavodskaya str., 16, Poltava, 36007

regarding recovery of UAH 259,990.23.

**Judge Semchuk O.S.**

---

**FOUND:**

On 21 June 2016, agreement No. 21/06 was concluded between State Enterprise “Poltava Department of Geophysical Works” (customer) and Private Enterprise “Poltava Enterprise of Geophysical Works” (contractor) for the performance of industrial, geophysical and blasting works (hereinafter referred to as the Agreement, a copy of which is in the case file).

---

According to clause 5.4 of the Agreement, the parties agreed that for the performance of works, the customer makes advance payment in the amount of 100% of the cost of explosive materials. Payment of the cost of the completed works in accordance with the Agreement is made by the customer on the basis of the invoice issued by the contractor and the certificate of acceptance of the completed works signed by PERSON\_1 by transferring funds (including the advance payment) to the contractor's current account.



**Annex 415**

Commercial Court of Donetsk Region, Case No. 905/2849/16, Decision, 17 November 2016

(excerpt, translation)



**Excerpt  
Translation**

**Commercial Court of Donetsk Region, Case No. 905/2849/16, Decision, 17 November 2016, available at: <https://reyestr.court.gov.ua/Review/62910967>.**

Court proceedings number: **not specified**

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COMMERCIAL COURT OF DONETSK REGION

61022, Kharkov, Nauky Ave., 5

**DECISION**

**in the name of Ukraine**

17.11.2016

Case No. 905/2849/16

Judge of the Commercial Court of Donetsk region Filimonova O.Yu., having considered the case materials in an open court session

according to the lawsuit of Private Joint Stock Company “Donetskstal” Metallurgical Plant”, Donetsk

against State Enterprise “Donetsk Railway”, Donetsk

regarding recovery of UAH 56,356.79.

---

**FOUND:**

Agreement No. 3300006639 dated 30.04.2015 for the delivery services was concluded between Limited Liability Company “INCOSTEEL GROUP” (supplier) and Private Joint Stock Company “Donetskstal” Metallurgical Plant” (buyer), on the basis of which the supplier undertakes to transfer to the ownership of the buyer iron ore billets (hereinafter referred to as the Goods) produced by PJSC “SEVHOK”, and the buyer undertakes to accept the specified Goods and pay for them under the conditions provided for in the Agreement and specifications thereto.



**Annex 416**

Commercial Court of Donetsk Region, Case No. 905/3531/15, Decision, 3 March 2016

(excerpt, translation)





**Excerpt  
Translation**

**Commercial Court of Donetsk Region, Case No. 905/3531/15, Decision, 3 March 2016, available at: <https://reyestr.court.gov.ua/Review/56421088>.**

COMMERCIAL COURT OF DONETSK REGION

61022, Kharkov, Nauky Ave., 5

**DECISION**

**in the name of Ukraine**

**03.03.2016**

**Case No. 905/3531/15**

The commercial court of Donetsk region composed of: **Judge Ovsianikova O.V.**,

with the secretary of the court session Voronii I.V.,

having considered in an open court session in the premises of the commercial court the case according to the lawsuit of Limited Liability Company “Transport and Forwarding Company “Energotrans”, Kiev

against Private Joint Stock Company “Donetskstal” Metallurgical Plant”, Donetsk

**regarding recovery of UAH 150,118.56, -**

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Limited Liability Company “Transport and Forwarding Company “Energotrans” filed a lawsuit against Private Joint Stock Company “Donetskstal” Metallurgical Plant” for the recovery of UAH 150,118.56, of which: UAH 146,223.05 in penalties, UAH 3,895.51 per annum.

---

On 31 October 2014, the parties concluded agreement No. 31/10/2014/30212ds for the provision of services, according to clause 1.1 of which the Forwarder (plaintiff) undertook to arrange transshipment from rail and road transport to export sea vessels, and export from the ports of the Customer's imported bulk cargoes, the Customer (defendant) undertook to pay for the work performed and the services provided to SE “Berdiansk MTP”.



**Annex 417**

Commercial Court of Donetsk Region, Case No. 905/2456/15, Decision, 11 January 2016

(excerpt, translation)



**Excerpt  
Translation**

**Commercial Court of Donetsk Region, Case No. 905/2456/15, Decision, 11 January 2016, available at: <https://reyestr.court.gov.ua/Review/54985154>.**

COMMERCIAL COURT OF DONETSK REGION

61022, Kharkov, Lenina Ave., 5

**DECISION**

**in the name of Ukraine**

11.01.2016

Case No. 905/2456/15

Plaintiff: Private Joint Stock Company “Ukrenergotrans”, Dnepropetrovsk against the defendant: State Enterprise “Donetsk Railway”, Donetsk, regarding recovery of UAH 211,778.42.  
Judge Matiukhin V.I.

As can be seen from the case materials and established by the decision of the commercial court of the Zaporozhye region dated 09.06.2015 and by the resolution of the Donetsk Court of Appeal dated 31.08.2015 in case No. 908/1964/15-г, remained unchanged by the decision of the Supreme Commercial Court of Ukraine dated 11 November 2015, in which State Enterprise “Donetsk Railway” was the defendant, and PrJSC “Ukrenergotrans” was a third party without independent claims on the subject of the dispute on the side of the plaintiff, Public Joint Stock Company “Alchevsk Metallurgical Combine” (not a party to this case), “on 22 July 2014, from the Buchach station of the Lvov Railway to the Komunarsk station of the Donetsk Railway under railway waybill No. 38091500 to the consignee: PJSC “Alchevsk Metallurgical Combine” the cargo was sent: metallurgical raw dolomite, according to the list in six railway cars: No. 52728854, 53549077, 53517934, 53585691, 52749330, 52728284. PrJSC “Ukrenergotrans” has been identified as the payer according to this railway invoice.



**Annex 418**

Commercial Court of Luhansk Region, Case No. 913/638/17, Decision, 7 September 2017

(excerpt, translation)





**Excerpt  
Translation**

**Commercial Court of Luhansk Region, Case No. 913/638/17, Decision, 7 September 2017, available at: <https://reyestr.court.gov.ua/Review/68781545>.**

COMMERCIAL COURT OF LUHANSK REGION 61022, Kharkov, Nauki Ave., 5,  
tel./fax 702-10-79 inbox@lg.arbitr.gov.ua

**IN THE NAME OF UKRAINE****DECISION**

07 September 2017 Case No. 913/638/17

Proceedings No. 4/913/638/17

According to the lawsuit of

Limited Liability Company "PSK-Kharkov", Zaliutynska Str.,

against Public Joint Stock Company "Alchevsk Metallurgical Combine", Severodonetsk, Luhansk region

**regarding recovery of UAH 124,190. 93**

**Judge of the Commercial Court of Luhansk Region - Starkova H. M.**

**Secretary of the court session Rochniak T. S.**

**The court session was attended by:**

mon behalf of the plaintiff - PERSON\_1, power of attorney No. w/o No. dated 25.07./2017;

on behalf of the defendant - the representative did not arrive.

**Circumstances of the case:** Limited Liability Company "PSK-Kharkov" filed a lawsuit against Public Joint-Stock Company "Alchevsk Metallurgical Combine", asking the court to recover from the defendant the debt due to agreement No. 5356-AMK-2460-2014-ysl dated 11.12. 2014 for the provision of services for the creation of scientific and technical products in the amount of UAH 124,198. 66, of which: debt under the agreement in the amount of UAH 94,000. 00, inflation charges in the amount of UAH 24,244. 85, 3% per annum in the amount of UAH 5,953. 81

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Agreement No. 5356-AMK-2460-2014-ysl dated 11.12.2014 for the provision of services for the creation of scientific and technical products (hereinafter referred to as the Agreement), according to which the customer instructs and is obliged to pay in accordance with section 2 of the Agreement the works on the development of design documentation, and the contractor undertakes the execution and transfer to the customer of the working documentation for the implementation of LOMAS waste gas analysis systems for converters No. 1 and No. 2 of the oxygen conversion workshop at PJSC "Alchevsk Metallurgical Combine".



**Annex 419**

Commercial Court of Luhansk Region, Case No. 913/639/17, Decision, 14 September 2017

(excerpt, translation)



**Excerpt  
Translation**

**Commercial Court of Luhansk Region, Case No. 913/639/17, Decision, 14 September 2017, available at: <https://reyestr.court.gov.ua/Review/68963844>.**

COMMERCIAL COURT OF LUHANSK REGION 61022, Kharkov, Nauki Ave., 5,  
tel./fax 702-10-79 inbox@lg.arbitr.gov.ua

**IN THE NAME OF****UKRAINE****DECISION**

14 September 2017 Case No. 913/639/17

Proceedings No. 33/913/639/17

According to the lawsuit of Limited Liability Company "PSK-Kharkov", Kharkov  
against Public Joint Stock Company "Alchevsk Metallurgical Combine", Severodonetsk, Luhansk Region,  
regarding recovery of UAH 26,985.03.

**Judge Drahnevich O.V.**

**Secretary of the court session Medunytsia R.I.**

**The court session was attended by:**

on behalf of the plaintiff - PERSON\_1, a representative by proxy dated 25.07.2017,

on behalf of the defendant - the representative did not arrive.

**MERITS OF THE CASE:**

Limited Liability Company "PSK-Kharkov" filed a lawsuit with the Commercial Court of Luhansk Region  
against Public Joint Stock Company "Alchevsk Metallurgical Combine" on the basis of agreement No. 5377-  
AMK-797-2015-ycl dated 20.07.2015 for the provision of services for the development of work  
documentation  
for recovery of funds in the amount of UAH 26,985.03, of which:

---

**FOUND:**

On 20 July 2015, agreement No. 5377-AMK-797-2015-ycl for the provision of services for the  
development of working documentation was concluded between Limited Liability Company "PSK-  
Kharkov" (hereinafter referred to as the plaintiff) as the contractor and Public Joint Stock Company  
"Alchevsk Metallurgical Combine" (hereinafter referred to as the defendant) as the customer (case  
sheets 26-29).

According to the subject matter of the agreement, the customer instructs and undertakes to pay in  
accordance with section 2

of the agreement for works on the development of design documentation, and the contractor undertakes the execution and transfer to the customer of the work documentation for the change of the structures of the U-5 gallery of CPS No. 1 of coke and by-product plant of PJSC "Alchevsk Metallurgical Combine".

**Annex 420**

Commercial Court of Luhansk Region, Case No. 913/511/17, Decision, 27 July 2017

(excerpt, translation)





**Commercial Court of Luhansk Region, Case No. 913/511/17, Decision, 27 July 2017, available at: <https://reyestr.court.gov.ua/Review/68038819>.**

COMMERCIAL COURT OF LUHANSK REGION 61022, Kharkov, Nauki Ave., 5,  
tel./fax 702-10-79 inbox@lg.arbitr.gov.ua

**IN THE NAME OF UKRAINE**

**DECISION**

27 July 2017 Case No. 913/511/17

Proceedings No. 16/913/511/17

**According to the lawsuit of Limited Liability Company “Ventan”, Kramatorsk, Donetsk region  
against Public Joint Stock Company “Alchevsk Metallurgical Combine”, Severodonetsk, Luhansk region  
regarding recovery of UAH 676,220.09.**

**Judge Shelikhina R.M.**

Secretary of the court session Sokruta N.M.

---

The parties in the case concluded agreement No. AMK-1788-2014-пдп dated 13 June 2014 (hereinafter referred to as the Agreement), on the basis of which the contractor (plaintiff) undertakes to perform, for the benefit of the customer (defendant), works on the replacement of reinforced concrete slabs with metal shields, provided for by specified Agreement, and the customer (defendant) undertakes to accept and pay the cost of the performed works under the conditions and in the order specified by the Agreement.



**Annex 421**

Commercial Court of Kiev, Case No. 910/13519/17, Decision, 6 October 2017

(excerpt, translation)



**Excerpt  
Translation**

**Commercial Court of Kiev, Case No. 910/13519/17, Decision, 6 October 2017, available at: <https://reyestr.court.gov.ua/Review/69544181>.**

COMMERCIAL COURT of KIEV 01030, Kiev, B. Khmelnytskogo Str., 44-B, tel. (044) 284-18-98, E-mail: [inbox@ki.arbitr.gov.ua](mailto:inbox@ki.arbitr.gov.ua)

**DECISION****IN THE NAME OF UKRAINE**

**06.10.2017 Case No. 910/13519/17**

According to the lawsuit of Private Joint Stock Company “Ukrenergotrans” against Public Joint Stock Company “Ukrainian Railways” for the renewal of excessively accrued and debited funds in the amount of UAH 108,046.20 on the personal account. **Judge Pidchenko Yu.O.**

**FOUND:**

---

On 30 December 2015, Public Joint Stock Company “Ukrainian Railways” (hereinafter referred to as the Contractor) and Private Joint Stock Company “Ukrenergotrans” (hereinafter referred to as the Forwarder) signed agreement No. DF/3-90020 on the arrangement of cargo transportation and settlement for the transportation and services provided by the railway (hereinafter referred to as the Agreement), the subject matter of which is the settlement by the Forwarder with the Contractor for the services provided by the latter for the transportation of cargo, empty own and leased railway cars and other services to the Consignors/Consignees (hereinafter referred to as the Cargo Owners) (clause 1.1. of the Agreement).

---

Thus, the plaintiff points out that on 9 February 2017, the defendant, at the Komunarsk station accepted for transportation to Romania through the border crossing Vadul-Siret (forwarder: CFR) cargo, namely flat rolled iron or non-alloy steel with a width of 600 mm or more, hot-rolled, non-plated, uncoated, other than separately allocated (GNV - 72089080, ETCHB - 324239), weighing totally 328,810 kg. Transportation was carried out in five of the plaintiff's own operational cars No. 56690639 (cargo weight 67,554 kg), No. 52749124 (cargo weight 65,938 kg), No. 53572533 (cargo weight 64,429 kg), No. 52984598 (cargo weight 65,182 kg), No. 52725603 (cargo weight 65,707 kg) according to railway waybills No. 48356554, 48355796, 48355879, 48355838 dated 9 February 2017 and railway waybill No. 48368179 dated 10 February 2017, and the consignor was Public Joint Stock Company “Alchevsk Metallurgical Combine” (hereinafter referred to as the Consignor).



**Annex 422**

Severodonetsk City Court of Luhansk Region, Case No. 428/5927/20, Sentence, 31 July 2020

(excerpt, translation)





**Excerpt  
Translation**

**Severodonetsk City Court of Luhansk Region, Case No. 428/5927/20, Sentence, 31 July 2020, available at: <https://reyestr.court.gov.ua/Review/90750643>.**

**Court sentence No. 90921696 dated 31.07.2020, Severodonetsk City Court of Luhansk Region — case No. 428/5927/20**

The National Emblem of Ukraine

Criminal proceedings No. 1-ks/428/3616/2020

Case No. 428/5927/20

**SENTENCE****IN THE NAME OF UKRAINE**

31 July 2020 Severodonetsk

Investigating judge of Severodonetsk City Court of the Luhansk Region I.S. Posokhov, with the participation of court session secretary P.V. Koliadintseva, representative of the property owner lawyer S. Bielakh, prosecutor of the Luhansk Region Prosecutor's Office A.Yu. Zinkovskyi, after considering the petition of lawyer Sergey Sergeevich Bielakh in the interests of the Public Joint Stock Company “Alchevsk Metallurgical Combine” on the cancellation of the seizure of property,

**FOUND:**

On 24.07.2020, the investigating judge of the Severodonetsk City Court received a petition from the lawyer Serhii Serhiiiovych Bielakh on behalf of the Public Joint Stock Company “Alchevsk Metallurgical Combine” to cancel the seizure of property.

---

On 29 December 2017, PJSC “AMC” represented by the director of the legal department of the “Industrial Union of Donbass” Corporation (hereinafter referred to as the “IUD” Corporation), the representative of PJSC “AMC” by proxy S.V. Tkachenko appealed to the Main Directorate of the National Police in the Luhansk Region with a statement about the commission of a criminal offense, in which he reported that, starting from 18 December 2017, the property of PJSC “AMC”, located at: Luhansk region, Alchevsk, Shmidta Str., 4 (buildings, machinery, office equipment, vehicles, primary accounting, reporting, permitting, contractual documentation, raw materials, inventory), is illegally owned and controlled by unidentified persons, representatives of the so-called “Luhansk People's Republic” and representatives of the organization with uncertain legal status “Vneshtorgservis”.

On 18 January 2018, “IUD” Corporation, which is the majority shareholder of PJSC “AMC”, by letter No. 337/04 notified the state authorities and local self-government bodies about the loss of control over production assets belonging to PJSC “AMC” and that PJSC “AMC” (legal entity) does not carry out any commercial, production, financial operations in Alchevsk (location of the industrial complex of the metallurgical combine), does not carry out, and until the moment of restoration of control over production assets in Alchevsk, does not intend to carry out the import or export of any products, goods, and material valuables from Alchevsk across the demarcation line in the area of the Anti-Terrorist Operation or across sections of the state border of Ukraine that are temporarily outside the control of the State Border Service of Ukraine and the State Fiscal Service of Ukraine.

---

PJSC “AMC” declares that it is the owner of Metallurgical Products, which was seized by the Resolution dated 30

October 2018, and has the right to file a motion to cancel the seizure of property.

---

All this indicates that in the future there is no need to seize the Metallurgical Products, which was seized by the decision of the Lysychansk City Court dated 30 October 2018 in case No. 415/8777/18.

---

APPROVED:

To grant the petition of the lawyer Sergey Sergeevich Bielakh in the interests of Public Joint Stock Company "Alchevsk Metallurgical Combine" to cancel the seizure of the property.

[https://youcontrol.com.ua/ru/catalog/company\\_details/05441447/](https://youcontrol.com.ua/ru/catalog/company_details/05441447/)To cancel the seizure of metallurgical products of PJSC "Alchevsk Metallurgical Combine" (EDRPOU code 05441447), which was on the COMET vessel under the flag of Liberia in the SE "Mariupol Sea Trade Port", with a total weight of 3,102.182 tons (net) or 3,105.771 tons (gross), namely: hot-rolled steel sheet with cut edges weighing 2,393.764 tons (net) and flat rolled steel from unalloyed steel weighing 708.418 tons (net), imposed by the decision of the investigative judge of the Lysychansk City Court of the Luhansk Region dated 30.10.2018 in case No. 415/8777/18, which prohibited to dispose of and use this property.

[https://youcontrol.com.ua/ru/catalog/company\\_details/05441447/](https://youcontrol.com.ua/ru/catalog/company_details/05441447/)To return to the owner, PJSC "Alchevsk Metallurgical Combine" (EDRPOU code 05441447) the metallurgical products that were on the COMET vessel under the flag of Liberia in the SE "Mariupol Sea Trade Port", with a total weight of 3,102.182 tons (net) or 3,105.771 tons (gross), namely: hot-rolled steel sheet with trimmed edges weighing 2,393.764 tons (net) and non-alloy steel flat products weighing 708.418 tons (net).

**Annex 423**

Commercial Court of Donetsk Region, Case No. 905/44/16, Decision, 27 April 2016

(excerpt, translation)



**Excerpt  
Translation**

**Commercial Court of Donetsk Region, Case No. 905/44/16, Decision, 27 April 2016, available at: <https://reyestr.court.gov.ua/Review/57613978>.**

COMMERCIAL COURT OF DONETSK REGION

61022, Kharkov, Nauki Ave., 5

**DECISION**

**in the name of Ukraine**

**27.04.2016**

**Case No. 905/44/16**

The Commercial Court of Donetsk Region, composed of judge O.M. Skovorodina.

with the secretary of the court session Sapozhnikova Yu.B.

**in the case according to the lawsuit of:** Public Joint Stock Company "Yenakiive Metallurgical Plant", Mariupol

**against defendant 1:** Public Joint-Stock Company "Ukrainian Railway", Kiev

**against defendant 2:** State Enterprise "Donetsk Railway", Donetsk

**regarding the recovery of cargo deficiency in the amount of UAH 20,206.49**

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On the basis of contract No. 13-001768 dated 31.05.2013 concluded between PJSC "Yenakiive Metallurgical Plant" and Metinvest International S.A., on 22.06.2015 according to railway waybill No. 52483062, PJSC "Yenakiive Metallurgical Plant" (consignor) sent steel wire rods from the Yasinuvata station of the Donetsk Railway to the Mariupol-Port-Export station of the Donetsk Railway to the address of "METINVEST-SHIPPING" LLC (consignee) in car No. 62468145, with a total weight of 60,350 kg. According to consignment note No. 52483062, the cargo is marked and loaded into the cars by the consignor.

According to consignment note No. 52483062, the weight in car No. 62468145 is 60,350 kg net.



**Annex 424**

Commercial Court of Kiev, Case No. 910/7494/16, Decision, 6 September 2016

(excerpt, translation)





**Excerpt  
Translation**

**Commercial Court of Kiev, Case No. 910/7494/16, Decision, 6 September 2016, available at: <https://reyestr.court.gov.ua/Review/61318480>**

COMMERCIAL COURT of KIEV 01030, Kiev, B. Khmelnytskogo str., 44-B, tel. (044) 284-18-98, E-mail: [inbox@ki.arbitr.gov.ua](mailto:inbox@ki.arbitr.gov.ua)

**DECISION****IN THE NAME OF UKRAINE**

06.09.2016 **Case No. 910/7494/16**

According to the lawsuit of Public Joint Stock Company "Yenakiive Metallurgical Plant", Donetsk region

against Public Joint-Stock Company "Ukrainian Railway", Kiev

regarding compensation for damages, the price of the claim is UAH 57,392.05.

**Judge Palamar P.I.**

---

In April 2016, Public Joint-Stock Company "Yenakiive Metallurgical Plant" applied to the court with the above claim.

The plaintiff noted that in order to fulfill contract No. 13-001768 dated 31 May 2013 concluded between the plaintiff and "Metinvest International S.A.", on 29 November 2015 the plaintiff sent railway cars No. 62314315, 59725937 with steel wire rods weighing 132,950 kg from the Yasinuvata station of the Donetsk Railway to the Mariupol-Port station of the Donetsk Railway to the address "Metinvest International S.A.". During the control weighing on the route at the Polohy station of the Prydniprovskaya Railway, a shortage of cargo was established in the indicated cars with a total weight of 8,030 kg, which exceeds the norm of the maximum discrepancy in the determination of the cargo, which is 0.5% of the cargo weight for this type of cargo.



**Annex 425**

Moscow Circuit Commercial Court, Case No. A-40-207643/2020 Resolution, 18 October 2021

(excerpt, translation)



**Excerpt  
Translation****Moscow Circuit Commercial Court, Case No. A40-207643/2020, Resolution, 18 October 2021.**

106958\_2167409

**MOSCOW CIRCUIT  
COMMERCIAL COURT**

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9 Seleznyovskaya st., GSP-4, Moscow, Russia, 127994,  
official website: <http://www.fasmo.arbitr.ru> e-mail: [info@fasmo.arbitr.ru](mailto:info@fasmo.arbitr.ru)

**RESOLUTION**

City of Moscow

18.10.2021

Case No. A40-207643/2020

The operative part of the ruling was announced 11.10.2021

The full text of the ruling was published 18.10.2021

The Moscow Circuit Commercial Court, composed of:

presiding judge Yartsev D.G.,

judges: Kochergina E.V., Yadrentseva M.D,

with the participation of:

on the part of claimant: "Leader-Trade" Limited Liability Company- Galkina V.V., by proxy dated 11 January 2021;

on the part of defendant: "Raiffeisenbank" Joint Stock Company - Potrebich A.V., by proxy dated 16 December 2020;

having examined on October 11, 2021 the cassation appeal of Joint-Stock Company "Raiffeisenbank" for the judgment of the Commercial Court of the City of Moscow dated 30 April 2021 and the ruling of the Ninth Commercial Appeal Court dated 22 July 2021

on the claim brought by "Leader-Trade" Limited Liability Company against the joint-stock company "Raiffeisenbank"

to declare the actions unlawful

**ESTABLISHED:**

[...]

The courts of the first and appellate instances, having investigated and evaluated the evidence presented in the case in accordance with the provisions of Article 71 of the Russian Federation Code of Procedure in Commercial Courts, guided by the provisions of Articles 309, 845, 849, 854, 858, 864 of the Russian Federation Civil Code, Article 7 of Federal Law No. 115-FL "On Counteracting the Legalisation (Laundering) of Criminal Proceeds and Financing of Terrorism" of 07 August 2001, having found that the defendant had not submitted evidence in the case file that the plaintiff's transactions had been found suspicious, nor had it submitted a decision by an authorised body to block the account or a court order, they concluded that the bank's actions were unlawful and therefore declared the claims to be satisfied.

[...]

The arguments of the cassation appeal should be dismissed because the courts rightly proceeded from the fact that the defendant did not provide evidence in the case file that the client (the plaintiff) has been found to have carried out suspicious transactions. The courts have not found any evidence that the plaintiff's transactions were deemed suspicious or on any other grounds not in compliance with Federal Law No 115-FL "On Counteracting the Legalisation (Laundering) of Criminal Proceeds and Financing of Terrorism" of 7 August 2001.

[...]

#### HELD:

To leave the Judgment of the Commercial Court of the City of Moscow dated 30 April 2021 and the Ruling of the Ninth Commercial Appeal Court dated 22 July 2021 on the case No. A40-207643/2020 without amendment, to leave the cassation appeal without satisfaction.

Presiding Judge

D.G. Yartsev

Judges:

E.V. Kochergina  
M.D. Yadrentseva

**Annex 426**

Darnytskyi District Court of Kiev, Case No. 753/23764/15-k, Sentence, 28 December 2015

(excerpt, translation)





**Excerpt  
Translation**

**Darnytskyi District Court of Kiev, Case No. 753/23764/15-k, Sentence, 28 December 2015, available at: <https://web.archive.org/web/20220620180444/https://reyestr.court.gov.ua/Review/54799070>.**

**DARNYTSKYI DISTRICT COURT OF KIEV**

Case No. 753/23764/15-k  
proceedings No. 1-kp/753/884/15

**SENTENCE**

**IN THE NAME OF UKRAINE**

28 December 2015 Darnytskyi District Court of Kiev composed of:

|                                          |                     |               |
|------------------------------------------|---------------------|---------------|
| <b>presiding judge</b>                   | <b>Schasna T.V.</b> |               |
| with the participation of the prosecutor |                     | Rybyzant T.L. |
| with the participation of the secretary  |                     | Pushniak A.M. |
| with the participation of the defenders  |                     | PERSON_2,     |

PERSON\_3,

PERSON\_4

having held a preparatory meeting in the video conference mode in an open court session in the courtroom in Kiev, in the criminal proceedings regarding:

PERSON\_5, INFORMATION\_1, citizen of Ukraine, Ukrainian, native of Luhansk, residing at ADDRESS\_3, no prior convictions, accused under part 2, Art. 258 -5 of the Criminal Code of Ukraine.

PERSON\_6, INFORMATION\_4, citizen of Ukraine, Ukrainian, native of Luhansk, registered in Luhansk, ADDRESS\_1, residing at ADDRESS\_4, no prior convictions, accused of 2, Art. 258-5 of the Criminal Code of Ukraine,-

**FOUND:**

In February 2015, PERSON\_5, knowing about the shortage of cash in the financial market of the temporarily occupied territory of the Luhansk region, the lack of banking institutions of Ukraine and problems with providing the members of the terrorist organization “LPR” with the necessary cash, with prior collusion with PERSON\_7 and other persons, deliberately created in the territory of Luhansk financial institution of the terrorist organization “LPR” under the name “First Financial Center”, which began its illegal activities on 2 March 2015 at the address: Luhansk, Radianska str., 54, and in July 2015 it was renamed as “First Commercial Center”.

At the same time, PERSON\_5, together with PERSON\_7 and other unknown persons, in order to create imaginary financial well-being and stability in the territory temporarily controlled by the terrorist organization “LPR” and for their own enrichment, organized the work of the “First Commercial Center” under the guise of a financial services company: issuance of cash in Ukrainian and Russian currencies from their bank accounts to members of the terrorist organization “LPR”, payment of transfers from the territory of Russia and Ukraine, crediting of funds to current accounts, currency exchange, top-up of mobile phones, with retention of interest for the services provided.



**Annex 427**

Kievskiy District Court of Kharkov, Case No. 640/9543/15-k, Sentence, 3 June 2015

(excerpt, translation)



**Excerpt  
Translation**

**Kievskiy District Court of Kharkov, Case No. 640/9543/15-k, Sentence, 3 June 2015, available at: <https://web.archive.org/web/20170130000418/https://reyestr.court.gov.ua/Review/44613302>.**

Case No. 640/9543/15-k

**SENTENCE****IN THE NAME OF UKRAINE**

03.06.2015 Kievskiy District Court of Kharkov composed of:

presiding judge Senatorov V.M.

with the secretary Serhieieva N.S.

with the participation of the prosecutor Bondarenko A.O.

having considered in the preparatory court session in the premises of the Kievskiy District Court of Kharkov indictment in criminal proceedings No. 2201522000000211 dated 22.05.2015 on charges of:

**PERSON\_1**, INFORMATION\_1, native of Diakove village, Anratsyt district, Luhansk region, citizen of Ukraine, secondary technical education, not working, married, no prior convictions, registered at the address: ADDRESS\_1, actually residing at: ADDRESS\_2,

in the commission of the crime provided for in part 2, Art. 258-5 of the Criminal Code of Ukraine, -

**FOUND:**

A plea agreement was reached during pre-trial proceedings.

At the court hearing, it was established that PERSON\_1 at the end of December 2014 / a more precise date was not established during the pre-trial investigation / in a telephone conversation with a member of the terrorist organization "Luhansk People's Republic" hereinafter referred to as the "LPR" /, the head of the "LPR" Cossacks, PERSON\_2, offered to provide the latter and other members of the terrorist organization "LPR" with means of communication in the form of starter packages of mobile operators and "vouchers" for topping-up accounts, in order to provide the specified persons with uninterrupted mobile communication during combat duty in the territory controlled by militants of the terrorist organization "LPR", coordination of joint actions, etc.

Further, PERSON\_1 in mid-January 2015 / a more precise date was not established during the pre-trial investigation / while staying in Kharkov, realizing his criminal intent, aimed at material support of the terrorist organization "LPR", in the territory of the "Barabashova" shopping center in Kharkov, from a previously unknown person selling in the absence of a certain trading point, purchased starter packages of the mobile operator of Ukraine "MTS" and "vouchers" for topping-up the account of the mobile operator of Ukraine "MTS" in the amount of UAH 30,000 with the purpose of their further transfer to PERSON\_2, having spent his own savings.

Subsequently, at the end of January 2015 / a more precise date was not established during the pre-trial investigation /, PERSON\_1 sent part of the starter packages of the mobile operator of Ukraine "MTS" and "vouchers" for topping-up the account of the mobile operator of Ukraine "MTS" purchased under the specified circumstances, in the total amount of UAH 20,000, from Kharkov to Rovenky, Luhansk region, by transferring to PERSON\_3, a driver of a shuttle taxi, who followed the specified route without informing about his criminal intentions. At the same time, PERSON\_1 kept a part of the starter packages of the mobile operator of Ukraine "MTS" and "vouchers" for topping-up the account of the mobile operator "MTS" in the amount of UAH 10,000, for their further transfer at the request of representatives of the terrorist organization "LPR", for the purpose of its material support.

---

**JUDGED:**

To approve the plea agreement concluded on 23 May 2015 between the prosecutor of the Kharkov region Prosecutor's Office V. Lyamar and the accused PERSON\_1 in criminal proceedings No. 2201522000000211 dated 22 May 2015.

**To find PERSON\_1** guilty of commission of the crime provided for in part 2, Art. 258-5 of the Criminal Code of Ukraine and sentence him to 5 / five / years of imprisonment in accordance with Art. 77 of the Criminal Code of Ukraine without confiscation of property.

**Annex 428**

Sosnovskyi District Court of Cherkassy, Case No. 712/8363/15-k, Sentence, 17 February 2016

(excerpt, translation)





**Excerpt  
Translation**

Sosnovskiy District Court of Cherkassy, Case No. 712/8363/15-k, Sentence, 17 February 2016, available at: <https://web.archive.org/web/20170514054232/https://reyestr.court.gov.ua/Review/56349134>.

Case No. 712/8363/15-k

Proceedings No. 1kp/712/48/16

**SENTENCE****IN THE NAME OF UKRAINE**

On 17 February 2016, the Sosnovskiy District Court of Cherkassy composed of:

presiding judge: S.M. Bashchenko,

with the secretary - Yu.L. Liakhovetska,

with the participation of: prosecutor V.V. Kryvenko, V.V. Kolomiets, O.A. Tkachenko,

defense counsel PERSON\_1

having considered in an open court session in the courtroom in Cherkassy, in the order of special court proceedings, criminal proceedings No. 220142500000025 regarding

**PERSON\_2**, INFORMATION\_1, born on INFORMATION\_2, citizen of Ukraine, Ukrainian, married, INFORMATION\_3, with no dependent minor children, registered at: INFORMATION\_4, residing at: INFORMATION\_5, no prior convictions, since 13.11.2014 has been wanted all over Ukraine, since 04.12.2014 has been wanted interstate,

on suspicion of committing criminal offenses provided for in part 2, Art. 258-5, part 2, Art. 110, part 2, Art. 109 of the Criminal Code of Ukraine,-

**FOUND:**

---

In May 2014, PERSON\_2, under the influence of pro-Russian propaganda spread on various Internet sites and Russian TV channels available for viewing in the territory of Ukraine, with the aim of further providing material support to the terrorist organization "DPR", while staying at his actual place of residence at the address: INFORMATION\_6, using the Internet, established contact with a member of the anti-crisis council of the "DPR", responsible for the logistical support of illegal paramilitary formations of the specified terrorist organization, PERSON\_3, with whom he agreed to collect and transfer to the city controlled by terrorists, Kramatorsk, Donetsk region, of civilian and military clothing, medicines and medical products.

In the period of May-July 2014, PERSON\_2, in fulfillment of previous agreements with PERSON\_3, independently and through his acquaintances, purchased medicines and medical products in the

pharmacies of Cherkassy: painkillers, antiseptics, hemostatics, blood transfusion systems etc., as well as purchased civilian clothes in stock stores of Cherkassy: t-shirts, pants and jackets of green and black colors, for their subsequent transfer to PERSON\_3 for the purpose of further use by militants of the illegal paramilitary formations of the terrorist organization "DPR".

On 29 May 2014, PERSON\_2, continuing the implementation of his criminal intent, aimed at the material support of the terrorist organization "DPR", while staying at his actual place of residence at the address: Cherkassy, Lisova str., house 27, packed the medicines and medical products purchased under the above-described circumstances into a postal package, and on the same day in the premises of the Cherkassy representative office of the courier service LLC "Nova-Poshta", located at the address: Cherkassy, Shevchenko blvd., house 150, sent the specified postal package with a total weight of 10 kg to Kramatorsk in the name of PERSON\_3.

**Annex 429**

Slavyansky District Court of Donetsk Region, Case No. 1-kp /243/378/2014, Sentence,  
7 November 2014

(excerpt, translation)



**Excerpt  
Translation**

**Slavyansky District Court of Donetsk Region, Case No. 1-kp/243/378/2014, Sentence, 7  
November 2014, available at: <https://reyestr.court.gov.ua/Review/41273251>.**



1-kp/243/378/2014

243/5919/14

**SENTENCE****IN THE NAME OF UKRAINE**

On November 07, 2014, the Slavyansky District Court of Donetsk Region composed of:

presiding judge - PERSON\_1 ,

with the secretary PERSON\_2 ,

prosecutor PERSON\_3 ,

the accused PERSON\_4 ,

defense counsel PERSON\_5 ,

Having considered in an open preparatory court session in the mode of video conference in courtroom No. 3 of the Slavyansky District Court of Donetsk Region criminal proceedings No. 12014220320001407 on the charges of

PERSON\_4, INFORMATION\_1, born in Slaviansk, Donetsk region, a citizen of Ukraine, with a vocational education, married, unemployed, with one minor child, VAT NUMBER\_1, previously not previously convicted, registered and living at: ADDRESS\_1 , since 10 September 2014 he has been detained in custody in the conditions of a pre-trial detention centre No. 27 in Kharkov.

in committing a criminal offence under Part 2 of Article 260 of the Criminal Code of Ukraine, -

**ESTABLISHED:**

The plea agreement dated 16 October 2014 was reached during the pre-trial investigation.

According to the indictment, PERSON\_4 is accused of committing a criminal offence under Part 2 of Art. 260 of the Criminal Code of Ukraine, i.e. participation in the activities of armed groups not provided for by the laws of Ukraine on the following grounds:

In early April 2014, on the territory of Donetsk region of Ukraine, a citizen of the Russian Federation PERSON\_6 and other unidentified persons created an armed formation not provided for by the laws of Ukraine to forcibly support the government of the illegal self-proclaimed so-called "Donetsk People's Republic", which had an organised military-type structure, namely, unity of command, subordination, clear hierarchy and discipline, was armed with firearms, explosives, and had heavy military weapons and military equipment. In addition, the said formation defined the mechanism of joining it, the procedure for service, and each structural unit was assigned tasks of daily activities,

which consisted of providing military support to illegally created structures of the DPR, suppressing organised resistance of the population in the occupied territory, deporting the population of Donetsk region, establishing martial law, confronting law enforcement agencies of the state executive power of Ukraine, destroying their manpower and material resources. These formations were deployed in different settlements and localities of Donetsk region and had a common leadership coordination.

[...]

**HELD:**

The plea agreement dated 16 October 2014, concluded between the prosecutor of the Iziium Interdistrict Prosecutor's Office of Kharkov region and PERSON\_9 and PERSON\_4, to be approved.

**PERSON\_4**, INFORMATION\_1, to be found guilty of committing a crime under Part 2 of Art. 260 of the Criminal Code of Ukraine and sentenced to 5 years' imprisonment.

In accordance with the requirements of Articles 75, 76 of the Criminal Code of Ukraine, to release the convicted **PERSON\_4** from serving his sentence, with probation period of 3 years, imposing on him the obligation not to leave Ukraine for permanent residence without the permission of the criminal executive inspection; to notify the criminal executive inspection of changes in place of residence, work or study; periodically appear for registration with the criminal executive inspection.

To cancel the preventive measure in the form of detention imposed on PERSON\_4, releasing PERSON\_4 from custody immediately.

The verdict may be appealed to the Court of Appeal of Zaporozhye region through the Slavyansky District Court of Donetsk Region within 30 days from the date of its pronouncement, and by a person in custody within the same period from the moment of delivery of a copy of the court decision.

Judge of Slavyansky District Court of Donetsk Region PERSON\_1

**Annex 430**

SMIDA, *Information on the volumes of production and sales of the main types of products*

(3 February 2023)

(translation)





**Translation**

**SMIDA, Information on the volumes of production and sales of the main types of products (3 February 2023), available at:**  
**<https://smida.gov.ua/db/emitent/year/xml/showform/53850/169/templ>.**



Agency News Databases Services Web sites Support Office SMIDA XML *Enter EDRPOU*

Regulatory information (XML)

**Information on the volumes of production and sales of the main types of products.**

| Item No. | Main type of products                    | Volume of production                   |                        |                                              | Volume of sold products                |                        |                                              |
|----------|------------------------------------------|----------------------------------------|------------------------|----------------------------------------------|----------------------------------------|------------------------|----------------------------------------------|
|          |                                          | in kind (physical unit of measurement) | in cash (UAH thousand) | as a percentage of all manufactured products | in kind (physical unit of measurement) | in cash (UAH thousand) | as a percentage of all manufactured products |
| 1        | 2                                        | 3                                      | 4                      | 5                                            | 6                                      | 7                      | 8                                            |
| 1        | Coal concentrate Ж grade (thousand tons) | 751.7 thousand tons                    | 927,304.1              | 90.37                                        | 730.8 thousand tons                    | 675,667.3              | 66.48                                        |

\* The main types of products are indicated, which make up more than 5% of the total volume of manufactured products in cash.

\*\* Physical unit of measurement (please, specify): pieces, tons, kilograms, meters, etc.

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**Annex 431**

SMIDA, *Business profile* (3 February 2022)

(excerpt, translation)



**Excerpt  
Translation**

SMIDA, Business profile (3 February 2022), available at: <https://smida.gov.ua/db/emitent/year/xml/showform/53850/156/templ>.

**Regulatory information (XML) – Smida****Business profile**

Public Joint Stock Company “O.F. Zasiadko Mine” was founded in the process of privatization in accordance with Article 17 of the Law of Ukraine “On the Privatization of State Property”, the Procedure for the Transformation in the Process of Privatization of Leased Enterprises and Enterprises with a Mixed Form of Ownership into Open Joint Stock Companies, approved by Resolution of the CMU No. 1099 dated 11.09.1996, orders of the State Property Fund of Ukraine No. 444 dated 29.03.2011, No. 744 dated 19.05.2011 and the minutes of the founding meeting of the founders on the establishment of Public Joint Stock Company “O.F. Zasiadko Mine” dated 19.05.2011. PJSC was created on the basis of state-owned property, which was leased by the “O.F. Zasiadko Mine” Lessee Organization and property of the “O.F. Zasiadko Mine” Lessee Organization through the transformation of the “O.F. Zasiadko Mine” Leasing Enterprise into a public joint stock company. Public Joint Stock Company O.F. Zasiadko Mine” is one of the largest coal mining enterprises of Ukraine. The main product is coal concentrate of the “Zh” grade, which is produced from coal mined at a depth of 1,000-1,300 meters under difficult natural conditions. The mine field is located in the central part of the Donetsk-Makeevka geological and industrial district.

[...]

The main suppliers of mining equipment are PJSC “Mining Machinery”, OJSC “Yasynuvata Machine-Building Plant”, TC “Krasnyi Luch Machine-Building Plant”.



**Annex 432**

Oktyabrsky District Court of Saint Petersburg Case No. 2-323/2021 Decision, 19 May 2021

(excerpt, translation)





**Excerpts**  
**Translation**

**Oktyabrsky District Court of Saint Petersburg, Case No. 2-323/2021, Decision, 19 May 2021, available at: [https://oktibrsky--spb.sudrf.ru/modules.php?name=sud\\_delo&srv\\_num=1&name\\_op=case&case\\_id=655332825&case\\_uid=c6b88830-6cdf-4698-8bde-87adea5e50ce&delo\\_id=1540005&new](https://oktibrsky--spb.sudrf.ru/modules.php?name=sud_delo&srv_num=1&name_op=case&case_id=655332825&case_uid=c6b88830-6cdf-4698-8bde-87adea5e50ce&delo_id=1540005&new).**

Unique identification number 8RS0016-01-2020-005109-80

Case No. 2-323/2021

19 May 2021

JUDGEMENT  
IN THE NAME OF THE RUSSIAN FEDERATION

The Oktyabrsky District Court of Saint Petersburg, as composed of:

presiding judge Litvinenko E.V,

with the secretary Bulgakova V.A.

Having heard in the public court proceedings the civil case on the claim brought by NAME1 against NAME4, Private Company NAME4, NAME2, and NAME3 on the declaration of the information untrue and discrediting their honour and dignity, and to charge them with refutation, and to pay compensation for moral damage and costs,

ESTABLISHED:

NAME1 applied to Oktyabrsky District Court of Saint Petersburg with claim against NAME4, Private Company NAME4, NAME2, NAME3 in which with regard to clarification pursuant to Article 39 of the Civil Procedural Code of the Russian Federation dated DAY.MONTH.YEAR:

To declare the information spread in the articles called "Identification of separatists involved in shooting down MH17" and "A little bird flew to you", placed in the Internet on the addresses: <address>.

[...]

HELD:

[...]

Oblige NAME4 (Stichting Bellingcat) Registration Number in the Dutch Business Register (KvK) 72136030, located at 1069CD, The Netherlands, <address> (Keurenplein, 41, 1069CD Amsterdam, the Netherlands), Private Limited Company by guarantee Bellingcat; Registration Number in the UK Company Register; address: United Kingdom, <address>, 6th Office 3rd floor, 37 New Walk, Leicester, United Kingdom, LEI 6TU within five working days from the entry into force of the court decision to refute the information distributed in the articles titled "Identification of separatists involved in shooting down MH17" and "A little bird flew to you", posted on the Internet at the addresses: <address> that contain information not corresponding to reality and defaming honor and dignity of NAME1, by publishing in the same font as the texts of articles on the Internet at <https://ru.bellingcat.com> under the title: "Refutation of information contained in the Bellingcat reports entitled "Identification of separatists involved in shooting down MH17" and "The bird flew to you" (Bellingcat investigation)" of the resolution part of this decision.

To exact from funds of NAME4 (Stichting Bellingcat) Registration Number in the Dutch Business Register (KvK) 72136030, located at 1069CD, The Netherlands, <address> (Keurenplein,

41, 1069CD Amsterdam, the Netherlands) in favour of NAME1 the compensation for moral damage in the amount of 150 000 rubles, the state fee in the amount of 1 700 rubles.

To exact from funds of Private Company NAME4 (Private Limited Company by guarantee Bellingcat; Registration Number in the UK Company Register; address: United Kingdom, <address>, 6th Office 3rd floor, 37 New Walk, Leicester, United Kingdom, LEI 6TU) in favour of NAME1 the compensation for moral damage in the amount of 150 000 rubles, the state fee in the amount of 1 700 rubles.

To exact from NAME3 (Pieter van Huis) in favor of NAME1 compensation for moral damage in the amount of 40,000 rubles and state fee in the amount of 200 rubles.

The remaining part of the claim shall be dismissed.

The decision may be appealed to the Saint Petersburg City Court by filing an appeal through the court that rendered the decision within one month after the date the court decision is rendered in final form.

The reasoned judgment is drawn up on DAY.MONTH.YEAR

Judge: Litvinenko E.V.

**Annex 433**

Constitutional Court of the Russian Federation, Ruling N 2450-O Dismissing a Complaint Filed by Alexander Ivanovich Kolpakidi and Sergey Vasilyevich Nikolayev Against an Alleged Infringement Of Their Constitutional Rights By Articles 1(3) And 13 Of Federal Law “On Counteracting Extremist Activities”, 27 October 2015

(translation)



**Translation**

**Constitutional Court of the Russian Federation, Ruling N 2450-O Dismissing a Complaint Filed by Alexander Ivanovich Kolpakidi and Sergey Vasilyevich Nikolayev Against an Alleged Infringement Of Their Constitutional Rights By Articles 1(3) And 13 Of Federal Law “On Counteracting Extremist Activities”, 27 October 2015.**

**THE CONSTITUTIONAL COURT OF THE RUSSIAN FEDERATION****RULING****No. 2450-O dated 27 October 2015****DISMISSING A COMPLAINT FILED BY ALEXANDER IVANOVICH KOLPAKIDI AND SERGEY VASILYEVICH NIKOLAYEV AGAINST AN ALLEGED INFRINGEMENT OF THEIR CONSTITUTIONAL RIGHTS BY ARTICLES 1(3) AND 13 OF FEDERAL LAW “ON COUNTERACTING EXTREMIST ACTIVITIES”**

The Constitutional Court of the Russian Federation consisting of Presiding Judge V.D. Zorkin and Judges K.V. Aranovsky, A.I. Boytsov, N.S. Bondar, G.A. Gadzhiyev, Y.M. Danilov, L.M. Zharkova, G.A. Zhilin, S.M. Kazantsev, M.I. Kleandrov, S.D. Knyazev, A.N. Kokotov, L.O. Krasavchikova, S.P. Mavrin, N.V. Melnikov, Yu.D. Rudkin, O.S. Khokhryakova and V.G. Yaroslavtsev considered the possibility to accept the complaint filed by A.I. Kolpakidi and S.V. Nikolayev for consideration at a session of the Constitutional Court of the Russian Federation and

**found as follows:**

1. In their complaint filed with the Constitutional Court of the Russian Federation, A.I. Kolpakidi and S.V. Nikolayev, who have been convicted of committing the crimes criminalised by Article 282(2)(b) of the Criminal Code of the Russian Federation, challenge the constitutionality of Article 1(3) of Federal Law No. 114-FZ dated 25 July 2002 “On Counteracting Extremist Activities”, which defines the terms “extremist materials”, and Article 13 of said Federal Law, which establishes a procedure for recognising information materials as extremist and specifies the effects of such recognition.

The complainers allege that the provisions they challenge contradict those of Articles 13, 18, 19, 28, 29 and 44 of the Constitution of the Russian Federation to the extent that they recognise as extremist materials and prohibit the dissemination as well as the production and storage for the purposes of dissemination but not for the purposes of propaganda or agitation inciting racial, national or religious hatred or enmity any documents or publications (works of literature, sciences or art) intended for publication that contain any third-party extremist materials, including those created by the leaders of the German National Socialist Workers’ Party and the Italian Fascist Party, and, to the extent that the provisions they challenge recognise as extremist and prohibit the dissemination as well as the production and storage for the purposes of dissemination any works of the leaders of the German National Socialist Workers’ Party and the Italian Fascist Party, irrespective of when they were created. In addition, the complainers allege that Article 13 of the Federal Law “On Counteracting Extremist Activities” does not comply with the Constitution of the Russian Federation as it requires documents and publications (works of literature, science or art) intended for publication but not for propaganda inciting racial,

national or religious hatred or enmity to be included on the federal list of extremist materials and copies thereof to be seized.

2. Having examined the materials submitted, the Constitutional Court of the Russian Federation finds no grounds for accepting this complaint for consideration.
  - 2.1. Since the Russian Federation, as a democratic state governed by the rule of law, is obliged to ensure the recognition, observance and protection of human and civil rights and freedoms, the unity of the status of an individual across its territory, the protection of other constitutional values such as the sovereignty and state integrity of the Russian Federation, the unity of its system of state power, the delimitation of competences and powers between the Russian Federation and its constituent entities and the unity of its economic space (according to Articles 1(1), 2, 3(1), 4, 5(1), 5(3), 8(1), 11(3), 15(1) and 15(2) of the Constitution of the Russian Federation), and the exercise of human and civil rights and freedoms must not infringe the rights and freedoms of other persons (according to Article 17(3) of the Constitution of the Russian Federation), the Constitution of the Russian Federation provides for a possibility to restrict rights and freedoms to the extent necessary to protect the foundations of the constitutional order, morality, health, rights and legitimate interests of other persons and to ensure the national defence and security of the state (according to Article 55(3) of the Constitution of the Russian Federation).

Said constitutional requirements are consistent with the standards enshrined in international legal instruments, which, while proclaiming the right of everyone to freedom of thought, freedom of conscience and freedom of religion, the right to freely keep one's convictions and the right to freely express one's opinions, including the freedom to seek, receive and disseminate various information and ideas by any means irrespective of national borders, simultaneously establish that the exercise of those rights and freedoms may be subject to certain restrictions prescribed by law and necessary in a democratic society, including for the interests of national security, territorial integrity or public order, for preventing disorders or crimes or for protecting health, morals or the rights of other persons (according to Articles 18, 19 and 29(2) of the Universal Declaration of Human Rights, Article 19 of the International Covenant on Civil and Political Rights, and Articles 9 and 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms).

Furthermore, as directly follows from the foundations of the constitutional system enshrined in the Constitution of the Russian Federation, there is a need to take adequate measures to protect it as well as the duty of the state to establish legal mechanisms contributing to the maximum extent possible to public security, the prevention and suppression of crimes and the preclusion of their negative effects on the personal rights and interests protected by law (according to Ruling of the Constitutional Court of the Russian Federation No. 137-O-O dated 19 February 2009).

Accordingly, if, when exercising his or her constitutional rights and freedoms (including freedom of thought and speech, freedom of creativity, right to have and disseminate and right to act in accordance with his or her convictions), a person infringes rights and freedoms of other persons and such infringement (irrespective of whether it is directed against specific persons or public order in general) is socially dangerous and unlawful, the infringer may be held liable under public (including criminal) law in order to protect

public interests (according to Ruling of the Constitutional Court of the Russian Federation No. 1873-O dated 25 September 2014).

- 2.2. Criminal liability may only be considered lawfully established and complying with the provisions of Articles 19, 54 and 55(3) of the Constitution of the Russian Federation if it is commensurate with the nature and social danger of the criminalised act and the constituent features of said act the presence of which in said act, while constituting a ground for criminal liability, makes it possible to distinguish it from other unlawful and, even more so, lawful acts are precisely and unambiguously defined in a criminal law that consistently fits into the general system of legal regulation (according to Resolution of the Constitutional Court of the Russian Federation No. 22-P dated 16 July 2015).

As repeatedly stated by the Constitutional Court of the Russian Federation, the requirement of certainty of legal rules and their consistency in the general system of legal regulation becomes particularly important in relation to criminal law, which is by its legal nature an extreme (exclusive) means by which the state reacts to instances of unlawful behaviour for the purposes of protection of public relations if such protection cannot be properly ensured only with the help of other legal rules; therefore, any crime as well as the punishment therefor must be clearly specified in law so that, based directly on the text of the relevant rule – if necessary, with the help of its interpretation by courts – everyone can foresee the criminal effects of his or her actions (omissions) (according to Resolutions of the Constitutional Court of the Russian Federation Nos. 8-P dated 27 May 2008, 15-P dated 13 July 2010, No. 18-P dated 17 June 2014, etc.).

Under the Criminal Code of the Russian Federation, the criminality, punishability and other effects under criminal law of an act may only be specified by said Code (according to Article 3(1) of the Criminal Code of the Russian Federation) and the commission of an act containing all elements of an offence criminalised by said Code shall be recognised as a ground for criminal liability (according to Article 8 of the Criminal Code of the Russian Federation).

The provisions of Articles 1(3) and 13 of the Federal Law “On Counteracting Extremist Activities” being challenged only reveal the concept of extremist materials as used for the purposes of this Federal Law and establish a procedure recognising information materials as extremist and determine the effects of such recognition but do not specify the elements of a crime (according to Ruling of the Constitutional Court of the Russian Federation No. 1819-O dated 16 July 2015), including those provided for in Article 282 of the Criminal Code of the Russian Federation, which imposes a liability for actions aimed at inciting hatred or enmity or humiliating the dignity of a person or a group of persons on the grounds of sex, race, nationality, language, origin, attitude to religion or belonging to a social group, which are committed publicly or through the use of mass media or any information and telecommunication networks, including the Internet.

In its Ruling No. 1053-O dated 2 July 2013, the Constitutional Court of the Russian Federation stated that, when applying the provisions of Articles 1(1) and 1(3) of the Federal Law “On Counteracting Extremist Activities”, the courts should proceed from the fact that one mandatory feature of this type of extremism (extremist) materials shall be an explicit or veiled contradiction of the relevant actions (documents) to the constitutional prohibitions of incitement of hatred, enmity and discord and propaganda of social, racial, national, religious or linguistic superiority the existence of which shall be

determined with due regard for all significant circumstances of each particular case (the form and content of activities or information, the addressees, target orientation and socio-political context thereof, the presence of a real threat, including that caused by calls for unlawful encroachments on constitutionally protected values, substantiation or justification of the commission thereof, etc.); the freedoms of conscience, religion and speech and the right to disseminate information may not be restricted by way of anti-extremist law in respect of any activity or information on the sole ground that these do not fit into any generally accepted ideas, disagree with any well-established traditional views or opinions, come into conflict any moral or cultural opinions or any moral and/or religious preferences, otherwise it will mean a deviation from the constitutional requirement of necessity, proportionality and fairness of restrictions on human and civil rights and freedoms, which, by implication of the legal opinion expressed by the Constitutional Court of the Russian Federation in a number of its judgments that remain valid, is addressed, as follows from Articles 18, 19(1) and 55(3) of the Constitution of the Russian Federation, not only to the legislators but also to the law enforcement authorities, including the courts (according to Resolution of the Constitutional Court of the Russian Federation No. 4-P dated 14 February 2013, Rulings of the Constitutional Court of the Russian Federation Nos. 484-O-P dated 2 April 2009, No. 323-O dated 5 March 2013, etc.).

That said, Plenary Resolution of the Supreme Court of the Russian Federation No. 11 dated 28 June 2011 “On Judicial Practices in Criminal Cases on Extremist Crimes” directs the courts to take into account that the crime criminalised by Article 282 of the Criminal Code of the Russian Federation may only be committed with the direct intent and aim of inciting hatred or enmity or humiliating the dignity of a person or a group of persons on the grounds of sex, race, nationality, language, origin, attitude to religion or belonging to any social group; the question of whether the mass dissemination of any extremist materials included on the published federal list of extremist materials constitutes such crime or an administrative offense (according to Article 20.29 Code of Administrative Offenses of the Russian Federation) shall be resolved depending on the intent of the person disseminating such materials; if a person disseminates any extremist materials included on the published federal list of extremist materials with the aim of inciting hatred or enmity or humiliating the dignity of a person or a group of persons on the grounds of sex, race, nationality, language, origin, attitude to religion or belonging to a social group, the acts done by such person shall entail criminal liability under Article 282 of the Criminal Code of the Russian Federation; any expression of any judgments or conclusions using any facts of interethnic, interfaith or other social relations in scientific or political discussions or texts with no aim of inciting hatred or enmity or humiliating the dignity of a person or a group of persons on the grounds of sex, race, nationality, language, origin, attitude to religion or belonging to a social group shall not constitute such crime (according to Article 8 of the Criminal Code of the Russian Federation).

Accordingly, the legal provisions being challenged, while acting in the system of legal regulation, do not imply criminal liability for the dissemination of any information which is not aimed at inciting hatred or enmity or humiliating the dignity of a person or a group of persons on the grounds of sex, race, nationality, language, origin, attitude to religion or belonging to a social group.

- 2.3. The seizure of information materials recognised as extremist by a court decision under Article 13(3) of the Federal Act “On Counteracting Extremist Activities” shall not be



related to the application of liability for any offence but shall be a coercive measure of state response aimed at eliminating access to such materials and preventing the threat of any negative impact thereof on the constitutionally protected values is provided with the necessary guarantees of judicial protection of the property rights of the owner of the relevant materials and as such does not go beyond the constitutionally permissible limits of restriction of human and civil rights and freedoms (according to Ruling of the Constitutional Court of the Russian Federation No. 1053-O dated 2 July 2013).

Consequently, the rules challenged by the complainers may not be regarded as infringing their constitutional rights in the aspect they indicate and, therefore, their complaint may not be accepted for consideration by the Constitutional Court of the Russian Federation as it fails to meet the criterion of admissibility as enshrined in the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”.

In view of the foregoing and pursuant to Articles 43(2), 79(1), 96 and 97 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”, the Constitutional Court of the Russian Federation hereby

**rules**

1. That the complaint filed by Alexander Ivanovich Kolpakidi and Sergey Vasilyevich Nikolayev be dismissed as it fails to meet the requirements for a complaint filed with the Constitutional Court of the Russian Federation to be recognised as admissible as imposed by the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”; and
2. That this Ruling issued by the Constitutional Court of the Russian Federation on said complaint be final and not subject to appeal.

V.D. ZORKIN,  
Presiding Judge of the Constitutional Court of the Russian Federation



**Annex 434**

Constitutional Court of the Russian Federation, Ruling No. 137-O-O Dismissing a Complaint  
Filed by E.D. Bzarova, E.L. Kesayeva, V.A. Nazarov and E.L. Tagayeva Against an Alleged  
Infringement of Their Constitutional Rights by Article 14(2) of the Federal Law “On Combating  
Terrorism”, 19 February 2009

(translation)



**Translation**

**Constitutional Court of the Russian Federation, Ruling No. 137-O-O Dismissing a Complaint Filed by E.D. Bzarova, E.L. Kesayeva, V.A. Nazarov and E.L. Tagayeva Against an Alleged Infringement of Their Constitutional Rights by Article 14(2) of the Federal Law “On Combating Terrorism”, 19 February 2009.**

**THE CONSTITUTIONAL COURT OF THE RUSSIAN FEDERATION****RULING**

**No. 137-O-O dated 19 February 2009**

**DISMISSING A COMPLAINT FILED BY E.D. BZAROVA, E.L. KESAYEVA,  
V.A. NAZAROV AND E.L. TAGAYEVA AGAINST AN ALLEGED INFRINGEMENT  
OF THEIR CONSTITUTIONAL RIGHTS BY ARTICLE 14(2) OF THE FEDERAL  
LAW “ON COMBATING TERRORISM”**

The Constitutional Court of the Russian Federation consisting of Presiding Judge V.D. Zorkin and Judges N.S. Bondar, G.A. Gadzhiyev, Y.M. Danilov, L.M. Zharkova, G.A. Zhilin, S.M. Kazantsev, M.I. Kleandrov, S.D. Knyazev, L.O. Krasavchikova, S.P. Mavrin, N.V. Melnikov, Y.D. Rudkin, N.V. Seleznyov, A.Y. Sliva, V.G. Strekozov, O.S. Khokhryakova and V.G. Yaroslavtsev considered the possibility to accept the complaint filed by Ms. E.D. Bzarova, Ms. E.L. Kesayeva, Mr. V.A. Nazarov and Ms. E.L. Tagayeva for consideration at a session of the Constitutional Court of the Russian Federation and

**found as follows:**

1. In their complaint filed with the Constitutional Court of the Russian Federation, E.D. Bzarova, E.L. Kesayeva, V.A. Nazarov and E.L. Tagayeva challenge the constitutionality of Article 14(2) of Federal Law No. 130-FZ dated 25 July 1998 “On Combating Terrorism”, which prohibits those people negotiating with terrorists from considering the possibility to meet their political demands as a condition for them to stop their act of terrorism.

According to the complainers who were recognised as victims of the act of terrorism that took place in the town of Beslan in the period from 1 to 3 September 2004, the rule of law they are challenging infringes the rights of people to life, liberty and personal privacy and contradicts Article 20(1) of the Constitution of the Russian Federation as it served an obstacle to negotiations with the terrorists who had made no demands other than political ones.

2. Having examined the materials submitted by the complainers, the Constitutional Court of the Russian Federation finds no grounds for accepting their complaint for consideration.
  - 2.1. As a democratic federative state governed by the rule of law, the Russian Federation is obliged to ensure the recognition, observance and protection of human and civil rights and freedoms, the unity of the status of an individual across its territory as well as the protection of other constitutional values such as the sovereignty and state integrity of the Russian Federation, the unity of its system of state power, the delimitation of competences and powers between the Russian Federation and its constituent entities, the

unity of its economic space, and its national defence and security (according to Articles 1(1), 2, 3(1), 4(1), 4(2), 5(1), 5(3), 8(1), 11(3), 15(1), 15(2) and 55(3) of the Constitution of the Russian Federation). The Constitution of the Russian Federation prohibits any activities aimed at forcibly changing the foundations of the constitutional order or violating the integrity of the Russian Federation, undermining the security of the state, or inciting social, racial, national and religious discord from being carried out in the Russian Federation; any governmental and local authorities, officials, citizens and associations thereof shall be obliged to comply with the Constitution of the Russian Federation and the laws (according to Articles 13(5) and 15(2)). By virtue of Articles 16(1) and 135 of the Constitution of the Russian Federation, the provisions of its Chapter 1 shall constitute the foundations of the constitutional order in the Russian Federation and may only be amended by adopting a new Constitution of the Russian Federation.

As directly follows from the foundations of the constitutional system enshrined in the Constitution of the Russian Federation, there is a need to take adequate measures to protect it as well as the duty of the state to establish legal mechanisms contributing to the maximum extent possible to public security, the prevention and suppression of crimes and the preclusion of their negative effects on the personal rights and interests protected by law. By implication of the aforementioned constitutional provisions, it also follows that it shall be inadmissible for representatives of the state power to take any actions contributing, whether directly or indirectly, to a change of the constitutional system of the Russian Federation.

- 2.2. As indicated in the report of the Policy Working Group on the Role of the United Nations in Relation to Terrorism (dated 6 August 2002), terrorism is currently used as a strategy (Clause 11) and in most cases is essentially a political act (Clause 13).

According to the Declaration on Measures to Eliminate International Terrorism as approved by United Nations General Assembly Resolution 49/60 of 9 December 1994, “states, guided by the purposes and principles of the Charter of the United Nations and other relevant rules of international law, must refrain from... acquiescing in or encouraging activities within their territories directed towards the commission of such acts” (Clause 4 of the Declaration) and “take promptly all steps necessary to implement the existing international conventions on this subject to which they are parties, including the harmonization of their domestic legislation with those conventions” (Clause 5(e) of the Declaration). The unequivocal condemnation of the acts, methods and practices of terrorism was reaffirmed by the State Members of the United Nations in the Supplementary Declaration to the 1994 Declaration on Measures to Eliminate International Terrorism as approved by United Nations General Assembly Resolution 51/210 of 17 December 1996, which emphasised the obligation of states to co-operate in preventing, suppressing and eliminating terrorism in accordance with the relevant provisions of international law (Clauses 1 and 5 of the Supplementary Declaration).

Confirming the urgent need to combat by all means all forms and manifestations of terrorism, which reduces stability in the world and poses a serious and growing threat to the exercise of human rights and to the social and economic development of states, the United Nations Security Council in its Resolution 1624 (2005) adopted on 14 September 2005 stresses the importance of taking appropriate measures at the national and international levels to protect the right to life. Article 4(1) of the Council of the

European Union Framework Decision of 13 June 2002 on Combating Terrorism says that each member state shall take the necessary measures to ensure that inciting or aiding or abetting a terrorist offence is made punishable.

Thus, various international documents orient states to conduct an uncompromising fight against terrorism, stressing the inadmissibility of meeting the political demands of terrorists, prescribing the use of a set of legal, political, socio-economic, propagandistic and other measures to counter terrorism for protecting individuals and society from the threats it generates, induce to a voluntarily renouncement of acts of terrorism, and prevent the effects of terrorism.

- 2.3. Terrorism is an ideology of violence and a practice of influencing the decision-making by governmental or local authorities or international organisations, which are associated with intimidation of people and/or other forms of unlawful violent actions (according to Article 3 of Federal Law No. 35-FZ dated 6 March 2006 “On Counteracting Terrorism”), and an “act intended to cause death or serious bodily injury to a civilian, or any other person not taking an active part in the hostilities in a situation of armed conflict or to cause major damage to any material facility, as well as to organise, plan, aid and abet such act, when the purpose of such act, by its nature or context, is to intimidate a population, violate public security or to compel public authorities or an international organisation to do or to abstain from doing any act” (according to Article 1 of the Shanghai Convention on Combating Terrorism, Separatism and Extremism as ratified by Federal Law No. 3-FZ dated 10 January 2003). Thus, terrorism is associated by its nature with an impact on the political sphere that is aimed at changing the constitutional principles of the organisation of the state and society, including the derogation or abolition of human and civil rights and freedoms.

Therefore, the rule of law being challenged here (as well as a similar provision contained in Article 16(2) of the Federal Law “On Counteracting Terrorism” the adoption of which resulted in the Federal Law “On Combating Terrorism” having lost its force), which prohibits negotiations with terrorists on the fulfilment of their political demands as encroaching on basic constitutional values, intrinsically constitutes a guarantee of those values. This provision does not imply any refusal to recognise and protect human rights and freedoms or any disregard for the life and health of persons in suppressing an act of terrorism. Otherwise it would contradict both Articles 1, 2, 15 and 17 of the Constitution of the Russian Federation and Article 2 of the Federal Law “On Counteracting Terrorism”, which provides, among the other basic principles of counteracting terrorism, that fundamental human and civil rights and freedoms shall be ensured and protected and that the protection of the rights and legitimate interests of those persons exposed to terrorist danger shall be a priority.

- 2.4. The legislative provision on the inadmissibility of considering any political demands made by terrorists when negotiating with them, while also being addressed in many respects to the perpetrators of such crimes, has a preventive nature and is a measure to prevent acts of terrorism pursuing political goals by making such goals unachievable and such acts useless.

A strategy for holding negotiations with terrorists in a specific situation to preserve the life and health of people should be chosen with due regard for the fact that any discussion of the possibility to meet the political demands of terrorists and, moreover,

any concessions to them in this regard would not help minimise the consequences of terrorism but, on the contrary, can aggravate the terrorist threat, strengthen the agitation and propaganda effect of the act of terrorism, stimulate new acts of terrorism and, eventually, cause them to transform into a mechanism for politically manipulating the state, which would run contrary to the very principles of the existence of a democratic state based on the rule of law.

Thus, Article 14(2) of the Federal Law “On Combating Terrorism” is designed to prevent the terrorist threat and, accordingly, to ensure the security of individuals and preserve people’s lives, i.e. is consistent with the constitutionally significant objectives and may not be regarded as infringing the complainers’ constitutional rights.

The balance of constitutional values when a decision is made to hold negotiations cannot be revealed by legal means alone. Therefore, the Constitutional Court of the Russian Federation is not competent to assess the legality, reasonability or expediency of any actions taken or decisions taken by any executive authorities or their officials during a counter-terrorist operation, including the method (force or negotiations) of suppressing an act of terrorism they chose in the end or their tactics of arranging for and holding any negotiations with terrorists.

In view of the foregoing and pursuant to Articles 40(2), 43(1)(2), 79(1), 96 and 97 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”, the Constitutional Court of the Russian Federation hereby

**rules:**

1. That the complaint filed by E.D. Bzarova, E.L. Kesayeva, V.A. Nazarov and E.L. Tagayeva be dismissed as it fails to meet the requirements for a complaint filed with the Constitutional Court of the Russian Federation to be recognised as admissible as imposed by the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”; and
2. That this Ruling issued by the Constitutional Court of the Russian Federation on said complaint be final and not subject to appeal.

V.D. ZORKIN,  
Presiding Judge of the Constitutional Court of the Russian Federation

Y.M. DANILOV,  
Registrar Judge of the Constitutional Court of the Russian Federation



**Annex 435**

Constitutional Court of the Russian Federation, Ruling No. 1873-O Dismissing a Complaint  
Filed by Nadezhda Andreyevna Tolokonnikova Against an Alleged Infringement of Her  
Constitutional Rights by Article 213(2) of the Criminal Code of the Russian Federation,  
25 September 2014

(translation)



**Translation**

**Constitutional Court of the Russian Federation, Ruling No. 1873-O Dismissing a Complaint Filed by Nadezhda Andreyevna Tolokonnikova Against an Alleged Infringement of Her Constitutional Rights by Article 213(2) of the Criminal Code of the Russian Federation, 25 September 2014.**

**THE CONSTITUTIONAL COURT OF THE RUSSIAN FEDERATION****RULING**

**No. 1873-O dated 25 September 2014**

**DISMISSING A COMPLAINT FILED BY NADEZHDA ANDREYEVNA  
TOLOKONNIKOVA AGAINST AN ALLEGED INFRINGEMENT OF HER  
CONSTITUTIONAL RIGHTS BY ARTICLE 213(2) OF THE CRIMINAL CODE OF  
THE RUSSIAN FEDERATION**

The Constitutional Court of the Russian Federation consisting of Presiding Judge V.D. Zorkin and Judges K.V. Aranovsky, A.I. Boytsov, N.S. Bondar, G.A. Gadzhiyev, Y.M. Danilov, L.M. Zharkova, G.A. Zhilin, S.M. Kazantsev, M.I. Kleandrov, S.D. Knyazev, A.N. Kokotov, L.O. Krasavchikova, S.P. Mavrin, N.V. Melnikov, Yu.D. Rudkin, N.V. Seleznyov, O.S. Khokhryakova and V.G. Yaroslavtsev considered the possibility to accept the complaint filed by N.A. Tolokonnikova for consideration at a session of the Constitutional Court of the Russian Federation and

**found as follows:**

1. In her complaint filed with the Constitutional Court of the Russian Federation, N.A. Tolokonnikova challenges the constitutionality of the Article 213(2) of the Criminal Code of the Russian Federation, which imposes a liability for an act of hooliganism committed by a group of persons in conspiracy or as an organised group or involving resistance to a representative of authorities or other person performing his or her duties to protect public order or suppress violations of public order.

As follows from the materials submitted, the judgment rendered by the Khamovniki District Court of Moscow on 17 August 2012 sentenced N.A. Tolokonnikova to two years in prison for committing hooliganism as part of a group of persons in conspiracy on the grounds of religious hatred and enmity and on motives of hatred against a social group, i.e. the crime criminalised by Article 213(2) of the Criminal Code of the Russian Federation. Based on the aggregate of the evidence examined, the Khamovniki District Court of Moscow stated in its judgment that the act incriminated to N.A. Tolokonnikova and two other convicts was expressed in the arrangement for and commission in a public place (an Orthodox church) of actions grossly violating public order and dictated by their desire to oppose themselves to those persons attending the temple for their religious feelings, demonstrate a dismissive attitude towards them, namely by shouting swear phrases and words insulting the feelings of those present and by carrying out other emphatically vulgar and deliberately provocative actions (such as imitation of dances and infliction of blows against imaginary opponents) that were inadmissible and unacceptable, given the fact that said public place was specially intended for religious rites and ceremonies, thereby breaching the generally recognized rules of conduct. The

Criminal Bench of the Moscow City Court checked the arguments put forward in the cassation appeals by the convicts and their lawyers, including the alleged absence of elements of a crime in the act, and issues a cassation ruling dated 10 October 2012 finding the qualification of the act committed to be correct and leaving the judgment rendered against N.A. Tolokonnikova intact.

The applicant alleges that Article 213(2) of the Criminal Code of the Russian Federation does not comply with Articles 14, 15, 19, 54(2) and 55 of the Constitution of the Russian Federation as it disproportionately restricts the freedom of expression and allows recognising a violation of religious norms as that of public order and establishing the criminal nature of any acts on the basis of their perception by a majority of the population as unacceptable.

2. Having examined the materials submitted within the limits of its powers relating exclusively to matters of law and not implying any assessment of facts in all cases where this falls within the competence of other courts or other bodies (pursuant to Articles 3(3) and 3(4) of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”), the Constitutional Court of the Russian Federation finds no grounds for accepting this complaint for consideration.
  - 2.1. The Constitution of the Russian Federation, while establishing that people and their rights and freedoms are the highest value and recognising ideological diversity as a foundation of the constitutional order, guarantees everyone freedom of conscience, freedom of religion, including the right to profess individually or jointly with others any religion or no religion at all and the right to freely choose, possess and disseminate religious or other beliefs and act in accordance therewith, freedom of thought and speech, and the right to freely seek, receive, transmit, produce and disseminate information by any lawful means (according to Articles 2, 13(1), 28, 29(1) and 29(4)), which, along with other rights and freedoms, including the right to association and freedom of activity of public associations (according to Article 30(1)), specify the meaning, content and application of laws and the activities of legislative, executive and local authorities and are ensured by justice (Article 18) (according to Ruling of the Constitutional Court of the Russian Federation No. 1053-O dated 2 July 2013).

By implication of the aforementioned constitutional provisions as interpreted by the Constitutional Court of the Russian Federation, matters concerning the religious self-determination of a person, the role and significance of religion in personal and public life as well as specific approaches to and value judgments on topical problems of a social, moral, ethical and other nature as formed as part of certain religious movements are recognised as an integral part of the constitutional legal order based on which freedom of conscience, freedom of religion, including the right to profess, individually or jointly with others, any religion or no religion at all and the right to freely choose, possess and disseminate religious and other beliefs and act in accordance therewith are ensured (Article 28 of the Constitution of the Russian Federation). That said, the Constitution of the Russian Federation, while imposing no ideological or ideological criteria or restrictions for freedom of speech and freedom of dissemination of information, including religious ones, and implying no imposition by a majority of their beliefs or preferences on a minority, precludes any prohibition of public discussions on religious topics, including free expression of opinions, whether critical or others, concerning the nature and content of the activities of religious organisations, provided

that the participants in such discussions should take into account the sensitive nature of the issues under discussion, which may directly affect the religious dignity of other persons professing a particular religion, so that any form of presentation of information relating to the religious sphere that insults public morality is in any case unacceptable in relation to the religious beliefs of both a majority of members of society and those of its members having other religious preferences or not professing any religion at all. Accordingly, where a particular method of disseminating information, including given the circumstances of the place and time of such dissemination, is based on a demonstrative gross disregard for the socially accepted concepts of acceptable behaviour in specific places, including religious ones, has no aesthetic or artistic value and is offensive in itself, such activities go beyond the limits of the lawful exercise of freedom of expression as guaranteed by the Constitution of the Russian Federation.

Given the fact that the Russian Federation, as a democratic state governed by the rule of law, is obliged to ensure the recognition, observance and protection of human and civil rights and freedoms, the unity of the status of an individual across its territory, the protection of other constitutional values such as the sovereignty and state integrity of the Russian Federation, and the unity of the system of state power, the delimitation of competences and powers between the Russian Federation and its constituent entities, the unity of the economic space (according to Articles 1(1), 2, 3(1), 4, 5(1), 5(3), 8(1), 11(3), 15(1) and 15(2) of the Constitution of the Russian Federation), and that the exercise of human and civil rights and freedoms must not infringe the rights and freedoms of other persons (Article 17(3) of the Constitution of the Russian Federation), the Constitution of the Russian Federation provides for a possibility to restrict rights and freedoms to the extent necessary to protect the foundations of the constitutional order, morality, health, rights and legitimate interests of other persons and to ensure the national defence and security of the state (according to Article 55(3) of the Constitution of the Russian Federation).

Said constitutional requirements are consistent with the standards enshrined in international legal instruments, which, while proclaiming the right of everyone to freedom of thought, freedom of conscience and freedom of religion, the right to freely keep one's convictions and the right to freely express one's opinions, including the freedom to seek, receive and disseminate various information and ideas by any means irrespective of national borders, simultaneously establish that the exercise of those rights and freedoms may be subject to certain restrictions prescribed by law and necessary in a democratic society, including for the interests of national security, territorial integrity or public order, for preventing disorders or crimes or for protecting health, morals or the rights of other persons (according to Articles 18, 19 and 29(2) of the Universal Declaration of Human Rights, Article 19 of the International Covenant on Civil and Political Rights, and Articles 9 and 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms).

Furthermore, as directly follows from the foundations of the constitutional system enshrined in the Constitution of the Russian Federation, there is a need to take adequate measures to protect it as well as the duty of the state to establish legal mechanisms contributing to the maximum extent possible to public security, the prevention and suppression of crimes and the preclusion of their negative effects on the personal rights and interests protected by law (according to Ruling of the Constitutional Court of the Russian Federation No. 137-O-O dated 19 February 2009).

Accordingly, if, when exercising his or her constitutional rights and freedoms (including freedom of thought and speech, freedom of creativity, right to have and disseminate and right to act in accordance with his or her convictions), a person infringes rights and freedoms of other persons and such infringement (irrespective of whether it is directed against specific persons or public order in general) is socially dangerous and unlawful, the infringer may be held liable under public (including criminal) law in order to protect public interests.

- 2.2. When considering matters of criminal liability, the Constitutional Court of the Russian Federation noted that the imposition of prohibitions and sanctions for violation thereof by law may not be arbitrary. The use of criminal liability is justified by the need to achieve the goals specified in Article 55(3) of the Constitution of the Russian Federation to protect the foundations of the constitutional order, morality, health, rights and legitimate interests of other persons and to ensure the national defence and the security of the state. That said, the institutions envisaged by criminal law for protecting individuals, society and the state against criminal encroachments and for preventing crimes must be based on the constitutional principles of justice and proportionality of criminal liability to the values protected by criminal law and the constitutional guarantees given to individuals in this area of relations under public law must be unconditionally observed (according to the Preamble and Articles 18, 19(1), 19(2), 49(1), 50(1), 54 and 55(3) of the Constitution of the Russian Federation). When exercising their powers to determine the content of criminal law and to establish the criminality and punishability of certain socially dangerous acts, the federal legislators shall take into account the prevalence of such acts, the significance of the legally protected values they encroach on and the materiality of the harm they cause as well as the impossibility of overcoming them by other legal means (according to Resolutions of the Constitutional Courts of the Russian Federation Nos. 3-P dated 19 March 2003 and 7-P dated 27 June 2005).

These requirements are also applicable to Article 213 of the Criminal Code of the Russian Federation, which is intended to protect public order under criminal law in line with the goals enshrined in Article 55(3) of the Constitution of the Russian Federation and imposes, in Article 213(1), criminal liability for hooliganism, i.e. gross violation of public order, which expresses a clear disrespect for society and is committed with the use of weapons or objects used as weapons or on the grounds of political, ideological, racial, national or religious hatred or enmity or hatred or enmity towards a social group, and, in Article 213(2), criminal liability for the same act committed by a group of persons in conspiracy or as an organised group or involving resistance to a representative of authorities or other person performing his or her duties to protect public order or suppress violations of public order.

- 2.3. As repeatedly noted by the Constitutional Court of the Russian Federation, any offence as well as the punishment therefor must be clearly specified by law so that, based directly on the text of the relevant rule – if necessary, with the help of its interpretation by courts – everyone can foresee the criminal effects of his or her actions (omissions) (according to Resolutions of the Constitutional Court of the Russian Federation Nos. 9-P dated 27 May 2003, No. 8-P dated 27 May 2008, 15-P dated 13 July 2010, etc.). Thus, the implementation of the principles of justice (according to the Preamble of the Constitution of the Russian Federation and Article 6 of the Criminal Code of the

Russian Federation) and equality of all before law and courts (according to Article 19 of the Constitution of the Russian Federation and Article 4 of the Criminal Code of the Russian Federation) is ensured in relations under criminal law.

According to Article 3 of the Criminal Code of the Russian Federation, the criminality, punishability and other criminal legal effects of an act may only be specified by said Code (according to Article 3(1) of the Criminal Code of the Russian Federation) and the application of criminal law by analogy shall be prohibited (according to Article 3(2) of the Criminal Code of the Russian Federation). However, those requirements for the quality of a criminal law do not mean no evaluative or generally accepted concepts (categories) that allow taking into account the need for the effective application of prohibitions imposed by criminal law to an unlimited number of specific legal situations may be used that in formulating its provisions (according to Rulings of the Constitutional Court of the Russian Federation Nos. 441-O dated 4 December 2003, 260-O-O dated 15 April 2008, 484-O-P dated 2 April 2009, 1561-O-O dated 25 November 2010, 572-O-O dated 21 April 2011, 323-O dated 5 March 2013, etc.).

Article 213 of the Criminal Code of the Russian Federation, which imposes a criminal liability for hooliganism the elements of which – namely, “gross violation of public order”, “obvious disrespect for society”, “religious hatred or enmity”, etc. – are established with due regard for the historical and cultural heritage of the peoples of Russia, the generally accepted rules of conduct existing at the present stage of the development of society, the assessed materiality of the breaches of such rules, and the way in which a person exercises his or her rights and freedoms, shall also be applied in conjunction with the aforementioned opinions expressed by the Constitutional Court of the Russian Federation and with due regard for the facts of each particular case (despite the fact that, in accordance with Article 15(2) of Federal Law No. 125-FZ dated 26 September 1997 “On Freedom of Conscience and Religious Associations”, the state shall also respect the internal regulations of religious organisations, provided that those regulations do not contradict the laws of the Russian Federation).

In addition, when deciding whether the defendant’s actions involve a gross violation of public order expressing a clear disrespect for society, the courts shall be obliged to take into account the manner, time and place of the commission as well as the intensity, duration and other circumstances thereof, assess and indicate in their judgments what exactly such gross violation of public order was expressed in, and what circumstances indicated such clear disrespect of society, which disrespect is associated in law enforcement practices with a deliberate violation of generally recognised standards and rules of conduct dictated by the desire to oppose himself or herself to and demonstrate a dismissive attitude towards others. When qualifying the actions taken by a guilty person as hooliganism committed by a group of persons in conspiracy, one should take into account the requirements imposed by Article 35(2) of the Criminal Code of the Russian Federation and the fact that a prior agreement must be reached not only for any of the accomplices to commit such joint hooligan acts but also to use weapons or objects used as weapons or to commit such acts on the grounds of political, ideological, racial, national or religious hatred or enmity or on the grounds of hatred or enmity against a social group. The actions taken by other participants who were not bound by any conspiracy and did not use weapons or objects used as weapons or who did not commit the criminal acts on the grounds of political, ideological, racial, national or religious hatred or enmity or on the grounds of hatred or enmity towards any social group shall

not constitute hooliganism (according to Clauses 1 and 5 of Plenary Resolution of the Supreme Court of the Russian Federation No. 45 dated 15 November 2007 “On the Judicial Practices in Criminal Cases of Hooliganism and Other Crimes Committed out of Hooligan Motives”).

Thus, the rule of criminal law being challenged here does not contain any uncertainty as a result of which a person would be deprived of the opportunity to realise the wrongfulness of his or her act and to foresee his or her liability therefor and which would prevent that rule from being uniformly understood and applied by law enforcement authorities, nor may it be considered as infringing the complainer’s rights in her particular case.

In view of the foregoing and pursuant to Articles 43(2), 79(1), 96 and 97 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”, the Constitutional Court of the Russian Federation hereby

**rules**

1. That the complaint filed by Nadezhda Andreyevna Tolokonnikova be dismissed as it fails to meet the requirements for a complaint filed with the Constitutional Court of the Russian Federation to be recognised as admissible as imposed by the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”; and
2. That this Ruling issued by the Constitutional Court of the Russian Federation on said complaint be final and not subject to appeal.

V.D. ZORKIN,  
Presiding Judge of the Constitutional Court of the Russian Federation



**Annex 436**

OVDInfo, *What is Article 20.2 of the Russian Code of Administrative Offences?*

(translation)



**Translation**

**OVDInfo, *What is Article 20.2 of the Russian Code of Administrative Offences?*, available at: [https://data.ovdinfo.org/20\\_2/#/regions/RU](https://data.ovdinfo.org/20_2/#/regions/RU).**

**What is Article 20.2 of the Russian Code of Administrative Offences?**

Article 20.2 of the Russian Code of Administrative Offences (violation of the established rules for holding assemblies, rallies, demonstrations, marches, and pickets by a participant of a public event) has been used as an indispensable tool for prosecuting participants and organisers of protest actions.

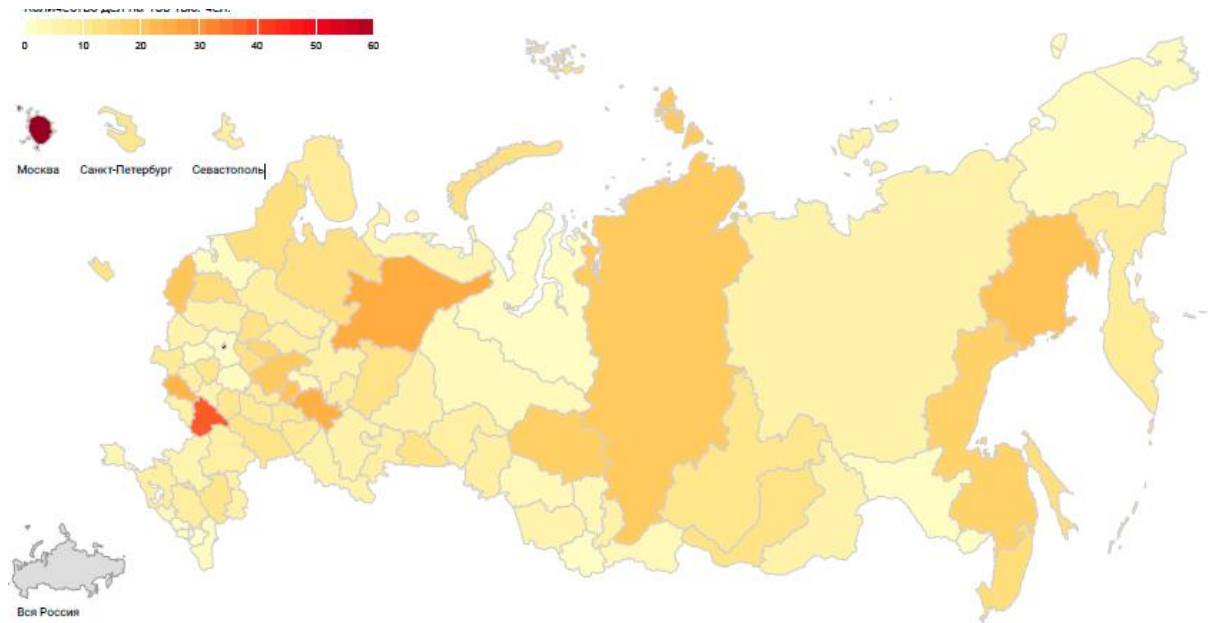
During the 18 years from the early 2004 to the end of 2021, Russian courts have considered 76,826 cases under this article and found 52,259 people guilty of violating the rules for holding public events. The fines totalled RUB 421,384,069.

Meanwhile, the number of characters in the text of the Article has quadrupled (from 1,068 to 4,360), while the number of sections has increased from three to ten. Separate penalties are now imposed for events held without permission, for participating in such events, and for “involving a minor” in participation of such activities. The minimum fine for participating in such event has increased from RUB 1,000 to RUB 10,000. The administrative arrest, previously applied only to unauthorised actions near nuclear facilities, is now applicable under almost all the sections of the Article, namely under eight out of ten. In 2012, penalty in the form of a compulsory community service was introduced.

Since mid-2014, any person committing a “repeated” violation of Article 20.2 of the Code of Administrative Offences faces a fine of RUB 150,000 to RUB 300,000, a compulsory community service for a period of 40 to 200 hours, or an administrative arrest for 15 to 30 days (Article 20.2(8) of the Code of Administrative Offences). Criminal liability was introduced for a “repeated” violation, with a penalty of up to five years’ imprisonment (Article 212.1 of the Code of Criminal Offences).

On this page, we are publishing data pertaining to the cases under Article 20.2 of the Code of Administrative Offences heard in courts during the last 18 years, from the beginning of 2004 until the end of 2021. Here you can find out how many cases of violations at public events have been heard in courts and what decisions have been issued by the courts in different years and in different regions.

| REGIONS                                             | DYNAMICS | Q&A | ANALYTICS | INPUT DATA |
|-----------------------------------------------------|----------|-----|-----------|------------|
| Year<br>2021                                        |          |     |           |            |
| Metrics<br>Number of<br>cases per<br>100,000 people |          |     |           |            |



|                 |                |
|-----------------|----------------|
| Москва          | Moscow         |
| Санкт-Петербург | St. Petersburg |
| Севастополь     | Sevastopol     |
| Вся Россия      | All Russia     |

- All regions - (12.87)

Years

2020,2021

DOWNLOAD DATA

| Metrics                                                                              | 2020  | 2021   |
|--------------------------------------------------------------------------------------|-------|--------|
| Total cases submitted                                                                | 3,881 | 18,812 |
| Cases resubmitted                                                                    | 439   | 1,689  |
| Total cases heard (according to the number of persons)                               | 3,786 | 18,792 |
| Percentage of cases among the total number of cases under Article 20.2 across Russia | 100   | 100    |
| Number of cases per 100,000 people                                                   | 3     | 13     |
| Number of persons convicted                                                          | 2,454 | 15,601 |
| Cases returned to correct detention report non-compliances                           | 845   | 1,798  |
| Cases transferred to another jurisdiction                                            | 92    | 755    |
| Cases dismissed, including dropped administrative charges                            | 395   | 637    |
| Cases dismissed upon submission                                                      | 0     | 1      |
| Number of arrestees                                                                  | 233   | 2,200  |
| Compulsory community service                                                         | 147   | 676    |

|                                                                                            |        |         |
|--------------------------------------------------------------------------------------------|--------|---------|
| Number of people who have been fined                                                       | 2,062  | 12,709  |
| Average fine                                                                               | 16,260 | 13,300  |
| The amount of fines imposed by decisions issued in the reporting period                    | 33,528 | 169,029 |
|                                                                                            | 600    | 731     |
| The ratio of the amount of fines to the total amount of fines under Article 20.2 in Russia | 100    | 100     |

## Methodology

We have obtained the regional breakdown of the Article 20.2 data from a copy available at the federal repository of statistical data of the Judicial Department at the Supreme Court of the Russian Federation. The statistics are available only for the cases heard under this Article in whole, without a breakdown for individual sections.

Our estimates use data on the population of Russia's entities from the Federal State Statistics Service (*Rosstat*). Population data as of the 1<sup>st</sup> of January for the period from 2010 to 2019 have been taken from a Wikipedia article titled "Population – Population of the Entities of the Russian Federation" which refers to *Rosstat*. Population data for 2004-2009 have been taken from the Russia's Demographic Yearbook. These two sources use different population data formats: in the former, the data are presented with an accuracy of 1, while in the latter they are accurate to 1,000 people.

The metrics taken from the statistical reports of the Judicial Department have been shortened for ease of reading. The full description is provided below:

- Total cases heard (according to the number of persons): "Total cases heard (according to the number of persons)", "Number of persons convicted", "Total number of persons sanctioned"
- "Cases returned to correct detention report non-compliances": "Cases returned to correct detention report non-compliances (as per the fourth paragraph of Article 29.4(1) of the Russian Code of Administrative Offences)"
- "Cases transferred to another jurisdiction": "Cases transferred to another jurisdiction"
- "Cases dismissed, including dropped administrative charges": "Cases dismissed for other reasons, including dropped administrative charges (incl. verbal warnings), released from penalty"
- "Cases dismissed upon submission": "Cases dismissed upon submission to prosecutor, to preliminary investigation authority, to investigative authority"<sup>1</sup>
- "Number of people who have been fined": "Administrative penalty / basic punishment / fine imposed"
- "Compulsory community service": "Administrative penalties / basic punishment / compulsory community service imposed"
- "The amount of fines imposed by judgments issued in the reporting period": "The amount of fines (in rubles) imposed by judgments issued in the reporting period (trial courts)"
- "Number of arrests": "Administrative penalties / basic punishment / administrative arrest imposed"
- "Total cases submitted": "Total cases submitted during the reporting period"
- "Cases resubmitted": "Cases resubmitted from column 2: due to change of jurisdiction, after correction of detention reports, after cancellation of resolution / decision"

We have modified some of the data as follows:

- Data on the Komi-Permyak Autonomous District (two persons arrested in 2004) which became part of the Perm Krai, have been included in the Perm Krai data;
- Data on the West Siberian Military Circuit Court have been deleted (one case was returned in 2012 to correct the detention report);
- Data for the 3rd Military Circuit Court has been deleted (1 person fined RUB 5,000 in 2014);
- Data for the Leningrad Military Circuit Court has been deleted (one case received in 2018).

We calculated the parameters titled “Percentage of cases among the total number of cases under Article 20.2 across Russia”, “Average fine”, “The ratio of the amount of fines to the total amount of fines under Article 20.2 in Russia”, and “Number of cases per 100,000 people”; the last of them has been calculated using *Rosstat*’s data.

We added Rosstat population data for the autonomous districts that have been included in larger regions to the data for the respective regions:

- The Taimyr (Dolgano-Nenets) and Evenki autonomous districts have been included in the count for the Krasnoyarsk Krai;
- The Ust-Ordynsky Buryat Autonomous District as part of the Irkutsk Region;
- The Komi-Permyak Autonomous District as part of the Perm Region;
- The Koryak District as part of the Kamchatka Krai;
- The Aginsky Buryat Autonomous District as part of the Transbaikal Krai.

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<sup>1</sup> In 2004, the wording of this metric was: “The proceedings have been terminated / upon the transfer of the case to the prosecutor, internal affairs bodies, or public organisations”

**Annex 437**

Sevastopol Commercial Appeal Court, Case No. A83-112/2014, Resolution, 31 July 2014

(translation)





**Translation**

**Sevastopol Commercial Appeal Court, Case No. A83-112/2014, Resolution, 31 July 2014, available at: <https://21aas.arbitr.ru/node/13305>.**

**SEVASTOPOL COMMERCIAL APPEAL COURT**

21 Suvorova Street, Sevastopol, 299011, tel.: (0692) 54-62-49, fax: (0692) 54-74-95

E-mail: [info@21aas.arbitr.ru](mailto:info@21aas.arbitr.ru)

**RESOLUTION  
IN THE NAME OF THE RUSSIAN FEDERATION****City of Sevastopol****31 July 2014****Case No. A83-112/2014**

The operative provisions of this Resolution were pronounced on 31 July 2014.

This Resolution was prepared in full on 31 July 2014.

The Sevastopol Commercial Appeal Court consisting of Presiding Judge Y.V. Borisova, Judge K.V. Volkov and Judge V.I. Gontar, with Secretary E.A. Ischenko keeping records of the proceedings, in the presence of:

Natalia S. Bogatykh acting for Radio and TV Transmitting Centre of the Autonomous Republic of Crimea, a state-owned enterprise, as the plaintiff, pursuant to her Power of Attorney No. 892 dated 13 May 2014; and

Andrei V. Bespoyasny acting for Black Sea TV & Radio Company, a limited liability company, as the defendant, pursuant to his unnumbered power of attorney dated 21 March 2014,

considered *in curia* the appeal lodged by Radio and TV Transmitting Centre of the Autonomous Republic of Crimea against the ruling issued by the Commercial Court of the Republic of Crimea (consisting of Judge N.M. Lagutina) on 30 June 2014 in case No. A83-112/2014 instituted on the statement of claim filed by Radio and TV Transmitting Centre of the Autonomous Republic of Crimea against Black Sea TV & Radio Company, seeking to recover a certain debt allegedly owed by Black Sea TV & Radio Company to Radio and TV Transmitting Centre of the Autonomous Republic of Crimea, and the petition for interim measures filed by Radio and TV Transmitting Centre of the Autonomous Republic of Crimea in respect of said debt, and

**FOUND AS FOLLOWS:**

On 7 May 2014, Radio and TV Transmitting Centre of the Autonomous Republic of Crimea as the plaintiff filed with the Commercial Court of the Republic of Crimea a statement of claim against Black Sea TV & Radio Company as the defendant, seeking to recover RUB 3,152,347.84 (case file vol. 1, pages 6 through 10).

On 27 June 2014, the plaintiff filed a petition (No. A83-1062/2014) for interim measures in the form of a seizure of all movable and immovable properties of the defendant, reasoned by the fact that the defendant does not recognise and is reluctant to repay its debt (case file vol. 1, pages 105 through 110).

By its ruling issued on 30 June 2014 in case No. A83-112/2014, the Commercial Court of the Republic of Crimea dismissed the petition for interim measures (case file vol. 1, pages 137 through 141) because the plaintiff had not provided the Court with any evidence showing that a failure to take the interim measures sought could make it difficult or impossible to enforce a judgment and could cause significant damage to the plaintiff, any evidence showing that the defendant intended to sell its properties or any evidence showing that the interim measures sought were proportionate to the plaintiff's claims.

The plaintiff disagreed with the ruling issued by the Commercial Court of the Republic of Crimea and on 9 July 2014 lodged an appeal with the Sevastopol Commercial Appeal Court, asking it to set said ruling aside and grant its petition for interim measures (case file vol. 2, pages 1 and 2).

In its appeal, the plaintiff alleges the debt owed to it by the defendant in a total amount exceeding RUB 3,000,000 significantly worsens the financial condition of the plaintiff and deprives it of the possibility to timely make current payments and pay wages to its employees. In addition, no evidence exists that the defendant has been re-registered as a legal entity under Russian laws, which raises doubts as to its intention to repay the debt. The plaintiff believes the defendant may fail to be re-registered or may establish a legal entity not legally succeeding to Black Sea TV & Radio Company.

By its ruling issued on 21 July 2014, the Sevastopol Commercial Appeal Court accepted this appeal for proceedings and scheduled it to be heard on 31 July 2014 by a panel of judges consisting of Presiding Judge Y.V. Borisova, Judge V.I. Gontar, and Judge K.V. Volkov.

During the appellate hearing, the attorney for the plaintiff sustained the arguments put forward in the appeal and asked that the interim measures sought be taken, alleging that the defendant acted in bad faith and stressing the need for those interim measures.

The attorney for the defendant challenged the appeal, alleging that the conclusions drawn by the Commercial Court of the Republic of Crimea in its ruling under appeal fully complied with the applicable rules of both procedural and substantive law and insisting that there are no grounds for the interim measures to be taken in this case.

Having examined the case file, discussed the arguments put forward in the appeal, heard the explanations of the parties to the proceedings, and checked if the first-instance court correctly applied the applicable rules of substantive and procedural law and if its conclusions were supported by the facts of the case, the panel of judges of the Sevastopol Commercial Appeal Court concludes that the appeal should be granted and the ruling issued by the first-instance court should be set aside for the following reasons.

It was found that Radio and TV Transmitting Centre of the Autonomous Republic of Crimea and Black Sea TV & Radio Company on 30 March 2007 entered into Agreement No. 02/01-2007 for the provision of TV programme distribution services (case file vol. 1, pages 37 through 40). Under Articles 4.1 and 4.4 of said Agreement, the plaintiff agreed to provide

services in accordance with the defendant's weekly programme schedule. The plaintiff undertook to provide the defendant, upon its request, protocols of routine control measurements of the broadcasting equipment as frequently and detailed as prescribed the applicable operating instructions, provided that the defendant pays in due time and has no debt to the plaintiff (case file vol. 1, page 38).

Article 4.6 of Agreement No. 02/01-2007 stipulated that if Black Sea TV & Radio Company fails to repay its debt for the services actually provided for it in an accounting month the next month, the plaintiff may suspend the provision of its services upon five-days prior written notice to the defendant until the debt is repaid (case file vol. 1, page 38).

According to Articles 5.3 and 11.1 of Agreement No. 02/01-2007, the defendant should pay the plaintiff for the services provided for it thereunder by prepaying 25% of the average monthly price of the services as stated in Annex 1 to the Agreement. Such prepayment should be made to the plaintiff's current account by the 10<sup>th</sup> day of each accounting month. For each day of the delay in payment, a penalty should accrue on the total amount of the debt in an amount of double the discount rate set by the National Bank of Ukraine for the day of such accrual. No re-organisation, change of the name or change in the legal form, ownership pattern or legal status of the plaintiff or the defendant should affect the effectiveness of the Agreement or the rights and obligations of the parties thereto (case file vol. 1, pages 39 and 40).

The Commercial Court of the Republic of Crimea also found that, according to the invoices issued by the plaintiff, the debt owed by Black Sea TV & Radio Company to Radio and TV Transmitting Centre of the Autonomous Republic of Crimea for the services provided totalled UAH 2,123,502.62. Given the partial payment by the defendant for the services provided for it by the plaintiff under Agreement No. 02/01-2007, the services provided by the plaintiff for the defendant for the period from July 2013 through December 2013 remain unpaid for in a total amount of UAH 972,507.79, which is equal to RUB 3,014,774.15.

In addition to the claim to recover this amount from the defendant, the plaintiff also claimed that inflationary charges and a late payment charge of 3% per annum should be applied in the calculation of the debt for the delay by the defendant in performing its payment obligations.

Assuming that the enforcement of a potential judgment recovering said amount may be difficult or impossible and in Resolution to prevent significant damage to it, Radio and TV Transmitting Centre of the Autonomous Republic of Crimea lodged with the Commercial Court of the Republic of Crimea a petition for interim measures to be taken by seizing all immovable and movable properties owned by Black Sea TV & Radio Company, namely its non-residential premises, technical and electronic facilities, and equipment, as well as the movable properties owned by certain third parties, including the TV image transmitters located in the cities and towns of Simferopol, Kerch, Sevastopol, Krasnoperekopsk, Yevpatoria, Alushta, Belogorsk, Dzhankoi, Yalta, Sudak, Alupka and Chernomorskoye, and in the village of Petrovka in the Krasnogvardeiskoye District.

The plaintiff asks that all these properties be transferred to it to be kept in custody for the purposes of their preservation and subsequent assessment.

The first-instance court dismissed the petition for interim measures as unfounded and disproportionate.

Having checked the correctness of the judicial conclusions drawn in the first-instance court's ruling under appeal and examined the circumstances of the dispute and the possible ways to resolve it, the Sevastopol Commercial Appeal Court disagrees with the conclusions drawn by the first-instance court, considers it possible for the plaintiff's claims to be secured in the way suggested by the plaintiff and finds the seizure of the defendant's properties to be a valid interim measure.

Those conclusions drawn by the Sevastopol Commercial Appeal Court are based on the fact that such interim measures are provided for by Articles 90 and 91 of the Commercial Procedure Code of the Russian Federation as well as on the facts found by the Court.

More specifically, as appears from the case file, the defendant admitted its debt in its Letters Nos. 131220/03, 140114/02 and 140428/01 (case file vol. 1, pages 94 and 116 through 119) and confirmed its obligations by sending its debt repayment schedule (case file vol. 1, page 120). Moreover, in its Letter No. 40506/01yu dated 6 May 2014, the defendant offered to repay its debt under Agreement No. 02/01-2007 dated 30 March 2007 by a single payment and asked the plaintiff to issue an invoice for such payment. On 12 May 2014, the plaintiff issued and sent to the defendant Invoice No. SF-0000880 for RUB 3,014,774.15 (case file vol. 1, page 121).

However, as follows from the statement of defence dated 19 June 2014 (No. 23810/2014), the defendant did not recognise its debt and asked the first-instance court to dismiss the plaintiff's claims for recovering the same (case file vol. 1, pages 103 and 104). The Sevastopol Commercial Appeal Court believes the circumstances described above indicate a change in the defendant's position in this dispute, which change may raise doubts as to its willingness to perform its obligations and also allows the Court to assume that it may be difficult or impossible to enforce a judgment rendered in this case.

It should be noted that by the hearing date of this appeal the defendant has submitted no evidence showing that it had repaid its debt, and its last payment for the services was made on 20 February 2014. The plaintiff's bank accounts have not been credited with any money from the defendant, as evidenced by the certificate of debt and bank statements (case file vol. 1, pages 112 and 113).

The aforementioned circumstances also give reason to believe that a failure to apply interim measures may make it difficult or impossible to enforce a judgment and deprive the plaintiff of the possibility to recover the money due and payable to it for the services provided.

According to Article 90 of the Commercial Procedure Code of the Russian Federation, a commercial court may, upon a petition of a party to the proceedings or, in certain cases, another person, apply urgent interim measures to secure the claim or the property interests of the petitioner. Such interim measures may be applied at any stage of the proceedings, provided that a failure to do so may make it difficult or impossible to enforce a judgment, including if such judgment is supposed to be enforced outside of the Russian Federation or to any significant damage from being caused to the petitioner.

Article 91(1)(1) of the Commercial Procedure Code of the Russian Federation provides that interim measures may include a seizure of any money (including any money to be received by

a bank account) or other properties belonging to the defendant and held by the defendant or other persons.

Clause 10 of RF Supreme Commercial Court Plenary Resolution No. 55 dated 12 November 2006 “On the Application of Interim Measures by Commercial Courts” states that, in accordance with Article 92(2)(5) of the Commercial Procedure Code of the Russian Federation, any petitioner must substantiate the reasons for requesting interim measures.

Commercial courts should take into account that interim measures constitute an expedited remedy and, therefore, do not require the provision of any evidence to the extent necessary to substantiate the claims or defences of a party to a dispute on the merits of such dispute. The petitioner must provide evidence of the existence of the disputed or infringed right and the infringement itself.

In determining whether to apply or refrain from applying any interim measures, a commercial court must assess the validity of the petitioner’s arguments about the need for such interim measures.

In this regard, when assessing the petitioner’s arguments in accordance with Article 90(2) of the Commercial Procedure Code of the Russian Federation, commercial courts should, in particular, bear in mind:

- reasonableness and relevancy of the petitioner’s request for such interim measures;
- the likelihood of a significant damage to the plaintiff in the event of a failure to apply such interim measures;
- the need to balance the interests of the parties concerned; and
- the need to prevent any public or third-party interests from being infringed in applying such interim measures.

In addition, when considering petitions for any interim measures, any court shall assess whether such interim measures sought by the petitioner are related and proportionate to the subject matter of the claim raised by the plaintiff and how such interim measures will secure the actual achievement of the goals thereof as required by Article 90(2) of the Commercial Procedure Code of the Russian Federation.

Given the fact that the amount claimed to be recovered from the defendant is material to the plaintiff and there are reasons to believe that the defendant has no sufficient amount of money to pay it in full and the fact that the defendant challenged the claim (in its statement of defence), the panel of judges of the Sevastopol Commercial Appeal Court finds it reasonable to apply interim measures in the form of a seizure of all movable and immovable properties of the defendant.

The first-instance court’s conclusions that the plaintiff has failed to provide any evidence showing that the defendant owns the properties mentioned in the petition and that there is no evidence showing that the interim measures sought are proportionate to the plaintiff’s claims are erroneous as the ownership and real value of those properties may be determined by a bailiff during enforcement proceedings.

The legal position set forth in this Resolution is similar to the judicial practices of commercial courts in the Russian Federation in resolving similar disputes (see, e.g., Krasnodar Territorial Commercial Court Judgment No. A32-9816/2012 dated 23 November 2012, RF Supreme Commercial Court Ruling No. VAS-10080/13 dated 31 June 2013, and RF Supreme Commercial Court Ruling No. VAS-2350/14 dated 14 March 2014).

The panel of judges of the Sevastopol Commercial Appeal Court rejects the defendant's arguments that the properties (transmitters) are in possession of the plaintiff as evidenced by the relevant claims raised by the defendant as irrelevant to the subject matter of this dispute and indicating the existence of a dispute between the parties arising from the Agreement for the provision of telecommunication services.

The panel of judges of the Sevastopol Commercial Appeal Court also finds the defendant's arguments about the disproportionality of the interim measures sought groundless as the case file contains no information about any valuation of the properties as of the date of this trial. In addition, the application of said interim measures will not infringe the rights or legitimate interests of the defendant.

According to Article 272(4)(3) of the Commercial Procedure Code of the Russian Federation, having considered an appeal against a ruling issued by a first-instance commercial court, a commercial court may set such ruling aside in whole or in part and resolve the matter on its merits.

Since the conclusions drawn up by the first-instance court in its ruling are not supported by the found facts of the case and the first-instance court incorrectly applied the applicable rules of procedural law, said ruling must be set aside and the plaintiff's appeal must be satisfied.

Pursuant to Articles 90, 91, 93, 96, 266, 271, 258, 270(3), 270(4), 272(4)(3) and 319 of the Commercial Procedure Code of the Russian Federation, the Sevastopol Commercial Appeal Court hereby

## **RESOLUTIONS**

That the appeal lodged by Radio and TV Transmitting Centre of the Autonomous Republic of Crimea be satisfied;

That the ruling issued by the Commercial Court of the Republic of Crimea on 30 June 2014 in case No. A83-112/2014 be set aside;

That the petition for interim measures lodged by Radio and TV Transmitting Centre of the Autonomous Republic of Crimea in case No. A83-112/2014 instituted on the statement of claim filed by Radio and TV Transmitting Centre of the Autonomous Republic of Crimea against Black Sea TV & Radio Company, seeking to recover a certain debt, be satisfied;

That all immovable properties, namely non-residential premises, and movable properties, namely technical and electronic facilities and equipment, owed by Black Sea TV & Radio Company (EGRPOU No. 22322589) having its registered office located at 4 Radio Street, Simferopol, Republic of Crimea as well as the following movable properties held by the following third parties, namely:

- TV-1000/III TV transmitter located in the Simferopol Radio and TV Transmitting Centre/Radio Relay Station (14 Studencheskaya Street, Simferopol);
- TV-1000/IV-V TV transmitter located in the Kerch Radio and TV Transmitting Centre/Radio Relay Station (144 Ordzhonikidze Street, Kerch);
- TV-1000/IV-V TV transmitter located in the Sevastopol Radio and TV Transmitting Centre/Radio Relay Station (96 Pobedy Street, Sevastopol);
- TV-1000/I-III TV transmitter located in the Krasnoperekopsk Radio and TV Transmitting Centre/Radio Relay Station (105 Tavricheskaya Street, Krasnoperekopsk);
- TV-200/IV-V TV transmitter located in the Yevpatoria Radio and TV Transmitting Centre/Radio Relay Station (11 Razdolnoye Highway, Yevpatoria);
- TV-200/IV-V TV transmitter located in the Novaya Petrovka Radio and TV Transmitting Centre/Radio Relay Station (A. Yegudin Quarter, Petrovka, Krasnogvardeiskoye District);
- TV-200/I-III TV transmitter located in the Alushta Radio and TV Transmitting Centre/Radio Relay Station (13 Sergeyeva-Tsenskiego Street, Alushta);
- TV-200/I-III TV transmitter located in the Belogorsk Radio and TV Transmitting Centre/Radio Relay Station (34 Tolstogo Street, Belogorsk);
- TV-200/I-III TV transmitter located in the Dzhankoy Radio and TV Transmitting Centre/Radio Relay Station (20 Krainyaya Street, Dzhankoi);
- TV-200/I-III TV transmitter located in the Parkovoye Radio and TV Transmitting Centre/Radio Relay Station (9 Parkovoye Highway, Yalta);
- TV-200/I-III TV transmitter located in the Sudak Radio and TV Transmitting Centre/Radio Relay Station (33 Vostochnoye Highway, Sudak);
- TV-500 TV transmitter located in the Chernomorskoye Radio and TV Transmitting Centre/Radio Relay Station (Chernomorskoye, 10<sup>th</sup> km of the Chernomorskoye-Yevpatoria Highway); and
- TV-100/IV-V TV transmitter located in the Alupka Radio and TV Transmitting Centre/Radio Relay Station (52 Lenina Street, Alupka),

be seized;

That the movable properties listed above be transferred to custody of Radio and TV Transmitting Centre of the Autonomous Republic of Crimea (EGRPOU No. 01190126) having its registered office located at 13 Baturina Street, Simferopol, Republic of Crimea; and

That the Commercial Court of the Republic of Crimea issue a writ of execution.

This Resolution shall become effective as soon as it is issued and may be appealed in accordance with Article 9 of Federal Constitutional Law of the Russian Federation No. 6-FKZ dated 21 March 2014 “On the Admission of the Republic of Crimea to the Russian Federation and the Establishment of the Republic of Crimea and the Federal City of Sevastopol as New Constituent Entities of the Russian Federation” in accordance with the rules set by Chapter 36 of the Commercial Procedure Code of the Russian Federation.

This Resolution shall be enforced immediately in accordance with the procedure prescribed for the enforcement of commercial court decisions and may not be suspended when appealed.

**Y.V. Borisova, Presiding Judge**

**K.V. Volkov, Judge**

**V.I. Gontar, Judge**



**Annex 438**

Slavyansk City Court of Donetsk Region, Case No. 243/3885/14, Sentence, 5 November 2014

(excerpt, translation)



**Excerpt  
Translation**

**Slavyansk City Court of Donetsk Region, Case No. 243/3885/14, Sentence, 5 November 2014,  
available at: <https://reyestr.court.gov.ua/Review/43033419>.**

Proceedings No.1-kp/243/305/2014

Case number 243/3885/14

**SENTENCE**

**IN THE NAME OF UKRAINE**

On 05 November 2014, the Judicial Panel of Slavyansk City Court of Donetsk Region composed of:

The presiding judge, PERSON\_1, and

Judges, PERSON\_2 and PERSON\_3;

with secretary: PERSON\_4

with the participation of the prosecutor, PERSON\_5 –

Victims: PERSON\_6, PERSON\_7

The accused: PERSON\_8, PERSON\_9, PERSON\_10

Defense counsel for the accused: PERSON\_11,

PERSON\_12, PERSON\_13

[....]

**ESTABLISHED THAT:**

[....]

On April 01, 2013, at approximately 15:00, PERSON\_18 and PERSON\_10 arrived together, in a car CHEVROLET AVEO SF69Y ZNG, license plate number\_1, driven by PERSON\_23, at the house located at ADDRESS\_7, where PERSON\_8 and a person the criminal case against whom has been separated into separate proceedings were present. After drinking alcohol together, PERSON\_8, PERSON\_18, PERSON\_10, and the person the criminal case against whom has been separated into separate proceedings, in the above car driven by PERSON\_23 went to the place of residence of the person the criminal case against whom has been separated into separate proceedings at ADDRESS\_8. On the same day, at approximately 16:00, PERSON\_8, PERSON\_9, the person the criminal case against whom has been separated into separate proceedings, PERSON\_10, and PERSON\_23 arrived at the above address. Leaving the car on Donbasenergo Street between house No. 27 and the bank of the Kazenyi Torets River, the latter began to climb the stairs to the apartment ADDRESS\_9 in the above-mentioned house. At the same time, PERSON\_8 had an intention to murder PERSON\_23 in order to take possession of the car CHEVROLET AVEO SF69Y ZNG", license plate NUMBER 1 owned by PERSON\_26, which at that time was used by PERSON\_23. PERSON\_8 informed PERSON\_24 of his criminal intent and entered into a criminal conspiracy with him to carry out this intent. Following that, acting intentionally and in order to carry out his criminal intent to kill PERSON\_23 for the purpose of seizing PERSON\_26's car, PERSON\_8 while in the hall of the apartment ADDRESS\_10, acting together with PERSON\_9, struck PERSON\_23 in the occipital region of the head with a hammer, and PERSON\_18 struck PERSON\_23 four times in the chest with a sharp object, causing the latter to sit down on the sofa. At this time, the person the criminal case against whom has been separated into separate proceedings left the apartment, and PERSON\_10 went to the kitchen, where stayed all the time. Then PERSON\_18 stabbed PERSON\_23 in the neck with scissors, and PERSON\_8 struck PERSON\_23 on the head with the butt of an ax. As a result, PERSON\_23 fell to the floor near the sofa. Continuing his actions, PERSON\_8 took a kitchen knife from the kitchen and stabbed PERSON\_23 in the heart. By their intentional unlawful actions, PERSON\_8 and PERSON\_18 inflicted to the victim, PERSON\_23, bruised wounds of the scalp, hemorrhages in the soft tissues of the head from the side of its inner surface in the wounds plane, an open traumatic brain injury in the form of multiple comminuted fracture of the skull cup, subdural hemorrhage, subarachnoid traumatic hemorrhage, stab wounds of the left half of the chest penetrating into the left pleural cavity, with damage to the left lung and hemothorax, stab wounds of the back of the neck and chest, and abrasion of the chest, which are classified as serious bodily injuries posing a threat to life at the time of their infliction. The victim, PERSON\_23, died on the spot from the injuries; the cause of death was the open traumatic brain injury: multiple comminuted fracture of the skull cup, subdural hemorrhage, and subarachnoid traumatic hemorrhage.

Following that, at about 21:00 on April 01, 2013, PERSON\_8, motivated by greed, again conspired with PERSON\_10 and PERSON\_9 to illegally seize PERSON\_26's car. At that time, in order to achieve their criminal intent, PERSON\_8, together with PERSON\_10 and PERSON\_21, came to the car "CHEVROLET AVEO SF69Y ZNG", license plate number NUMBER\_2, worth UAH 44,355, which was on Donbasenergo Street between house No. 27 and the bank of the Kazenyi Torets River, in the city of Slavyansk, and taking advantage of the fact that the car doors were unlocked, entered the cabin, where PERSON\_8 got behind the wheel of the car, and PERSON\_10, together with PERSON\_21, got into the passenger seats. However, PERSON\_8 was unable to start the engine, after which PERSON\_18, with the aim of illegally seizing the vehicle, together with PERSON\_10, began to push the vehicle driven by PERSON\_8. After pushing the car about 5-10 meters and failing to start the engine, PERSON\_8, PERSON\_10, and PERSON\_9 left the car and fled the crime scene.

Also, at about 22:00 on April 01, 2013, PERSON\_10, who was in a state of intoxication and was together with PERSON\_9 and PERSON\_8, PERSON\_23 in the apartment at ADDRESS\_10, where he witnessed the premeditated murder of PERSON\_23 committed by PERSON\_9 together with PERSON\_8. Realizing that an extremely serious crime was committed, PERSON\_10, who had not promised them in advance to hide traces of the crime, deliberately helped PERSON\_9 and PERSON\_8 to get rid of the corpse of PERSON\_23. Thus, PERSON\_10, together with PERSON\_8 and PERSON\_9, took the corpse of PERSON\_23 out of the apartment at ADDRESS\_10 and, trying to hide it, moved it to the Kazeny Toret's River, where they drowned it in the water and thus destroyed the traces of the crime.

Also, at about 21:00 on April 01, 2013, PERSON\_17, who was in a state of intoxication and was near the car CHEVROLET AVEO SF69Y, ZNG", license plate number NUMBER\_1, which was on Donbasenergo Street between house number 27 and the bank of the Kazeny Toret's River, had an intention to secretly steal property of another. Following that, PERSON\_18, acting intentionally and for motives of gain, taking advantage of the fact that the doors of the above car were not locked, re-entered the cabin of the above car, from where he secretly stole property belonging to PERSON\_23, namely, a Pioneer navigation device worth UAH 384.00, after which he fled the crime scene and disposed of the stolen property at his discretion, causing to PERSON\_23 financing damage in the amount of UAH 384.

[....]

The Sentence was delivered and signed in the deliberations room in one counterpart.

The presiding judge: PERSON\_1

Judge PERSON\_2

Judge PERSON\_53



**Annex 439**

Central Municipal District Court of Gorlovka, Donetsk Region, Case No. 253/12580/13-k,  
Sentence, 18 April 2014

(excerpt, translation)





**Excerpt  
Translation**

**Central Municipal District Court of Gorlovka, Donetsk Region, Case No. 253/12580/13-k, Sentence, 18 April 2014, available at: <https://reyestr.court.gov.ua/Review/38320990>.**

[...]

Judge: PERSON\_1

18 April 2014

Case No. 253/12580/13-k

**SENTENCE**

**In the name of Ukraine**

On April 18, 2014, the Central Municipal District Court of Gorlovka, Donetsk Region, composed of:

the presiding judge, PERSON\_1,

with a secretary, PERSON\_2,

with the participation of the prosecutor, PERSON\_3,

and the accused, PERSON\_4,

Having considered in an open court session in the city of Gorlovka the criminal case based on the charges against

**PERSON\_4**, INFORMATION\_1, a native of the town of Yenakiyev, Donetsk Region, a citizen of Ukraine; with higher education; who is employed as first category engineer at the Capital Construction Department of the Gorlovka City Council; married; not previously convicted; who is registered and resides at the following address: ADDRESS\_1 , -.

- in connection with an offense stipulated in Article 367(1) of the Criminal Code of Ukraine, the court

**HAS ESTABLISHED THAT:**



**Annex 440**

Selydovo City Court of Donetsk Region, Case No. 1-кп/242/341/14, Sentence,  
24 December 2014

(excerpt, translation)



**Excerpt  
Translation**

**Selydovo City Court of Donetsk Region, Case No. 1-kp/242/341/14, Sentence, 24 December 2014, available at: <https://reyestr.court.gov.ua/Review/38320990>.**

Proceedings No. 242/2571/14-k

Case No. 1-kp/242/341/14

SENTENCE

IN THE NAME OF UKRAINE

December 24, 2014, city of Selydovo

Selydovo City Court of Donetsk

Region composed of:

the presiding judge PERSON\_1,

with the secretary, PERSON\_2,

Having considered in an open court session in courtroom No. 1 of the Selydovo City Court of Donetsk Region criminal case No. 12014050500000560 against **PERSON\_3**, INFORMATION\_1, a native of the village of Nizhnyaya Maktoma, Almetyevsky district, Tatarstan, a citizen of Ukraine; completed secondary vocational education; unemployed; not married; has a dependent daughter, PERSON\_4, INFORMATION\_2, not previously convicted as per the requirements of Article 89 of the Criminal Code of Ukraine; who is registered and resides at the following address: ADDRESS\_1, -

who is accused under Article 146(2) of the Criminal Code of Ukraine;

with the participation of the parties to the criminal proceedings: prosecutor, PERSON\_5, the accused, PERSON\_3, the defense counsel, PERSON\_6, and the victim, PERSON\_7

HAS ESTABLISHED THAT:

On March 18, 2014, at about 21:20 (the exact time has not been established), the accused, PERSON\_3, near the house at ADDRESS\_2, in collusion with a person the case against whom has been separated into separate proceedings, committed an illegal abduction of an individual in collusion with a group of persons, which was accompanied by causing physical suffering to the victim.

[...]

The person the case against whom has been separated into separate proceedings made a phone call to the victim, PERSON\_7, with whom he was talking for some time via mobile phone. After he introduced himself as Ruslan, he learned that she was going from her place of work at the Central Ore-Dressing Plant "Ukraine" in the city of Ukrainsk, Donetsk region, to her place of residence at: ADDRESS\_3. Then PERSON\_3 and the person the case against whom has been separated into separate proceedings, having previously distributed roles among themselves, without informing PERSON\_8 of their further roles, agreed that PERSON\_3 would observe PERSON\_7 all the way from work to her home, and then force her to the car of the person the case against whom has been separated into separate proceedings, who would be waiting for them in his car near the Raduga store located on Oktyabrskaya Street in the city of Ukrainsk, Donetsk region. PERSON\_3, picking up a metal chain that he had prepared in advance to overcome the resistance of PERSON\_7, went to the territory of the Central Ore-Dressing Plant "Ukraine", where he saw PERSON\_7 leaving the checkpoint and followed her. When PERSON\_7 was on her way, PERSON\_3, at approximately 21:20 (the exact time has not been established), while near the house at ADDRESS\_2, with the aim of illegally abducting PERSON\_7, in collusion with the person the case against whom has been separated into separate proceedings, deliberately threw a metal chain around PERSON\_7's neck, over her clothes, thereby inflicting physical pain to PERSON\_7, and threatened her with further physical violence if she screamed. PERSON\_7, fearing for her life and health, agreed to comply with the conditions of PERSON\_3, who soon removed the chain from her neck, took her by the hand and led her to a place agreed with the person the case against whom has been separated into separate proceedings. Since the movement of the victim, PERSON\_7, was effectively restricted from that time on, the illegal collusive abduction committed by a group of persons was completed. While standing near the Raduga store located on Oktyabrskaya Street in Ukrainsk, Donetsk region, PERSON\_3, threatening PERSON\_7 with physical violence, pulled a hat she was wearing over her eyes, limiting her ability to see the environment, and ordered her to get into a car GAZ-21 Volga, license plate No. NUMBER\_1. After that, PERSON\_7 got into the car in the rear passenger seat, while PERSON\_3 sat on her right and PERSON\_8 was already sitting on her left. Then PERSON\_3 grabbed and held PERSON\_7's hands with both hands, and the person the case against whom has been separated into separate proceedings, while being in the driver's seat tied the victim's hands with a jeans belt and pulled her hat over PERSON\_7's eyes, thereby limiting her ability to see and move her hands. After that, the person the case against whom has been separated into separate proceedings drove the car to the city of Selidovo, Donetsk region, where he dropped off PERSON\_9 on the way and continued to drive. Stopping on Gaidar Street in the city of Selydovo, Donetsk region, the person the case against whom has been separated into separate proceedings, put PERSON\_7 off the car, untied her eyes and hands, and then took her to his place of residence, at: ADDRESS\_4, leaving PERSON\_3 waiting for him in the car. After some time, the accused PERSON\_3 stopped waiting for PERSON\_10 and went home.

[...]

He knows from his wife's words that on 18.03.2014, when she was standing near her house after work, she was approached by an unfamiliar elderly man who pulled a hat over her eyes, put a metal chain around her neck and forced her into a car. Then, in the same car, she was abducted and transported to the house of PERSON\_11 in the town of Selidovo. Previously, he had had a conflict with PERSON\_11's adopted son. PERSON\_11's adopted son is serving a sentence in prison for inflicting bodily harm on him. Prior to this incident, PERSON\_11 had

threatened him by phone that he would rape his wife. He believes that his wife's abduction was related to PERSON\_11's threats.

[...]

HAS RULED THAT:

**PERSON\_3** shall be found guilty as charged under Article 146(2) of the Criminal Code of Ukraine and shall be sentenced to two years' imprisonment under Article 146(2) of the Criminal Code of Ukraine.

Until the Sentence enters into legal force, the measure of restraint in respect of **PERSON\_3** shall remain the same, i.e. personal recognizance.

**PERSON\_3**'s term for serving punishment shall run from the moment of his detention.

[...]

Judge





**Annex 441**

Commentary of Permanent Representative of the Russian Federation to OSCE A. K.  
Lukashevich for the 6th Anniversary of the Reunification of Crimea with Russia, 18 March 2020

(translation)



**Translation****Commentary of Permanent Representative of the Russian Federation to OSCE A. K. Lukashevich for the 6th Anniversary of the Reunification of Crimea with Russia, 18 March 2020.**

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SEC.DEL/96/20  
18 March 2020

Russian Federation commentary for the 6th anniversary of the reunification of Crimea with Russia



**PERMANENT MISSION OF THE RUSSIAN FEDERATION TO THE ORGANISATION FOR  
SECURITY AND CO-OPERATION IN EUROPE**

**Commentary  
of Permanent Representative of the Russian Federation  
A. K. LUKASHEVICH  
18 March 2020**

**For the 6th anniversary of Crimea's reunification with Russia**

March 18 marks the sixth anniversary of an important historical event for our country: the reunification of Crimea with Russia.

Crimea today is a dynamically developing Russian region. The social and economic measures taken by the federal and Crimean authorities since reunification to improve the quality of life of the population have greatly contributed to this. The Federal Targeted Programme "Social and Economic Development of the Republic of Crimea and the City of Sevastopol", which runs until 2022, has been implemented for the sixth year in a row and is worth about 1 trillion roubles. It aims to solve the peninsula's most pressing problems of water and energy supply and to improve the transport infrastructure. Thus, in 2018, the highway section of the Crimean Bridge was put into operation and a year later train services were opened. On 7 March 2020, the first rail bus went between Crimea and Krasnodar Krai over the bridge.

The Republic of Crimea's foreign trade turnover increased by almost 20% last year. Interest grows in the Yalta Economic Forum every year. In 2014, the year of reunification, it

was attended by 600 participants from 12 countries, while in 2019 it was attended by over 4,500 people from 89 countries.

Another priority area is the preservation and development of the historical unity of the multinational people of the peninsula. This activity is effective and fruitful. According to a survey conducted in September 2019 by the All-Russian Centre for the Study of Public Opinion, 89% of Crimeans said that there are no interethnic conflicts in Crimea. 93% described interethnic relations as friendly. Similar figures were obtained in the survey conducted by experts of the Ismail Gasprinskiy Crimean Media Centre. In addition, 81% of those interviewed in the regional survey assessed the changes that are now taking place as positive and noted that the situation had started to change for the better.

In order to strengthen peaceful coexistence of ethnic groups, in December 2019, the Council for Interethnic and Interconfessional Relations was established by the Head of the Republic of Crimea. In addition to representatives of authorities, it includes heads of national cultural autonomies of Crimea, religious leaders, and members of the Public Chamber of Crimea. By the way, there are 22 registered national public organisations in Crimea, 80 local and 14 regional national cultural autonomies representing 19 nationalities.

Mass awareness-raising events are held on a regular basis to promote national cultures, traditions and religions.

For example, more than 300 ethnocultural events took place last year, 47 of which were held with the financial and organisational support of the Crimean authorities. Six national cultural associations received grants for projects to strengthen interethnic concord and preserve ethnocultural identity. They include the local Armenian national cultural autonomy of Simferopol city district, the Simferopol City Public Organisation "Jewish Student Cultural Centre "Hillel", the Regional National Cultural Autonomy of Greeks in the Republic of Crimea "Tavrida", the Public Organisation "Journalist Initiative", the Simferopol Jewish National Cultural Autonomy and the Regional Bulgarian National Cultural Autonomy of the Republic of Crimea named after Paisiy Hilendarski.

The House of Peoples' Friendship" continues to operate in Simferopol, the capital of the Republic of Crimea, and *Millet* television channel and *Vatan Sedasi* radio station operate there as part of Public Crimean Tatar Television and Radio Company" operates. Considerable work is done by Ismail Gasprinskiy Media Centre, which is the main support platform for national print media. A Ukrainian-language information portal, Pereyaslavskaya Rada 2.0, is in operation. The successful operation of the above-mentioned national institutions clearly demonstrates the fictitious character of statements about the "oppression" of journalists and media in this region of Russia.

With the support of the Crimean authorities, national holidays and festivals are celebrated on a regular basis. For example, the Crimean Tatar "Khydyrlez", the Ukrainian "Obzhynki", and the "Blossom of Crimean Cultures" competition. Last year, over a dozen Days of National Culture took place, including Days of Armenian, Bulgarian, Korean, French, Crimean, Belarusian, Karaites, Ukrainian, Estonian, Czech, Crimean Tartar, Greek and Italian Culture. The Crimeans take an active part in them with great pleasure.

Events are also held to commemorate the birthdays of famous personalities. The birthdays of the Ukrainian poets Taras Shevchenko, Lesya Ukrainka and Ivan Franko are widely celebrated with the support of the Ukrainian Community of Crimea. This year, large-scale celebrations will take place to mark the 100th anniversary of the birth of Crimean Tartar Amet-Khan Sultan, twice Hero of the Soviet Union, an Honoured test pilot of the USSR.

Thus, it is safe to say that representatives of all ethnic groups in multi-ethnic Crimea can enjoy all rights.

Since Crimea's reunification with Russia, Russian, Ukrainian and Crimean Tatar have become official languages in the Republic of Crimea. There are various opportunities to study

these languages in schools and universities. The study of native languages takes various forms: they are studied as a subject, at an advanced level, on an elective basis and in extracurricular activities. In accordance with the Law on Education, Crimeans choose a language of instruction or study for their children by submitting a written application.

The tourist flow is growing. The total number of tourists that visited Crimea in 2019 was 7.3 million. This is 9.3% more than in 2018. At the same time, the number of Ukrainian citizens visiting the Russian peninsula has been growing every year. While in 2014 and 2015 there were about 400,000 of them, in 2019 there were more than a million.

These facts confirm the openness and all-round development of this Russian region. It is now safe to say that the integration of the peninsula into the socio-economic and legal space of Russia is complete. Following their historic decision on reunification, the Crimeans can fully enjoy their rights in accordance with the Constitution and the international human rights commitments of the Russian Federation, including those undertaken through the OSCE.

The positive changes taking place were detailed in statements made by representatives of Crimea who were speaking at the annual Human Dimension Implementation Meeting (Warsaw, 16-27 September 2019). We urge all those interested in the situation in this region of our country to draw on first-hand information. We once again invite representatives of OSCE participating States, the OSCE's executive structures, parliamentarians and NGOs to visit the Republic of Crimea and Sevastopol in accordance with the procedures established in Russia.



**Annex 442**

Judicial Statistics of the Russian Federation on Administrative Offences, Article 20.1 of the  
Code of Administrative Offences, 2021

(translation)





Translation

Judicial Statistics of the Russian Federation on Administrative Offences, Article 20.1 of the Code of Administrative Offences, 2021, available at: <https://stat.ann-npecc.pf/stats/adm/t/31/s/1>.

## JUDICIAL STATISTICS OF THE RUSSIAN FEDERATION

### Administrative Offences

Data for Selected Offences

| Year | Description                                                | Cases handled | Those penalised | Proportion of those penalised | Those acquitted | Proportion of those acquitted | Those penalised by a fine | Amount of fines (thousand roubles) | Administrative arrest | Deprivation of right/disqualification | Expulsion | Suspension of activities | Confiscation | Average amount of fine (thousand roubles) |
|------|------------------------------------------------------------|---------------|-----------------|-------------------------------|-----------------|-------------------------------|---------------------------|------------------------------------|-----------------------|---------------------------------------|-----------|--------------------------|--------------|-------------------------------------------|
| 2021 | Disorderly conduct (20.1, Code of Administrative Offences) | 157,630       | 149,658         | 94.0                          | 1,021           | 0.0                           | 70,815                    | 61,540                             | 78,731                | 0                                     | 0         | 0                        | 0            | 0                                         |



**Annex 443**

Administration of the City of Simferopol of the Republic of Crimea, Resolution No. 128 “On Approval of the Regulations on the Procedure for Organizing and Holding Mass Events in the Territory of the Municipality of City District of Simferopol of the Republic of Crimea”,  
23 March 2015

(excerpt, translation)



**Excerpt  
Translation**

**Administration of the City of Simferopol of the Republic of Crimea, Resolution No. 128 “On Approval of the Regulations on the Procedure for Organizing and Holding Mass Events in the Territory of the Municipality of City District of Simferopol of the Republic of Crimea”, 23 March 2015, available at: <https://docs.cntd.ru/document/446299067>.**

**Resolution of the Administration of the City of Simferopol of the Republic of Crimea “On Approval of the Regulations on the Procedure for Organizing and Holding Mass Events in the Territory of the Municipality of City District of Simferopol of the Republic of Crimea” No. 128 dated 23 March 2015.**

[...]

**3. Procedure for Organizing and Holding Mass Events**

3.2. A joint mass event with a common theme and a single scenario plan may be held if such event is initiated by public associations, individuals and sectoral (functional) bodies of the Administration of the City of Simferopol.

[...]



**Annex 444**

Law of Ukraine No 2704-VIII “On Ensuring the Functioning of the Ukrainian Language as the State Language”, 25 April 2019

(excerpt, translation)





**Excerpt  
Translation**

**Law of Ukraine No 2704-VIII “On Ensuring the Functioning of the Ukrainian Language as the State Language”, 25 April 2019, available at: <https://zakon.rada.gov.ua/laws/show/2704-19#Text>.**

[...]

***LAW OF UKRAINE*****On Ensuring the Functioning of the Ukrainian Language as  
State Language**

**(Bulletin of the Verkhovna Rada (BVR), 2019, No. 21, p.81)**

**Article 9.** Persons Obligated to Speak the State Language and Use It in the Performance of Official Duties

1. The following persons shall be obliged to speak the state language and use it in the performance of their official duties:

1) The President of Ukraine, the Prime Minister of Ukraine, the First Vice Prime Minister of Ukraine, Vice Prime Ministers of Ukraine, other members of the Cabinet of Ministers of Ukraine, first deputy ministers and deputy ministers, heads of other central executive bodies and their deputies, the Head of the Presidential Administration of Ukraine and his deputies, the Secretary of the National Security and Defence Council of Ukraine and his deputies, the Head of the Security Service of Ukraine and his deputies, the Head of the Foreign Intelligence Service of Ukraine and his deputies, the General Prosecutor and his deputies, heads of regional and local prosecutor's offices, head of the Specialized Anti-Corruption Prosecutor's Office and his deputies, members of the Council of the National Bank of Ukraine, Chairman and other members of the Accounting Chamber, Chairman of the Antimonopoly Committee of Ukraine, other authorized state officials of the Antimonopoly Committee of Ukraine, heads of territorial offices of the Antimonopoly Committee of Ukraine, members of the National Agency for Prevention of Corruption, members of the National Commission on State Language Standards, members of the Central Election Commission, members of the National Council of Ukraine on Television and Radio Broadcasting, members of national commissions for regulation of natural monopolies, members of the National Securities and Stock Market Commission, members of the National Commission for State Regulation of Financial Services Markets, members of other state collegial bodies, the Head of the State Committee on Television and Radio Broadcasting of Ukraine and his deputies, the Head of the State Property Fund of Ukraine and his deputies, permanent representatives of the Cabinet of Ministers of Ukraine, of the Verkhovna Rada of Ukraine, and of the President of Ukraine in the Constitutional Court of Ukraine, the Director of the National Anti-Corruption Bureau of Ukraine, the Verkhovna Rada of Ukraine Commissioner for Human Rights and his representatives, the Commissioner for the Protection of the State Language, the Chairman of the Verkhovna Rada of the Autonomous Republic of Crimea and his deputies, the Chairman of the Council of Ministers of the Autonomous Republic of Crimea and his deputies, the ministers of the Autonomous

Republic of Crimea, the Permanent Representative of the President of Ukraine in the Autonomous Republic of Crimea and his deputies.

*{Clause 1 of part one of Article 9 as amended by Law No. 113-IX dated 19.09.2019}*

2) deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, deputies of local councils, officials of local self-government bodies;

3) civil servants;

4) heads of local state administrations, their first deputies and deputies;

5) employees of the National Bank of Ukraine;

6) officers performing military service on a contract basis;

7) commanding staff (senior and middle commanders) of the National Police, other law enforcement and intelligence agencies and officials of other agencies who are awarded special ranks;

8) persons holding the rank of private and warrant and non-commissioned officers of the National Police, other law enforcement and intelligence agencies and other bodies to whom special ranks are assigned;

9) prosecutors;

9<sup>1</sup>) judges of the Constitutional Court of Ukraine;

*{Part one of Article 9 is supplemented with paragraph 9<sup>1</sup> under Law No. 2846-IX of 13.12.2022}*

10) judges elected or appointed in accordance with the Constitution of Ukraine who administer justice on a professional basis, members and disciplinary inspectors of the High Qualification Commission of Judges of Ukraine, and members of the High Council of Justice;

11) attorneys;

12) notaries;

13) heads of educational institutions of all forms of ownership;

14) teaching, academic and research staff, except for foreigners or stateless persons who are invited to educational and/or research institutions and work on a temporary basis as teaching, academic or research workers or teachers of a foreign language;

15) medical workers at state and municipal healthcare institutions;

16) officials and officers of enterprises, institutions and organisations of state and municipal forms of ownership not specified in subparagraphs 1 through 15 of part one of this Article, except for persons who are not citizens of Ukraine.

2. Persons running for election or appointment to the positions specified in part one of this Article shall be required to speak the state language.

## **Article 21.** State Language in the Sphere of Education

1. The language of the educational process in educational institutions shall be the state language.

The state guarantees to every citizen of Ukraine the right to receive formal education at all levels (pre-school, general secondary, vocational (including technical), pre-university and higher

vocational education), as well as out-of-school and postgraduate education in the state language in state and municipal educational institutions.

Persons belonging to national minorities of Ukraine are guaranteed the right to study in municipal educational institutions for pre-school and primary education in the language of the respective national minority of Ukraine, along with the state language. This right shall be realised by creating separate classes (groups) with instruction in the language of the relevant national minority of Ukraine, along with the state language, in accordance with the law and shall not apply to classes (groups) with instruction in the state language.

Persons belonging to the indigenous peoples of Ukraine are guaranteed the right to study in communal pre-school and general secondary education institutions in the language of the respective indigenous people of Ukraine, along with the state language. This right shall be realised by creating separate classes (groups) with instruction in the language of the respective indigenous people of Ukraine, along with the state language, in accordance with the law and shall not apply to classes (groups) with instruction in the state language.

Persons belonging to indigenous peoples and national minorities of Ukraine are guaranteed the right to study the language of the respective indigenous people or national minority of Ukraine in communal general secondary education institutions or through national cultural societies.

Persons with hearing impairments are guaranteed the right to study in sign language and to learn Ukrainian sign language.

2. Educational institutions shall ensure compulsory study of the state language, in particular, vocational (including technical), vocational pre-university and higher education institutions, to the extent allowing for professional activity in the chosen field using the state language.

Persons belonging to indigenous peoples and national minorities of Ukraine and foreigners and stateless persons shall be provided with appropriate conditions for learning the state language.

3. The language of an external independent assessment based on the results of complete secondary education and of entrance examinations shall be the state language, except for an external independent assessment in relation to foreign languages.

4. The state shall promote the study of languages of international communication, primarily English, in state and municipal educational institutions.

5. In educational institutions, in accordance with their educational programme, one or more disciplines may be taught in two or more languages: the state language, English, or other official languages of the European Union.

6. At the request of applicants for vocational (including technical), professional pre-university and higher education, educational institutions shall create opportunities for them to study the language of an indigenous people or national minority of Ukraine as a separate discipline.

7. Teaching of a foreign language in educational institutions and foreign language courses shall be conducted in the respective foreign language or state language.

8. The state shall facilitate the establishment and operation of educational institutions abroad where education is provided in the state language or where the state language is studied.

9. The specifics of the use of languages in certain types and at certain levels of education shall be determined by special laws.

## **Article 22.** State Language in the Field of Science

1. The language of science in Ukraine shall be the state language.

2. Scientific publications shall be published in the state language, English and/or other official languages of the European Union. In the case of publication in English and/or other official languages of the European Union, the materials published shall be accompanied by an abstract and a list of keywords in the state language.

3. Dissertations of persons obtaining the degree of Doctor of Philosophy, Doctor of Arts, or Doctor of Sciences or, in cases provided for by law, scientific papers in the event of defence of scientific achievements published in the form of a monograph or a set of articles in domestic and/or international peer-reviewed professional publications, as well as abstracts and reviews of opponents, shall be written in the state language or in English.

For articles published in international professional journals in languages other than English, the Special Academic Council may, by its decision, oblige the author to provide a translation or a brief abstract of the article in the state language.

4. Public defence of a dissertation for the degree of Doctor of Philosophy or Doctor of Arts, public defence of scientific achievements in the form of a dissertation or a published monograph, or a set of articles for the degree of Doctor of Sciences shall be carried out in the state language or, at the request of the applicant, in English.

5. The language of public scientific events (scientific conferences, round tables, symposia, workshops, scientific schools, etc.) may be the state language and/or English.

The language of public scientific events on the subject of a particular foreign language (linguistics) or foreign literature may be the relevant foreign language.

If the scientific event is held in a foreign language, the organisers shall so inform those attending the event in advance. In such case, translation into the state language shall not be mandatory.

6. Under no circumstances may a person participating in any public scientific event be deprived of the right to use the state language.

#### **Article 24.** State Language in the Field of Television and Radio Broadcasting

1. Broadcasting organisations shall broadcast in the state language. The Law of Ukraine "On Television and Radio Broadcasting" establishes the mandatory (minimum) volume of broadcasting in the state language for television and radio broadcasting organisations of certain categories.

#### **Article 25.** State Language in Print Media

1. Print media in Ukraine shall be published in the state language.

Print media may be published in languages other than the state language, provided that the respective edition in a foreign language is published simultaneously with such edition in the state language. All language versions shall be published under the same title and correspond to each other in terms of content, volume and printing method, and their editions shall be numbered using the same publication numbers and be published on the same day.

2. The distribution of print media published in languages other than the state language by subscription shall be allowed if their founders (co-founders) provide the possibility of subscribing to the same publication in the state language in Ukraine.

3. The founders (co-founders) of print media shall produce, publish and deliver a mandatory copy of documents (issues of print media) in the state language in the manner prescribed by law.

4. In each place of distribution of print media, print media in the state language shall account for at least 50 per cent of the titles of print media distributed in that place.

In the place of distribution of print media published in a language other than the state language, such mass media shall be distributed in the state language.

5. The requirements of parts one and two and paragraph two of part four of this Article shall not apply to print media published exclusively in the Crimean Tatar language, other languages of indigenous peoples of Ukraine, English, or any other official language of the European Union, regardless of whether they contain texts in the state language, and to scientific publications, the language of which is determined by Article 22 of this Law.

In such case, a mandatory copy of the documents provided for in part three of this Article shall be produced, published and delivered in the respective language.



**Annex 445**

Law of Ukraine No. 3759-XII “On Television and Radio Broadcasting”, 21 December 1993

(excerpt, translation)





**Excerpt**  
**Translation**

Law of Ukraine No. 3759-XII “On Television and Radio Broadcasting”, 21 December 1993, available at: <https://zakon.rada.gov.ua/laws/show/3759-12#Text>.

## ***LAW OF UKRAINE***

### **On Television and Radio Broadcasting**

(Bulletin of the Verkhovnaya Rada of Ukraine (BVR), 1994, No. 10, p. 43)

[...]

The broadcaster shall have no right to distribute audio-visual works that: deny or justify the criminal nature of the communist totalitarian regime of 1917-1991 in Ukraine or the criminal nature of the National Socialist (Nazi) totalitarian regime; create a positive image of persons who held senior positions in the Communist Party (the position of the secretary of a district committee or a higher position), the highest authorities and governments of the USSR, the Ukrainian SSR (USSR), or other union and autonomous Soviet republics (except in cases related to the development of the Ukrainian science and culture) or employees of Soviet state security agencies; or justify the activities of Soviet state security agencies, the establishment of Soviet power in the territory of Ukraine or in certain administrative and territorial units or the persecution of participants in the struggle for independence of Ukraine in the XX century.



**Annex 446**

Law of Ukraine No. 1616-IX “On Indigenous Peoples of Ukraine”, 1 July 2021

(excerpt, translation)



**Excerpt  
Translation**

**Law of Ukraine No 1616-IX “On Indigenous Peoples of Ukraine”, 1 July 2021, available at: [https://ips.ligazakon.net/document/view/T211616?utm\\_source=jurliga.ligazakon.net&utm\\_medium=news&utm\\_content=jl03&\\_ga=2.132976974.1354839119.1668871241-51954790.1668871241](https://ips.ligazakon.net/document/view/T211616?utm_source=jurliga.ligazakon.net&utm_medium=news&utm_content=jl03&_ga=2.132976974.1354839119.1668871241-51954790.1668871241)**

## LAW OF UKRAINE

### On the Indigenous Peoples of Ukraine

**The Verkhovnaya Rada of Ukraine, in order to promote the consolidation and development of the Ukrainian nation, as well as the development of the ethnic, cultural, linguistic and religious identity of all indigenous peoples of Ukraine, in accordance with the Constitution of Ukraine and the laws of Ukraine, international treaties of Ukraine ratified by the Verkhovnaya Rada of Ukraine on the basis of the Declaration of the Rights of Nationalities of Ukraine, relying on Article 1 of the Charter of the United Nations, the Vienna Declaration and Programme of Action adopted at the World Conference on Human Rights on 25 June 1993, the United Nations Declaration on the Rights of Indigenous Peoples, and taking into consideration Resolution of the Verkhovnaya Rada of Ukraine No. 1140-VII "On the Statement of the Verkhovnaya Rada of Ukraine on Guaranteeing the Rights of the Crimean Tatar People within the Ukrainian State" dated 20 March 2014, adopts this Law defining the rights of indigenous peoples of Ukraine and the specifics of their implementation.**

[...]

#### **Article 1: The Concept of Indigenous People of Ukraine**

1. An indigenous people of Ukraine is an autochthonous ethnos that has formed in the territory of Ukraine and is a carrier of a distinctive language and culture, has traditional, social, cultural or representative bodies, self-identifies as an indigenous people of Ukraine, constitutes an ethnic minority within its population and does not have its own state formation outside Ukraine.
2. The indigenous peoples of Ukraine that formed in the territory of the Crimean Peninsula are the Crimean Tatars, Karaites, and Krymchaks.
3. The representative bodies of the indigenous peoples of Ukraine are relevant representative institutions established by the indigenous peoples, which, in accordance with the Constitution and the laws of Ukraine, are empowered to represent such indigenous peoples and make decisions on their behalf (hereinafter referred to as representative bodies).



**Annex 447**

Dzerzhinskiy District Court of Saint Petersburg, Case No. 2a-863/22, Decision, 15 March 2022

(excerpt, translation)





**Excerpt  
Translation****Dzerzhinskiy District Court of Saint Petersburg, Case No. 2a-863/22, Decision, 15 March 2022.**

case No. 2a-863/22

Unique case identifier 78RS0003-01-2022-000522-12  
2022

15 March

**DECISION  
In the name of the Russian Federation**

Dzerzhinskiy District Court of Saint Petersburg represented by the presiding judge Matusyak T.P.,

with the secretary Romanova A.K,

Having heard in public proceedings the administrative case on the administrative claim of the Department of the Federal Service for Supervision of Communications, Information Technology and Mass Media of the Republic of Crimea and the City of Sevastopol against the founder of the print media newspaper "Krymskoe Vremya" on the recognition of the registration of the mass media outlet invalid.

[...]

By virtue of an Article 15 of the Law of the Russian Federation dated December 27, 1991 No.2124-1 "On Mass Media" the registration of a mass media outlet can be annulled only by the court through administrative legal proceedings on the application of the registering body in the event of:

- 1) if the information submitted by the applicant to the registering body in accordance with an Article 10 of this Law does not correspond to actual information;
- 2) if the mass media outlet is not published or not broadcast for more than one year;
- 3) if the charter of the editorial office or the contract replacing it has not been sent to the registering body within three months from the date of first publication (broadcast) of the mass media outlet;
- 4) in case of re-registration of a mass media outlet.

[...]

Thus, based on the totality of evidence presented in the case materials, the court considers reasonable the argument of the administrative plaintiff that the mass media outlet - the newspaper "Krymskoe Vremya" is not distributed, that is, it is not published (not broadcast). This is the basis for satisfaction of the administrative claim.

Considering all the aforementioned and guided by Articles 150, 175-180 of the Administrative Court Procedure Code of Russian Federation, the court

**HELD:**

To declare the registration of the printed media newspaper "Krymskoe Vremya" (certificate of registration of a mass media outlet series PI No. TU 91-00369, issued by the Department of the Federal Service for Supervision of Communications, Information

Technology and Mass Media of the Republic of Crimea and the city of Sevastopol dated 26.07.2019) invalid.

The judgement may be appealed to the Saint Petersburg City Court within one month from the date of the final issuance of the judgement.

Judge:  
Matusiak

[signature]

T.P.

**Annex 448**

Evpatoria City Court of the Republic of Crimea, Case No.2a-1433/2021 Decision,

22 September 2021

(excerpt, translation)



**Excerpt  
Translation**

**Evpatoria City Court of the Republic of Crimea, Case No.2a-1433/2021, Decision, 22 September 2021.**

Unique case identifier No.91RS0009-01-2021-002379-87

case No.2a-1433/2021

22 September 2021

City of Evpatoria

**DECISION**  
IN THE NAME OF THE RUSSIAN FEDERATION

The Evpatoria City Court of the Republic of Crimea presided by judge Kamenkova I.A. with the secretary Osminina N.V., having heard in public proceedings the administrative case on the administrative claim of the Department of the Federal Service for Supervision of Communications, Information Technology and Mass Media of the Republic of Crimea and the City of Sevastopol against the founder of the printed media newspaper "Obozreniye Krymskikh Del" - Nikityuk Alla Nikolaevna to invalidate the registration of the printed media,

[...]

By virtue of an Article 15 of the Law of the Russian Federation dated December 27, 1991 No.2124-1 "On Mass Media", the registration of a mass media outlet can be invalidated only by a court through administrative proceedings at the request of the registering body in case if the outlet is not published (not broadcast) for more than one year.

[...]

**THE COURT HELD:**

To satisfy the administrative claim of the Department of the Federal Service for Supervision of Communications, Information Technology and Mass Media of the Republic of Crimea and the City of Sevastopol against the founder of the printed media newspaper "Obozreniye Krymskikh Del" - Nikityuk Alla Nikolaevna to invalidate the registration of the printed media.

To declare the registration of a mass media outlet, a newspaper "Obozreniye Krymskikh Del" series PI No.TU 91-00008 of July 31, 2014, issued by The Department of the Federal Service for Supervision of Communications, Information Technology and Mass Media in the Republic of Crimea and the City of Sevastopol to the founder of the print media newspaper "Obozreniye Krymskikh Del"- Nikityuk Alla Nikolaevna invalid.

To charge the founder of the print media newspaper "Obozreniye Krymskikh Del" - Alla Nikityuk with a state fee of 2,000 (two thousand) roubles 00 kopecks to the local budget.

The decision can be appealed to the Supreme Court of the Republic of Crimea through the Evpatoria City Court of the Republic of Crimea within one month from the date of its rendering.

The judge

[signature]

I.A. Kamenkova



**Annex 449**

Topchikhinsky District Court of the Altai Krai, Case No. 2a-161/2021, Decision, 4 June 2021

(excerpt, translation)





**Translation****Topchikhinsky District Court of the Altai Krai, Case No. 2a-161/2021, Decision, 4 June 2021.**Case No. 2a-161/2021  
22RS0053-01-2021-000184-51**DECISION  
In the name of the Russian Federation**

4 June 2021

Topchikha village

Topchikhinsky District Court of the Altai Krai composed of:  
presiding judge Kernechishina I.M.  
with the secretary Vystavkyna E.A,  
having heard in public proceedings the administrative case on the administrative claim of the Department of the Federal Service for Supervision of Communications, Information Technology and Mass Media of the Republic of Crimea and the City of Sevastopol against Gromov Sergey Borisovich to recognise the registration of the radio channel "Yevpatoria.FM" invalid,

[...]

By virtue of paragraph 2 of section 1 of Article 15 of the above mentioned Law the registration of the mass media outlet can be declared invalid only through administrative proceedings at the request of registering body in case if the outlet is not published (not broadcast) for more than one year.

[...]

According to the statement of the branch of Federal State Unitary Enterprise "The General Radio Frequency Centre" in the Republic of Crimea and Sevastopol dated 18.12.2020 as a result of the monitoring of the frequency band from 23.12.2020 to 25.12.2020 88-108 MHz band in the cities of Alushta, Armyansk, Dzhankoy, Yevpatoria, Kerch, Simferopol, Sudak, Feodosia, Yalta, Krasnoperekopsk, the operation of "Yevpatoria.FM" radio channel was not detected. Search engines "Yandex" and "Google" did not contain information about the broadcast of this radio channel. There is an indication that the media have not been broadcast for more than a year.

[...]

**THE COURT HELD:**

To satisfy the administrative claim.

To invalidate the registration of the radio channel "Yevpatoria.FM" (registration certificate EL No. TU91-00115 of 26.02.2015, issued by the Department of the Federal Service for Supervision of Communications, Information Technology and Mass Media of the Republic of Crimea and the City of Sevastopol).

The judgment may be appealed to the Judicial Board for Administrative Cases of the Altai Krai Court through the Topchikhinsky District Court within one month from the date of its rendering.

The judge

[signature]

I. M. Kernechishina



**Annex 450**

Central District Court of the City of Simferopol of the Republic of Crimea, Case  
No. 2a-1105/2022, Decision, 21 February 2022

(excerpt, translation)



**Excerpt  
Translation**

**Central District Court of the City of Simferopol of the Republic of Crimea, Case No.2a-1105/2022, Decision, 21 February 2022.**

Case No.2a-1105/2022

Unique case identifier 91R50003-01-2021-007295-13

**DECESION  
IN THE NAME OF THE RUSSIAN FEDERATION**

21 February 2022

City of Simferopol

The Central District Court of the City of Simferopol of the Republic of Crimea, as composed of: the presiding judge - Gordienko O.L., with the secretary - Ilchenko E.S., having heard in public proceedings the administrative case on the administrative claim of the Department of the Federal Service for Supervision of Communications, Information Technology and Mass Media of the Republic of Crimea and the City of Sevastopol against the founder of the radio channel "Russkiy Kurier" - Limited Liability Company "Krymskaya informacionnaya kompaniya" to recognise the registration of the mass media outlet invalid,

[...]

By virtue of paragraph 2 of section 1 of Article 15 of the Law of the Russian Federation "On Mass Media" the registration of the mass media outlet can be declared invalid only through administrative proceedings at the request of registering body in case if the outlet is not published (not broadcast) for more than one year.

[...]

The fact that the radio channel is not broadcast for more than one year is also confirmed by the statement of the branch of Federal State Unitary Enterprise "The General Radio Frequency Centre" in the Republic of Crimea and Sevastopol No109-21 dated 25.10.2021, drawn up on the basis of the act of radio control measures No.91-4288-00 dated 25.10.2021, and on the basis of checking the radio broadcasting through telecommunications (through the Internet).

Thus, on the basis of planned systematic observation in relation to the aforementioned mass media outlet in the implementation of state supervision of compliance with the legislation of the Russian Federation in the sphere of mass information and mass communications, television broadcasting and radio broadcasting, there were signs of the absence of broadcasting of the radio channel for more than one year.

[...]

**THE COURT HELD:**

To satisfy the administrative claim of the Department of the Federal Service for Supervision of Communications, Information Technology and Mass Media of the Republic of Crimea and the City of Sevastopol.

To invalidate the registration of the media outlet - radio channel "Russkiy Kurier", certificate of registration series EL No.FS77-60748, issued on 09.02.2015 by the Department of the Federal Service for Supervision of Communications, Information Technology and Mass Media of the Republic of Crimea and the City of Sevastopol.

The decision can be appealed to the Supreme Court of the Republic of Crimea through Central District Court of the city of Simferopol of the Republic of Crimea within one month from the date of its final rendering.

The judge

[signature]

O.A. Gordienko

The judgment is rendered by the court in final form on 09.03.2022 (minus the non-working days).

**Annex 451**

Central District Court of the City of Simferopol of Republic of Crimea, Case  
No. 2a-4159/16 Decision, 30 September 2016

(excerpt, translation)





**Excerpt  
Translation**

**Central District Court of the City of Simferopol of Republic of Crimea, Case No. 2a-4159/16,  
Decision, 30 September 2016.**

Case 2a-4159/16

**DECISION  
IN THE NAME OF THE RUSSIAN FEDERATION**

On September 30, 2016 the Central District Court of the City of Simferopol of Republic of Crimea composed of:  
presiding judge Karalash Z.Y.,  
with the secretary Borovikova I.Y,  
with the presence of the representative of the administrative plaintiff Pospekhova E.N.,  
having heard in public proceedings the case on the administrative claim of Federal Service for Supervision of Communications, Information Technology and Mass Media against the LLC "RosKrymMedia Production" to invalidate the certificate of registration of the mass media outlet "Izumrudnaya volna" issued by the Federal Service for Supervision of Communications, Information Technology and Mass Media series EI No. FS 77-64342 dated 25.12.2015,

[...]

By virtue of the provisions of Article 15 of the Law of the Russian Federation "On Mass Media", a registration certificate for a media outlet can be invalidated only by court through administrative proceedings at the request of the registering body in case if the outlet is not published (not broadcast) for more than one year.

Taking into account that it was established in the court hearing that the mass media outlet "Izumrudnaya volna" has not been broadcast for more than one year, the claims of the administrative plaintiff are to be satisfied.

Guided by Articles 175-180 of the Administrative Court Procedure Code of the Russian Federation, the court

held:

The administrative claim of the Federal Service for Supervision of Communications, Information Technology and Mass Media to be satisfied.

To declare invalid the registration certificate of the mass media outlet "Izumrudnaya volna" series EI No. FS 77-64342 dated 25.12.2015, issued by the Federal Service for Supervision of Communications, Information Technology and Mass Media.

The decision can be appealed to the Supreme Court of the Republic of Crimea through the Central District Court of Simferopol within one month from the date the date of its rendering in final form.

The presiding judge  
Karalash

[signature]

Z.Y.

The decision in final form was rendered on 5 October 2016.



**Annex 452**

Yalta City Court of the Republic of Crimea, Case No. 2a-2964/2022, Decision, 29 July 2022

(excerpt, translation)



**Excerpt  
Translation****Yalta City Court of the Republic of Crimea, Case No. 2a-2964/2022, Decision, 29 July 2022.**Case No. 2a-2964/2022  
91R50024-01-2022-003449-75**DECISION  
In the name of the Russian Federation**

29 July 2022

City of Yalta

The Yalta City Court of the Republic of Crimea as composed of: presiding judge Altunin A.V., with the secretary Tolstikova E.M.,

having heard in public proceedings the administrative case on the claim of the Federal Service for Supervision of Communications, Information Technology and Mass Media against the founder of the print media almanac "ALMNACH "YALTINSKIY LUK / YALTA SMOTRI" ALMANAC YALTA ONION / YALTA LOOK" Fedorov-Moskvitin Vadim Gennadievich on the recognition of the registration of the mass media outlet invalid.

[...]

By virtue of paragraph 2 of section 1 of Article 15 of the Law of Russian Federation dated December 27, 1991 No. 2124-1 the registration of the mass media outlet can be declared invalid only through administrative proceedings at the request of registering body in case if the outlet is not published (not broadcast) for more than one year.

During the period from 05.05.2022 to 06.05.2022 the Department of the Federal Service for Supervision of Communications, Information Technology and Mass Media of the Republic of Crimea and the City of Sevastopol conducted a planned systematic observation of the printed mass media outlet - almanac "ALMNACH "YALTINSKIY LUK / YALTA SMOTRI" ALMANAC YALTA ONION / YALTA LOOK" for compliance with the legal prerequisites regarding mass media.

In the course of the inspection, it was found that there was a violation of the prerequisites of the Law of the Russian Federation "On Mass Media" dated December 27, 1991 No. 2124-1 which was expressed in the fact that the printed mass media outlet - almanac "ALMNACH "YALTINSKIY LUK / YALTA SMOTRI" ALMANAC YALTA ONION / YALTA LOOK" has not been published for more than one year. The printed edition was not released for retail sale, and no mandatory copies of the printed edition were supplied to "ITAR-TASS" Federal State Unitary Enterprise and the "Russian State Library" Federal State Budgetary Institution. A search on the Internet resources Yandex and Google revealed that the print mass media outlet is not active.

The above circumstances are confirmed by the report of the leading specialist of the Department of the Federal Service for Supervision of Communications, Information Technology and Mass Media of the Republic of Crimea and the City of Sevastopol E.E. Zubenko dated 06.05.2022. No. 464-dn, the statement of the branch of Federal State Unitary Enterprise "The General Radio Frequency Centre" in the Republic of Crimea and Sevastopol dated 21.04.2022 No.044-22, letters of "ITAR-TASS" Federal State Unitary Enterprise dated 29.04.2022 No.984-izh/22 and "Russian State Library" Federal State Budgetary Institution dated 27.04.2022 No.RKN985-2022.

[...]

Since the founder of the print mass media outlet is not exercising his right to produce and disseminate mass information, the court, guided by section 12 of Article 8, by paragraph 2 of section

1 of Article 15 of the Law of Russian Federation dated December 27, 1991 No. 2124-1 recognizes the registration of this mass media outlet as invalid.

[...]

the Court held:

to satisfy the claim of the Federal Service for Supervision of Communications, Information Technology and Mass Media.

to declare the registration of the print media almanac "ALMNACH "YALTINSKIY LUK / YALTA SMOTRI" ALMANAC YALTA ONION / YALTA LOOK" (certificate of registration dated 13.11.2017, series PI No. FS: 77-71437) invalid.

**Annex 453**

RG, *The Supreme Court of Ukraine did not recognize as Nazi the symbols of the SS Division  
“Galichina”* (6 December 2022)

(translation)





**Translation**

**RG, *The Supreme Court of Ukraine did not recognize as Nazi the symbols of the SS Division "Galichina"* (6 December 2022), available at: <https://rg.ru/2022/12/06/verhovnyj-sud-ukrainy-ne-priznal-nacistskoj-simvoliku-divizii-ss-galichina.html>.**

## **Ukraine's Supreme Court does not recognise symbols of the SS division "Galicia" as Nazi**

*Maria Krylova*

In May 2020, the Kiev District Administrative Court ruled that the conclusion of the Ukrainian Institute of National Remembrance that the symbols of the 14th Grenadier Division of the SS "Galicia" troops were not Nazi was illegal. In the autumn of the same year, the court of appeal reversed the decision of the first instance.

And now the Supreme Court of Ukraine has recognised the decision of the court of appeal as lawful. The lawyer Vyacheslav Yakubenko representing interests of the Ukrainian Institute of National Memory said that symbols of division "Galicia" were not Nazi, i.e. were not banned in Ukraine.

The SS division "Galicia" was created in the spring of 1943 from among Ukrainian nationalists. Its fighters were involved in punitive operations and the killing of Soviet soldiers and civilians.

The SS troops, of which the "Galicia" Division was a part, were declared a criminal organisation by the Nuremberg Tribunal. Nevertheless, in some Ukrainian cities there are streets named after "Galicia". The last Ukrainian SS man from this division died in 2020 and was buried with honours in Ivano-Frankovsk.



**Annex 454**

Ukraine's General Attorney Office Letter No. 19/1/1-24020-19, 9 February 2022

(translation)



**Translation**

**Ukraine's General Attorney Office Letter No. 19/1/1-24020-19, 9 February 2022.**

PROCURATURE OF UKRAINE

**PROSECUTOR GENERAL'S OFFICE**

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Ulitsa Reznitskaya, 13/15, Kiev, 01011; fax: (044) 280-26-03  
e-mail: [office@gp.gov.ua](mailto:office@gp.gov.ua), web: [www.gp.gov.ua](http://www.gp.gov.ua); EDRPOU 0034051

09.02.2022 No. 19/1/1-24020-19

In response to: 82/2-1382-2020 of 23.09.2021

To: Prosecutor General's Office of the Russian Federation,  
Chief Directorate of International Legal Cooperation  
Address: B.Dmitrovka, 14a, Moscow, Russia, GSP-3, 125993

The Prosecutor General's Office hereby sends materials collected in the process of fulfilling the request for legal assistance in case No.11802007703000377.

At the same time please be informed that items 3 and 4 of the request cannot be fulfilled based on Art.19 of the Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters (1993) and Art.2 of the European Convention on Mutual Assistance in Criminal Matters (1959).

Annex: on 13 pages.

Acting Head of the Directorate of Legal Assistance,  
Department of International Legal Cooperation (signature)

Oleg Gladkikh

(Round Seal)



**Annex 455**

Russian Federation General Attorney, Request for assistance No. 82/2-1382-2020,  
23 September 2021

(translation)





**Translation**

**Russian Federation General Attorney, Request for assistance No. 82/2-1382-2020,  
23 September 2021.**

**Prosecutor General's Office  
of Ukraine  
Department of International Legal Cooperation**  
Address: Ulitsa Reznitskaya, 13/15, Kiev, 01011

23.09.2021 82/2-1382-2020

The Prosecutor General's Office of the Russian Federation, in accordance with the Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters dated 22.01.1993, International Convention on Countering the Financing of Terrorism dated 09.12.1999 and Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, dated 14.12.1973, hereby requests legal assistance in criminal case No.11802007703000377 concerning a crime punishable under Art.360.2 (Assault on a representative of a foreign state, or on a staff member of an international organisation that enjoys international protection) of the Criminal Code of the Russian Federation.

The circumstances of the crime in question and the requested legal assistance are set out in the attached Annex.

Please fulfill the request in the shortest possible time and send collected materials to the Prosecutor General's Office of the Russian Federation at: Ulitsa B. Dmitrovka, 15a, Moscow, Russia, GSP-3, 125993.

On all issues that may arise in the process of handling the request please contact us at e-mail [35\\_gu@genproc.ru](mailto:35_gu@genproc.ru).

We thank you in advance for cooperation and hereby confirm our readiness to assist the competent authorities of Ukraine in similar or any other matters in accordance with the international treaties of which Russia and Ukraine are participants, as well as the law of the Russian Federation.

Annex: on 14 pages.

**Deputy Head of the Chief Directorate of International Legal Cooperation and Head of the  
Department of Legal Assistance and Law Enforcement Cooperation**

**(signature) P.A. Litvishko**

Ex. by O.V.Salnikova, tel. +7(495) 986-34-41

**INVESTIGATIVE COMMITTEE OF THE RUSSIAN FEDERATION (IC OF RUSSIA)**

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Tekhnicheskiy Pereulok, 2 Moscow, Russia, 105005

24.08.2021 No. 11802007703000377

To: Competent authorities of Ukraine

**REQUEST**  
for legal assistance

The Investigative Committee of the Russian Federation is investigating criminal case No.11802007703000377 initiated 27.11.2018 in respect of unidentified persons suspected of committing a crime under Art. 360.2 of the Criminal Code of the Russian Federation, based on the fact of an assault on the Consulate General of the Russian Federation in Kharkov (hereinafter – the ‘Consulate’).

The investigation has found out that on 26.11.2018 and 08.02.2019, unidentified persons, including among them participants of Ukrainian organisations ‘National Corps’ and ‘People’s Militia’, acting as a group upon prior collusion, for the purpose of complicating international relations between Ukraine and the Russian Federation, twice committed assaults on the building of the Consulate at: Ukraine, Kharkov, Ulitsa Olminskogo, 22, in the course of which they threw pyrotechnic products, smoke bombs, eggs and other items into its territory thereby disrupting the normal course of work of a Russian foreign institution on said days.

The aforementioned persons definitely knew that the Consulate building in Kharkov enjoyed international protection and immunities in accordance with Art. 22 of the Vienna Convention on Diplomatic Relations dated 18.04.1961 and Art.1 of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973).

The statutes of limitation for the crimes under Art. 360.2 of the Criminal Code of the Russian Federation, in accordance with the law of the Russian Federation, have not yet lapsed.

In accordance with Art.12.3 of the Criminal Code of the Russian Federation, foreign citizens that do not reside permanently in the Russian Federation, having committed a crime beyond the Russian Federation boundaries, are subject to criminal liability under the Criminal Code of the Russian Federation in cases provided for in an international treaty of which the Russian Federation is a party, or another international document comprising obligations recognized by the Russian Federation in the sphere of relations regulated by this Code, if foreign citizens that do not reside permanently in the Russian Federation have not been convicted in the foreign country and in respect of whom criminal action is initiated in the Russian Federation.

In accordance with Art.3 of the Federal Law No.35-FZ dated 06.03.2006 “On Countering Terrorism”, terrorist activity is one that comprises, inter alia, organization, planning, preparation, financing and carrying out of a terrorist act, propaganda of terrorist ideas, dissemination of materials or information calling for terrorist activity or substantiating or justifying the need for such activity.

According to Art.24.1 of the Federal Law No.35-FZ dated 06.03.2006 “On Countering Terrorism”, the formation and activities of organizations whose goals or actions are aimed at propaganda, justification or support of terrorism or commission of crimes under Arts. 205, 206, 208, 211, 277-280, 282.1, 282.2 and 360 of the Criminal Code of the Russian Federation, are prohibited in the Russian Federation.

The actions of unidentified persons who took part in the assaults on the Consulate related to the organization, planning, preparation, financing and carrying out of the assaults, fall under

the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973) and International Convention on Countering the Financing of Terrorism (1999), that provide, inter alia, for sanctions against persons financing terrorist crimes aimed at diplomatic or consulate representative organizations.

The investigation has found out that one of the participants of the aforesaid actions of 26.11.2018 and 08.02.2019 near the Consulate was one Konstantin Vitalyevich Nemichev, citizen of Ukraine, born 10.01.1996 in Kharkov, Ukraine.

The preliminary investigation bodies of the Russian Federation have been earlier informed by the competent bodies of Ukraine in response to previous requests for legal assistance (response No.14/1/1-24020-19 dated 03.05.2019, response No.14/1/1-24813-19 dated 02.08.2019) that law enforcement bodies of Ukraine conducted a pre-trial investigation in criminal case No.12018220490005058 concerning the fact of the assault on the Consulate on 26.11.2018, and also that no information has been entered in the Unified Register of Pre-trial Investigations of Ukraine related to the assault of 08.02.2019.

Thus, in accordance with Art.56.1 of the Criminal Procedure Code of the Russian Federation, K.V. Nemichev has the status of a witness and enjoys the rights under Art. 56.4 of the Criminal Procedure Code of the Russian Federation.

At this time, for the purpose of identifying all circumstances of the crime under investigation, there is a need for performing certain procedural acts in Ukraine.

Based on the above and guided by the Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters (1993), International Convention on Countering the Financing of Terrorism (1999) and Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973), as well as Arts. 453 and 454 of the Criminal Procedure Code of the Russian Federation,

I HEREBY REQUEST:

1. To provide information on the results of the pre-trial investigation under criminal case No.12018220490005058 and of any charges brought against anyone committing the aforesaid crime.
2. To inform if K.V.Nemichev has been charged under criminal case No. 12018220490005058, and if yes, under what article of the Criminal Code of Ukraine, and to provide copies of procedural decisions taken in relation to him, and copies of documents containing evidence of the crimes committed by him.
3. To explain to K.V.Nemichev, against signature, the provisions of the Criminal Code of the Russian Federation, Criminal Procedure Code of the Russian Federation and Constitution of the Russian Federation stated below, providing us with the originals of the corresponding documents:
  - rights of a witness provided in Art.56.4 of the Criminal Procedure Code of the Russian Federation;
  - provisions of Art.307 of the Criminal Code of the Russian Federation related to the criminal liability for the provision of consciously false testimony;
  - provisions of Art.308 of the Criminal Code of the Russian Federation related to the criminal liability for refusing to testify;
  - provisions of Art.51 of the Constitution of the Russian Federation, according to which he is not obliged to testify against himself, his spouse and other close relatives;
  - provisions of Art.18 of the Criminal Procedure Code of the Russian Federation, according to which he is entitled to testifying in his native language or another language he knows, and to using the services of an interpreter free of charge;

- provisions of Chapter 16 of the Criminal Procedure Code of the Russian Federation regulating the procedure for complaining against actions and decision of the court and officials responsible for the criminal proceedings.
4. To interrogate K.V.Nemichev in the capacity of a witness under case No. 11802007703000377 with regard to the following issues:
- find out the main information on his biography, stating places of residence, study, work, service in the Armed Forces, family status, chronic diseases, possible head injuries,
  - what countries he is citizen of, where and under what circumstances he received citizenship,
  - find out his current employment, job responsibilities, if he is a member of any party or movement,
  - what he knows about the facts of assault on the Consulate General of the Russian Federation in Kharkov; if he has relevant information, find out circumstances of the assaults.
  - Who is the organizer of the assaults on the Consulate on 26.11.2018 and 08.02.2019? What was the source of financing thereof?
  - What was the chronology of the assaults on the Consulate on 26.11.2018 and 08.02.2019?
  - Who took part in the assaults on the Consulate on 26.11.2018 and 08.02.2019? Personal data of the persons who threw items at the building and the territory of the Consulate on 26.11.2018 and 08.02.2019?
  - What was the purpose of the assaults on the Consulate on 26.11.2018 and 08.02.2019?
  - What can he relate on where and with whom he was on 26.11.2018 and 08.02.2019, and what was he busy with?
  - What does he know of the Ukrainian organizations ‘National Corps’ and ‘People’s Militia’, their makeup and leaders? Does he occupy any post in said organizations? If yes, which specifically? What are his responsibilities?
  - What are the main goals and objectives of the NGOs ‘National Corps’ and ‘People’s Militia’?
  - Please attach copies of documents to the witness interrogation protocol identifying his person and Ukrainian, or any other, citizenship (passport).
5. To obtain information on ‘National Corps’ and ‘People’s Militia’, their makeup, leaders and copies of founding documents from the corresponding competent bodies of Ukraine.

Information in this Request is confidential and is intended only for official use, as it constitutes secrecy of investigation.

For our part, we guarantee that any information received by us as a result of the request will not be handed over to third persons, will be used only in the interests of the investigation of the criminal case, and will not entail damage to the sovereignty, security and public order of Ukraine.

Please execute materials collected in the course of fulfilling this request in printed form or attach print copies, certifying them with a seal and signature of the responsible person, and send them to the Directorate of International Legal Cooperation of the Investigative Committee of the Russian Federation at address: 195995, Russia, Moscow, Pereulok Tekhnicheskii, 2.

Annex: - extract from the Criminal Code of the Russian Federation on 1 p.,

- witness acknowledgment form under Art. 56.4 of the Criminal Procedure Code of the Russian Federation on 1 p.,

- witness acknowledgment form under Art. 307 of the Criminal Code of the Russian Federation on 1 p.,
  - witness acknowledgment form under Art. 308 of the Criminal Code of the Russian Federation on 1 p.,
  - witness acknowledgment form under Art. 51 of the Constitution of the Russian Federation on 1 p.,
  - witness acknowledgment form under Ch. 18 of the Criminal Procedure Code of the Russian Federation on 1 p.,
  - witness acknowledgment form under Ch. 16 of the Criminal Procedure Code of the Russian Federation on 4 pp.,
- (total of 10 pages).

Senior Investigator of the Chief Investigative Directorate

Major of Justice

(signature)

O.Yu. Lukyanova

(Seal)

**Annex 456**

Law of Ukraine No. 638-IV “On the fight against terrorism”, 20 March 2003

(translation)





Law of Ukraine No. 638-IV “On the fight against terrorism”, 20 March 2003, available at:  
<https://zakon.rada.gov.ua/laws/show/638-iv>.



## ***LAW OF UKRAINE***

### **On the Fight Against Terrorism**

**(Vedomosti of Verkhovnaya Rada of Ukraine (VVR), 2003, No. 25, p.180)**

[...]

#### **Article 24. Responsibility of an organisation for terrorist activities**

An organisation that is accountable for commission of a terrorist act and is declared as a terrorist organisation by a decision of the court, shall be dissolved and its property shall be seized.

If a court of Ukraine, including in accordance with its international legal obligations, recognises the activities of an organisation (its branch, affiliate, representative office) registered outside Ukraine as terrorist, the activities of this organisation in Ukraine are prohibited, its Ukrainian branch (affiliate or representative office) is dissolved by court order and its property and the property of the organisation which is located in Ukraine is seized.

A petition to declare the organisation accountable for terrorism activities shall be submitted to the court by the General Prosecutor, prosecutors of the Autonomous Republic of Crimea, regions, cities of Kiev and Sevastopol in accordance with the procedure established by law.

*{Part three of Article 24 as amended by Law No. 1798-VIII of 21 December 2016}*

[...]



**Annex 457**

Protocol of 28 March 1997 to the Minsk Convention of 22 January 1993 on legal aid and legal relations in civil, family and criminal cases

(translation)



**Translation**

**Protocol of 28 March 1997 to the Minsk Convention of 22 January 1993 on legal aid and legal relations in civil, family and criminal cases.**

PROTOCOL  
of 28 March 1997  
TO THE CONVENTION ON LEGAL AID AND LEGAL RELATIONS  
IN CIVIL, FAMILY AND CRIMINAL CASES OF 22  
JANUARY 1993

The States that parties to the Convention on Legal Aid and Legal Relations in Civil, Family and Criminal Cases of 22 January 1993

have agreed to make the following additions and amendments to the above-said Convention:

[...]

6. Article 17 shall be supplemented with a sentence that reads as follows:

"Where documents are executed in the official languages of the Contracting Parties, certified Russian translation shall be attached to them."

[...]

Done in Moscow on 28 March 1997 in one original counterpart in the Russian language. The original shall be kept at the Executive Secretariat of the Commonwealth of Independent States, which shall deliver a certified copy thereof to each State that is signatory to this Protocol.

*for the Republic of Azerbaijan*  
A. ALIYEV

*for the Republic of Armenia*  
L. Ter-PETROSYAN

*for the Republic of Belarus*  
A. LUKASHENKO

*for Georgia*  
E. SHEVARDNADZE

*for the Republic of Kazakhstan*  
N. NAZARBAEV

*For the Kyrgyz Republic*  
A. AKAYEV

*For the Republic of Moldova*  
*P. LUCHINSKY*

*for the Russian Federation*  
*B. YELTSIN*

*For the Republic of Tajikistan*  
*E. RAKHMONOV*

*for the Republic of Uzbekistan*  
*I. KARIMOV*

*for Ukraine*  
*L.KUCHMA*

**Annex 458**

Commissioner for Human Rights in Donetsk People's Republic, Letter No. 4/04-8408,  
5 December 2022

(translation)





**Translation**

**Commissioner for Human Rights in Donetsk People's Republic, Letter No. 4/04-8408, 5 December 2022.**

**From** Commissioner for Human Rights  
ombudsman\_dnr@mail.ru  
**Subject** Response to 23579 dp  
of 01.12.2022 **Date** Tue, 06  
Dec 2022, 10:41:59  
**To** dp@mid.ru

Respectfully,

Commissioner for Human Rights in the Donetsk People's Republic  
Official website: <http://ombudsman-dnr.ru>  
ombudsman\_dnr@mail.ru  
Tel. numbers:  
071-301-73-52 (phoenix) General reception  
071-404-69-29 (phoenix) Missing persons

Re provision of information.pdf (5917 Kb)

[letterhead of the Commissioner for Human Rights ]

Ref. No. 4/04-8408 of 05 December 2022

In reply to No. 23579/dp of 01 December 2022

To the Deputy Minister of Foreign  
Affairs of the Russian Federation

M. Y. Galuzin

Re provision of information

Dear Mikhail Yurievich,

In response to your request (ref. No. 2 2-2294 el. of 01.12.2022) received by the Commissioner for Human Rights in the Donetsk People's Republic (hereinafter, the Commissioner) from the Ministry of Foreign Affairs of the Russian Federation, I advise you of the following.

Regarding the list of persons on whom information is requested, the Commissioner has information concerning Sergei Aleksandrovich Bashlykov, born on 27.10.1986, who was exchanged as part of the exchange of detainees between Ukrainian state and the Donetsk People's Republic, which took place on 29 December 2019. The agreement on this exchange was reached in the course of the work of the humanitarian subgroup of the Trilateral Contact Group in Minsk and was enshrined in the Protocol of 23.12.2019 signed, among others, by the representative of Ukraine L. M. Kuchma (Annex 1). No representatives of the Russian Federation were signatories to the aforementioned Protocol, as the Russian Federation was guaranteeing the implementation of the Minsk agreements in the negotiation process and was not a party to the armed conflict.

S. A. Bashlykov, a private entrepreneur, was detained on 26 February 2015. The reason for the inclusion of the latter on the list of the persons that the Donetsk People's Republic was searching for on the territory of Ukraine is a request of his father, Alexander Bashlykov, who reported by telephone about the illegal detention of his son after the terrorist attack on 22 February 2015 during the "Dignity March" near the Palace of Sports in Kharkov. According to his father, S.A. Bashlykov was "in the wrong place at the wrong time". After he was detained, he was charged with crimes under Art. 258 (3) and Art. 263(1) of the Criminal Code of Ukraine

Negotiations regarding the exchange of S.A. Bashlykov had been underway since 2015. On the eve of the exchange, which took place on 27 December 2017, the Ukrainian side excluded S. A. Bashlykov from the exchange list, giving as a reason for this that the persons "who have not been procedurally cleared" may not be transferred.

From the date of detention until 28 December 2019, S.A. Bashlykov's criminal case was at the trial stage. More than forty court hearings took place, but the detainee could not be found guilty. And only after agreements on the exchange were reached, the latter was sentenced to life imprisonment with confiscation of property based on the verdict of the Frunzensky Court in Kharkov dated 28 December 2019. He was released from custody the

same day on personal recognizance (Annex 2) and taken to the Maiorsk checkpoint for a transfer to DPR territory as part of the exchange.

The fact that after lengthy court proceedings S. A. Bashlykov was convicted one day before the exchange raises doubts. It was subsequently established that SBU officers exerted psychological pressure on the detainees, offering them to sign an indictment in exchange for their release through the transfer to the DPR. This is not an isolated case and the number of the persons exchanged on 29 December 2019 who were convicted on the last day is 7 (Annex 3). It is worth noting that those who refused to sign the indictment had their pretrial restraint changed to personal recognizance within the shortest time possible (Annex 4).

Such facts are set out in the United Nations "REPORT ON THE HUMAN RIGHTS SITUATION IN UKRAINE, 16 NOVEMBER 2019 TO 15 FEBRUARY 2020", Impact of the simultaneous release of detainees on the rule of law: "The simultaneous release of detainees on 29 December 2019 raises a number of human rights concerns in the sphere of administration of justice. Firstly, the release of individuals prosecuted for, or convicted of, human rights violations may deprive victims of justice, truth and redress. Secondly, the procedure under which individuals on trial were released may negatively affect their right to liberty should they appear for future trial hearings. These concerns had already been highlighted following the previous simultaneous release on 27 December 2017. At least 47 detainees released and transferred to territory controlled by the self-proclaimed 'republics' had been convicted of various crimes and were serving their sentences. Notably, three men had been convicted of setting off an explosion at a pro-Maidan rally in Kharkiv on 22 February 2015 which killed two men, a boy and a police officer. On 28 December 2019, a court in Kharkiv found the three defendants guilty and sentenced them to life imprisonment. However, contrary to normal practice, the court released them from custody under a personal commitment to remain in their place of official residence pending the entry into force of the verdict. The authorities have allowed them to avoid serving their sentences and paying damages to the victims. OHCHR notes that although the simultaneous release of detainees is aimed at promoting peace and reconciliation, it should be balanced with Ukraine's obligations to investigate and prosecute human rights violations and ensure victims' right to an effective remedy".

I think it is important to inform you that during this period of the armed conflict in Donbas since 2014, there have been mass arrests, on Ukrainian territory, of citizens not involved in the armed conflict in order to replenish the "exchange fund". As an example, the events of May 2014 in Odessa, when mass arrests of citizens who actively expressed their position against the war in Donbas were carried out. Guided by humanitarian considerations, representatives of the Donetsk People's Republic decided to include those citizens on the list of persons searched for on Ukrainian territory. Many participants in those events were subsequently transferred to the territory of the Donetsk and Lugansk People's Republics as part of exchanges.

Arbitrary detentions of civilians, including those detained after the aforementioned terrorist attack, are also reflected in the UN report "ARBITRARY DETENTION, TORTURE AND ILL TREATMENT IN THE CONTEXT OF ARMED CONFLICT IN EASTERN UKRAINE, 2014-2021": "On 26 February 2015, SBU arrested three men in Kharkiv, and accused them of planting an improvised explosive device during a 'Dignity March' on 22 February 2015, which detonated, killing four civilians and injuring more than

ten. SBU officers brought the three men straight to the Kharkiv SBU premises. There, SBU officers hit one man on the back and head with a rifle butt and then subjected him to a mock execution. The officers told him he would not make it out alive if he did not agree to cooperate and to incriminate himself."

The use of torture and ill-treatment of detainees is another not insignificant factor that guided representatives of the DPR in requesting from the Ukrainian side a transfer of persons detained for supporting the Republics. As of today, the situation with the use of physical coercion remains unchanged. A quote from the UN report: "OHCHR monitored the situation in Alekseyevskaya Correctional Colony No. 25 (Kharkiv region) and visited the colony on 10 January 2019 after concerns were raised about the use of torture and ill-treatment. OHCHR received reports alleging that inmates were subjected to intense beatings, in particular with various objects, strangulation, rape and threats of rape, as well as other forms of sexual violence, including forced nudity. Correctional officers who may have been involved in the torture and ill-treatment are still working at the colony".

OHCHR estimates that around 60 per cent of all conflict-related detentions in custody by government actors between 2014 and 2021 (approximately 2,300) were arbitrary because they did not meet safeguards requirements under international human rights law, despite being codified in national law. Most of these occurred during the first phase of the conflict (2014-2015).

I would also like to note that the Ukrainian side has not only detained people not involved in the armed conflict in Donbas, but has also requested an exchange of persons detained before the beginning of the conflict and convicted under articles of the Criminal Code relating to general crimes. Thus, on 29 December 2019, A. P. Sadovsky, who on 21 April 2014 had committed a robbery attack on a currency exchange office, during which he seized cash in an especially large amount, and also murdered a pregnant woman, the cashier, and subsequently burned her body, was transferred to Ukraine. Another example is V. N. Syryk, who, on 18 February 2019, by previous concert of a group of persons, committed forcible embezzlement of property belonging to P. by illegally entering the residence of the latter and using violence not dangerous to health, and thereby caused financial damage to the latter.

Additionally, I would like to advise that M. Kovtun, V. Dvornikov and V. Tetyutsky were participants in the same events in Kharkov and were participants in the exchange between the Lugansk People's Republic and the Ukrainian state and subsequently transferred to the LPR territory.

Commissioner for Human Rights  
in the Donetsk People's Republic

D. V. Morozova

*ANNEX I*

The Trilateral Contact Group, with the participation of representatives of some of Donetsk and Lugansk regions of Ukraine, agreed as follows:

- A release of persons is to be carried out as per the agreed lists of "all identified persons for all identified persons " at the Maiorsk checkpoint on 29 December 2019 at 11:00 am Kiev time;
- The persons who are released as a result of the pretrial restraint in their respect being changed to personal recognizance are to be granted the right to apply to a court for a hearing of their criminal case in absentia. In the case of a guilty verdict, after its entry into force, a pardon procedure will be applied to such a person, guaranteeing the release of the convicted person from subsequent criminal punishment;
- The parties will ensure that all proceedings are completed as soon as possible and inform the TAG Humanitarian Working Group of the stages of the proceedings in relation to each person on the release and exchange lists;
- The process of exchanging "all identified persons for all persons identified as of 29 December 2019" will be deemed to have been completed when all commitments made by the parties are fulfilled in full.

23 December 2019

## NOTICE OF RELEASE

Part "B"

Serie HAR \_\_\_\_\_ No. \_\_\_\_\_ 02044  
 Issued to citizen \_\_\_\_\_ Bashlikov  
 Sergiy Oleksandrovych

Directly to the place of residence of the applicant

Kharkov, Dostoevskogo Street, 10, apt. .4;

Actual place of residence: Kharkov, Frunze Prospect, 45  
(village, district, town, region, Autonomous Republic of Crimea, state)

Date of birth \_\_\_\_\_  
(Name, surname and father's name)  
 27.10.1986  
(date, month, year)  
 Place of birth \_\_\_\_\_  
 Kharkov  
(village, district, municipality, -region, Autonomous Republic of Crimea, state)

Ticket for \_\_\_\_\_ station

Citizenship \_\_\_\_\_ Ukraine  
 Previous convictions \_\_\_\_\_ Not previously convicted

Money for the ticket in the amount of \_\_\_\_\_

Convicted on 28.12.2019 by the Frunzensky District Court,  
Kharkov, under Articles 27(5),258(3),263(1),70(1),72(5) of  
Ukrainian Criminal Code  
 With confiscation of property

REMARK(S):

Chief accountant

(Signature)

Passport series \_\_\_\_\_ no. \_\_\_\_\_

(Please check that you have your passport)

He (she) has been detained in custody at  
 the facilities of the State Criminal Investigation  
 Department  
 \_\_\_\_\_ from 26 02 2015 to 28 12 2019

Released on \_\_\_\_\_ personal recognizance

On the basis of the judgment of the Frunzensky District  
 Court of Kharkov of 28.12.2019

A prophylactic medical examination  
 for tuberculosis was conducted on 24.02.2019 3436

## Annex 3

| <b>No.</b> | <b>FULL NAME</b>                    | <b>Date of birth</b> |
|------------|-------------------------------------|----------------------|
| 1          | Bondarenko Eduard Evgenievich       | 24.07.1961           |
| 2          | Zhadko Denis Valeryevich            | 02.10.1980           |
| 3          | Zabolotsky Gennady Gennadievich     | 07.02.1988           |
| 4          | Mastikasheva Daria Dmitrievna       | 01.12.1987           |
| 5          | Pastukhov Sergey Anatolievich       | 02.03.1982           |
| 6          | Selyanov Vyacheslav Vyacheslavovich | 28.07.1972           |
| 7          | Chernikova Galina Aleksandrovna     | 10.02.1994           |

| No. | FULL NAME                                                                  | Date of birth | Articles under which charges were brought                                                                                                                   |
|-----|----------------------------------------------------------------------------|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1   | Abbasov Rustam Nuridin oglu                                                | 05.12.1991    | Part 2 of Art. 28; Part 1 of Art. 263; Part 2 of Art. 258;<br>Part 2 of Art. 263-1                                                                          |
| 2   | Abroskin Pavel Mikhailovich                                                | 21.06.1989    | para. 1 of Part 2 of Art. 115; para. 5 of Part 2 of Art. 115;<br>para. 12 of Part 2 of Art. 115; Part 2 of Art. 262; Part 3 of Art. 365                     |
| 3   | Bashlykov Sergey Alexandrovich                                             | 27.10.1986    | Part H of Art. 258; Part 1 of Art. 263                                                                                                                      |
| 4   | Biryukov Vyacheslav Stanislavovich                                         | 05.03.1990    | Part 5 of Art. 27; Part 1 of Art. 258-3;<br>Part 1 of Art. 2639;<br>Part 2 of Art. 187; Part 3 of Art. 258                                                  |
| 5   | Bondarenko Eduard Evgenievich                                              | 24.07.1961    | Part 1 of Art. 258-3; Part 1 of Art. 263;<br>Part 2 of Art. 263-1; Part 3 of Art. 258                                                                       |
| 6   | Busygin Anatoly                                                            | 16.09.1984    | Art. 115(2)(9); Art. 115(2)(12); Art. 115(3)<br>Art. 185                                                                                                    |
| 7   | Butrimenko Nikolai Alexandrovich                                           | 01.08.1955    | Part H of Art. 258; Part 1 of Art. 115;<br>Part 2 of Art. 258-5                                                                                             |
| 8   | Veselov Sergey Alexandrovich                                               | 29.01.1980    | Part 1 of Art. 15; Part 1 of Art. 258;<br>Part 2 of Art. 258; Part 1 of Art. 263;<br>Part 1 of Art. 396                                                     |
| 9   | Gratov Valery Aleksandrovich                                               | 22.04.1952    | Part 1 of Art. 258-3; Part 4 of Art. 358                                                                                                                    |
| 10  | Grubnik Vladimir Yurievich                                                 | 23.03.1983    | Part 1 of Art. 258-3, Part 2 of Art. 258, Part 1 of Art. 14, Part 2 of Art. 258, Part 1 of Art. 263, Part 2 of Art. 263-1                                   |
| 11  | Dakar Alexander Vinustovich (Krinari Artur Abdulayevich, born 05.09.1967). | 29.12.1958    | Part 2 of Art. 15, Part 2 of Part 1 of Art. 115, Part 1 of Art. 263                                                                                         |
| 12  | Djadan Igor Ivanovich                                                      | 16.06.1964    | Part 2 of Art. 258; Part 1 of Art. 263; Part 1 of Art. 258-3;<br>Part 2 of Art. 110; Part 1 of Art. 298; Part 1 of Art. 338; Part 1 of Art. 294<br>Art. 294 |
| 13  | Djimiev Murat Georgievich                                                  | 11.01.1966    | Part 2 of Art. 28; Art. 194(2); Part 1 of Art. 263; Art.<br>Art. 14; Part 2 of Art. 258                                                                     |
| 14  | Dolgosheya Vladislav Ruslanovich                                           | 24.04.1996    | Part 1 of Art. 258-3, Part 2 of Art. 15, Part 2 of Art. 113, Part 1 of Art. 258, Part 1 of Art. 263                                                         |
| 15  | Dolgosheya Ruslan Bronislavovich                                           | 25.12.1973    | Part 1 of Art. 258-3; Part 2 of Art. 15; Part 2 of Art. 113, Part 1 of Art. 258. Part 1 of Art. 263                                                         |



|    |                                     |            |                                                                                                                                                                    |
|----|-------------------------------------|------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 16 | Dolzhenkov Sergey Alexandrovich     | 03.01.1988 | Art. 110(2), Art. 14(1), Art. 294(1), Art. 109(1)                                                                                                                  |
| 17 | Druzhinin Evgeny Ivanovich          | 29.03.1975 | Art. 115(5)(6); Art. 187(4); Art. 258(3); Art. 258(1); Art. 263(1); Art. 289(3)                                                                                    |
| 18 | Yevtukhov Vyacheslav Viktorovich    | 12.11.1981 | Part 1 of Art. 15; Part 1 of Art. 258; Part 2 of Art. 258; Part 1 of Art. 263; Part 1 of Art. 396                                                                  |
| 19 | Yefimov Sergey Viktorovich          | 18.11.1976 | Part 1 of Art. 258-3; Part 1 of Art. 263; par. 1.6.9.12 of Part 2 of Art. 115; Part 3 of Art. 289; Part 2 of Art. 15; Paragraph 13 of Part 2 of Art. 115, Art. 348 |
| 20 | Zhadko Denis Valeryevich            | 02.10.1980 | Part 1 of Art. 258-3                                                                                                                                               |
| 21 | Zabolotsky Gennady Gennadyevich     | 07.02.1988 | Part 1 of Art. 258-3                                                                                                                                               |
| 22 | Zinchenko Sergei Pavlovich          | 27.09.1990 | Para. 1 of Part 2 of Art. 115; para. 5 of Part 2 of Art. 115; para. 12 of Part 2 of Art. 115; Part 2 of Art. 262; Part 3 of Art. 365                               |
| 23 | Kazansky Nikolay Aleksandrovich     | 18.06.1969 | Part 2 of Art. 294; Part 1 of Art. 14, Part 1 of Art. 258, Part 1 of Art. 258-3, Part 1 of Art. 263                                                                |
| 24 | Kosinov Vadim Aleksandrovich        | 27.07.1987 | Part 2 of Art. 260 of the CC of Ukraine                                                                                                                            |
| 25 | Mazur Oleg Vladimirovich            | 02.08.1965 | Part 2 of Art. 15, Part 1 of Art. 113, Part 1 of Art. 258-3, Part 1 of Art. 263                                                                                    |
| 26 | Marchenko Svetlana Viktorovna       | 08.02.1966 | Part 1 of Art. 258-3                                                                                                                                               |
| 27 | Mastikasheva Daria Dimitrievna      | 01.12.1987 | Part 2 of Art. 28; Part 1 of Art. 111; Part 1 of Art. 263                                                                                                          |
| 28 | Melnik Miroslav Valerievich         | 20.12.1993 | Part 2 Art. 258                                                                                                                                                    |
| 29 | Novikov Dmitriy Anatolievich        | 05.05.1988 | Art. 258-3(1), Art. 437(2), Art. 332-1(2), Art. 28(2)                                                                                                              |
| 30 | Pastukhov Sergey Anatolievich       | 02.03.1982 | Part 2 of Art. 28, Part 1 of Art. 258-3; Part 1 of Art. 263; Part 3 of Art. 258; Part 3 of Art. 185                                                                |
| 31 | Petrikov Sergey Andreevich          | 11.04.1983 | Part 2 Art. 28; Part 1 Art. 263; Part 1 Art. 14; Part 2 Art. 258; Part 2 Art. 263-1                                                                                |
| 32 | Podmazko Evgeny Sergeevich          | 06.04.1969 | Part 2 of Art. 15, Part 1 of Art. 14, Part 2 of Art. 258, Part 1 of Art. 258-3                                                                                     |
| 33 | Selyatenko Nikolai Nikolayevich     | 31.01.1967 | Part 1 Art. 14; Part 1 Art. 258-3, Part 2 Art. 258, Part 1 Art. 263                                                                                                |
| 34 | Selyanov Vyacheslav Vyacheslavovich | 28.07.1972 | Part 1 of Art. 258-3                                                                                                                                               |
| 35 | Slivko Maxim Aleksandrovich         | 03.12.1973 | Art. 258(2), Art. 263(1)                                                                                                                                           |
| 36 | Skripnik Viktor Aleksandrovich      | 28.05.1987 | Part 1 of Art. 258-3; Part 1 of Art. 263; Paragraph 6 of Part 2 of Art. 115; Part 2                                                                                |

|    |                                      |            |                                                                                                                                  |
|----|--------------------------------------|------------|----------------------------------------------------------------------------------------------------------------------------------|
|    |                                      |            | of Art. 187; Part 3 of Art. 289; Part 5 of Art. 27, Part 3 of Art. 258                                                           |
| 37 | Stelnikovich Aleksandr Vladimirovich | 15.12.1992 | Part 2 of Art. 187, Part 1 of Art. 258-3, Part 1 of Art. 263, Part 3 of Art. 258                                                 |
| 38 | Titov Mikhail Aleksandrovich         | 20.03.1978 | Part 2 of Art. 115; para. 12 of Part 1 of Art. 263; Part 3 of Art. 187; Part 2 of Art. 289; Part 2 of Art. 260                   |
| 39 | Tolkushchy Roman Viktorovich         | 30.07.1979 | Part 1 of Art. 258-3                                                                                                             |
| 40 | Udovenko Igor Vasilievich            | 16.11.1963 | Part 2 of Art. 15; Part 2 of Art. 14; Part 1 of Art. 258, Part 1 of Art. 258-3                                                   |
| 41 | Foteva Ekaterina Iordanovna          | 18.12.1979 | Part 2 of Art. 258, Part 1 of Art. 258-3                                                                                         |
| 42 | Chernikova Galina Aleksandrovna      | 10.02.1994 | Part 1 of Art. 258-3                                                                                                             |
| 43 | Chubarova Larisa Viktorovna          | 27.06.1969 | Part 1 of Art. 110, Part 1 of Art. 263, Part 4 of Art. 260                                                                       |
| 44 | Shevtsov Alexander Evgenievich       | 05.02.1960 | Part 1 of Art. 258, Part 1 of Art. 258-3, Part 1 of Art. 263, Part 1 of Art. 263-1                                               |
| 45 | Shilin Sergey Viktorovich            | 14.09.1984 | Part 2 of Art. 189; Art. 348; Part 2 of Art. 289; Part 2 of Art. 185; Part 2 of Art. 260; Part 1 of Art. 189; Part 1 of Art. 125 |

**Annex 459**

Commissioner for Human Rights in Lugansk People's Republic, Letter No. 851,  
8 December 2022

(translation)



**Translation**

**Commissioner for Human Rights in Lugansk People's Republic, Letter No. 851, 8 December 2022.**

**COMMISSIONER FOR HUMAN RIGHTS  
IN THE LUGANSK PEOPLE'S REPUBLIC**

3 Square of Heroes of the Great Patriotic War, Lugansk, Lugansk People's  
Republic, 91000  
e-mail: [ombudsman@mail.ru](mailto:ombudsman@mail.ru); Tel.: (0642) 58-41-04

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*08 December 2022*

*No. 851*

*In reply to No. 23579/dp*

*dated 01 December 2022*

**To the Deputy Minister  
of Foreign Affairs of the  
Russian Federation,  
M. Yu. Galuzin.**

Dear Mikhail Yurievich,

In 2019, it was Olga Anatolievna Kobtseva, who was in charge of the exchange of prisoners of war in the territory of the Lugansk People's Republic as the head of the working group on the exchange of prisoners of war. In this regard, the documents that served as the basis for the inclusion of V. N. Dvornikov, M. A. Kovtun and V. V. Tetyutsky on the exchange lists may be in Ms Kobtseva's possession.

At the same time, based on information provided by the Ministry of State Security of the Lugansk People's Republic, I advise the following:

As part of the exchange of prisoners of 29.12.2019, 63 persons held by the Ukrainian side were delivered to the territory of the Lugansk People's Republic, including Vladimir Nikolayevich Dvornikov, born 13.06.1978, Marina Anatolyevna Kovtun, born 03.06.1957, and Viktor Viktorovich Tetyutsky, born 05.05.1982.

After their arrival in the territory of the Lugansk People's Republic, the above persons were questioned about the circumstances of their detention in Ukraine.

In the course of the questioning it was established that V. N. Dvornikov, M. A. Kovtun and V. V. Tetyutsky had taken an active civic position after the protests on Independence Square in Kiev and had joined the anti-nationalist movements "Oplot", "Antimaidan" and "Kharkov-3a"; they had therefore come under the radar of the Ukrainian special services and were subsequently detained by Ukrainian Security Service officers in the city of Kharkov.

In the course of the investigative actions, the Ukrainian Security Service officers seized ammunition and explosives at the places of residence of V. N.

Dvornikov, M. A. Kovtun and V. V. Tetyutsky, who denied the possession of these items (which they said had been planted by officers of the Ukrainian Security Service).

While in detention, V.N. Dvornikov, M.A. Kovtun and V.V. Tetyutsky were subjected to torture, torment and psychological pressure. All persons confessed and incriminated themselves under threats to family and friends and torture.

When visited by employees of the International Committee of the Red Cross, V. N. Dvornikov and V. V. Tetyutsky requested their assistance and were subsequently put on the exchange list. Also, during the visit of Tony Frisch, representative of the OSCE Special Monitoring Mission to Ukraine, M. A. Kovtun confirmed her consent to the inclusion and was included on the exchange list.

I have no other information regarding the grounds for and circumstances of the inclusion of the above persons on the POW exchange list.

**Yours faithfully,**

**Commissioner**

**V. A. Serdyukova**

**Annex 460**

Ukrinform, *“Batkivshchyna” Deputy Was Brutally Tortured by Foreign Saboteurs Before His Death* (22 April 2014)

(translation)





**Translation**

Ukrinform, "Batkivshchyna" Deputy Was Brutally Tortured by Foreign Saboteurs Before His Death (22 April 2014), available at: [https://web.archive.org/web/20140611192438/http://www.ukrinform.ua/ukr/newsdeputata\\_batkivshchini\\_pered\\_smertyu\\_po\\_zviryachomu\\_katuvali\\_inozemni\\_diversanti\\_1931671](https://web.archive.org/web/20140611192438/http://www.ukrinform.ua/ukr/newsdeputata_batkivshchini_pered_smertyu_po_zviryachomu_katuvali_inozemni_diversanti_1931671).

**"Batkivshchyna" deputy was brutally tortured by foreign saboteurs before his death**

According to investigators, the separatists who seized the building of the Security Service in Slaviansk are involved in the murder of Gorlovka City Council member Vladimir Rybak.

This was reported by the press service of the Ministry of Internal Affairs of Ukraine.

"Today, the body of one of the two victims found in the Torets River near the village of Raygorodok, Donetsk region, was identified. He was a deputy of Gorlovka City Council from the Batkivshchyna party, Vladimir Rybak," the Interior Ministry said in a statement.

"The cause of death of both victims is a combined trauma to the body as a result of torture, followed by drowning of the still alive unconscious victims," the police added.

At the same time, journalist Yuriy Butusov, citing a source in the Ministry of Internal Affairs, said that the two abductees were severely tortured.

"They were tortured terribly. It is better not to see these photos. It was done not by people, but by animals. They burned them with fire, cut them with knives... Experts show that it is a purely "Caucasian pattern" ... There are two witnesses who saw how these people were tortured in a building controlled by the "little green men", that they were the ones who guarded the torture room," Butusov wrote on his Facebook page.

As Ukrinform previously reported, a local resident filed a statement about the abduction with the Central City District Police Department in Gorlovka. According to him, on April 17, around 18.00, he was walking down the street with Rybak when a car stopped near them, unknown people got out, put the deputy in the car and drove away



**Annex 461**

Kharkov Region Prosecutor's office's website, *Prosecutor's Office prevents contract killing of farmer (photos, video)* (10 December 2018)

(translation)



**Translation**

**Kharkov Region Prosecutor's office's website, *Prosecutor's Office prevents contract killing of farmer (photos, video) (10 December 2018), available at: [https://khar.gp.gov.ua/ua/news.html?\\_m=publications&\\_c=view&\\_t=rec&id=241335](https://khar.gp.gov.ua/ua/news.html?_m=publications&_c=view&_t=rec&id=241335).***

**Prosecutor's Office prevents contract murder of farmer (photos, video)**

*Investigators from the regional prosecutor's office, together with the Security Service of Ukraine in the region, prevented the contract killing of a 42-year-old businessman from Zmiev.*

According to the investigation, the organiser of the crime was an acquaintance of the victim. The farmers had longstanding friendly and business relations. They often quarrelled over money. The 51-year-old suspect worked with the victim's company, so he was well aware of the farmer's wealth.

After another quarrel over debts and financial obligations, the business partner decided to kidnap his friend and kill him after the victim had transferred his assets to him.

To do this, the offender used his friends to find a "killer" who was offered to kidnap the farmer. During the negotiations with the contractor, the man discussed methods of intimidation and torture of the victim. He suggested using a soldering iron, and if the torture did not work, he would kill the victim's family. The customer also insisted that the kidnapped person "was not supposed to get out alive".

The suspect promised to pay the executor well as soon as the entrepreneur's assets were transferred to him. He gave about 30 thousand grivnas to solve the so-called "organisational" issues in the case alone. The money was spent on transportation costs and mobile communications. In addition, the "killer" rented a house in Kharkov, where the bloody massacre was to take place.

During the special operation, the operatives imitated the kidnapping of a farmer. The contractor informed the victim where he was. The customer came to the rented house to personally extort money from the entrepreneur. He was detained there red-handed.

The man was served a notice of suspicion of committing crimes under Part 3 of Art. 27, Part 2 of Art. 146, Part 3 of Art. 27, Part 1 of Art. 15, Clause 6, Part 2 of Art. 115 of the Criminal Code of Ukraine (organisation of kidnapping, organisation of attempted murder for hire for mercenary purposes).

At the request of the Prosecutor's Office, the court has chosen a custodial detention as a measure of restraint without the right to be released on bail.



**Annex 462**

Ukraine National Police Facebook account, *The National Police of Ukraine's Press-service* (6 April 2022)

(translation)





**Translation**

**Ukraine National Police Facebook account, *The National Police of Ukraine's Press-service* (6 April 2022), available at: <https://www.facebook.com/watch/?v=1113881682488692>.**

**National Police of Ukraine**

6 April 2022

People were shot in a car and then burned: Kharkov police detained one of the participants in the crime.

The court took him into custody. Five more of his accomplices fled to the territory temporarily occupied by the enemy.

The operatives of the Strategic Investigations Department in Kharkov region of the National Police and investigators established the circumstances of the incident, each member of the group, the purpose of the crime and their location.

The incident occurred on March 23, 2022, in the Velykyi Burluk district. A group of young men stole equipment with grain from a farm. The owner and his two employees began to chase the intruders. The young men left the machinery and fled. However, they soon returned to take revenge.

They made an ambush on the approach to the village. As soon as the car drove into the village, they shot at it with automatic weapons they had taken from a broken military convoy. Later, they took the car to another place and set it on fire along with the three victims, simulating death as a result of shelling. The victims included three citizens born in 1967, 1993 and 2004.

On April 5, in Poltava, operatives of the Strategic Investigations Department in Kharkov and Poltava regions, with the force support of Rapid Operational Response Unit (KORD) soldiers, detained one of the criminals.

According to police, his five accomplices fled to the territory temporarily occupied by the enemy.

Based on the evidence, the investigators of the Kharkov Regional Police Investigation Department served the detainee a notice of suspicion under clauses 1, 12, part 2 of Article 115 (premeditated murder) of the Criminal Code of Ukraine.

A custody was chosen as a measure of restraint against the suspect.

За скоєне зловмисникам може загрожувати позбавлення волі від 10-ти до 15-ти років або довічне ув'язнення. The perpetrators may face punishment from 10 to 15 years or life imprisonment for the crime.

The Kharkov Regional Prosecutor's Office is in charge of the proceedings

**Department of Strategic Investigations of the National Police of Ukraine**



**Annex 463**

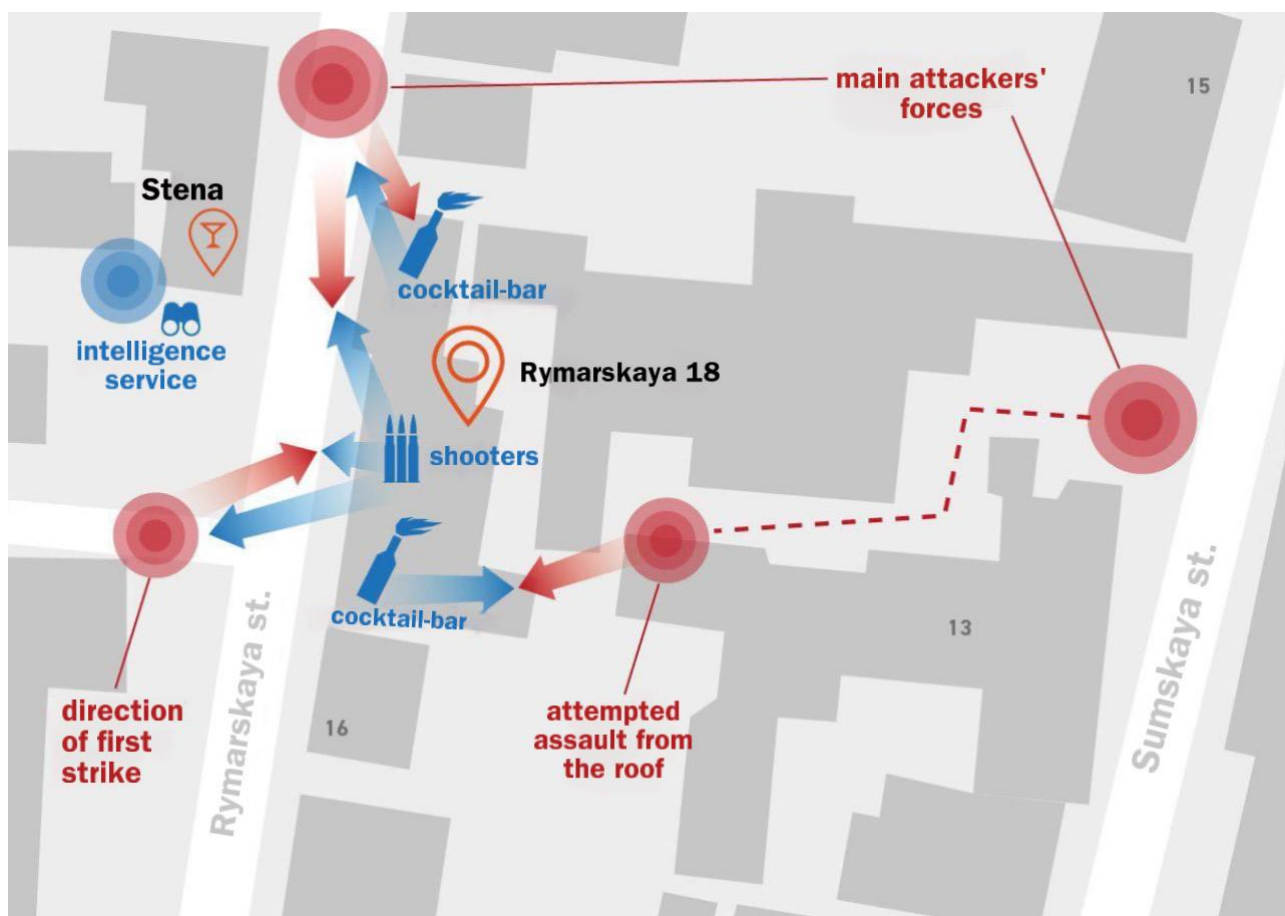
Wikipedia, *Schematic diagram of the battle on Rymarskaya Street in Kharkov, 14/15 March 2014* (23 September 2019)

(translation)



**Translation**

Wikipedia, *Schematic diagram of the battle on Rymarskaya Street in Kharkov, 14/15 March 2014* (23 September 2019), available at: [https://commons.wikimedia.org/wiki/File:%D0%91%D1%96%D0%B9\\_%D0%BD%D0%B0\\_%D0%A0%D0%B8%D0%BC%D0%B0%D1%80%D1%81%D1%8C%D0%BA%D1%96%D0%B9.jpg](https://commons.wikimedia.org/wiki/File:%D0%91%D1%96%D0%B9_%D0%BD%D0%B0_%D0%A0%D0%B8%D0%BC%D0%B0%D1%80%D1%81%D1%8C%D0%BA%D1%96%D0%B9.jpg).

**File: Battle on Rymarskaya street.jpg**

From Wikimedia Commons, the free media repository



**Annex 464**

RIA, *Ukraine Announces Near-Total Blocking of Access to Russian Websites* (20 April 2022)

(translation)



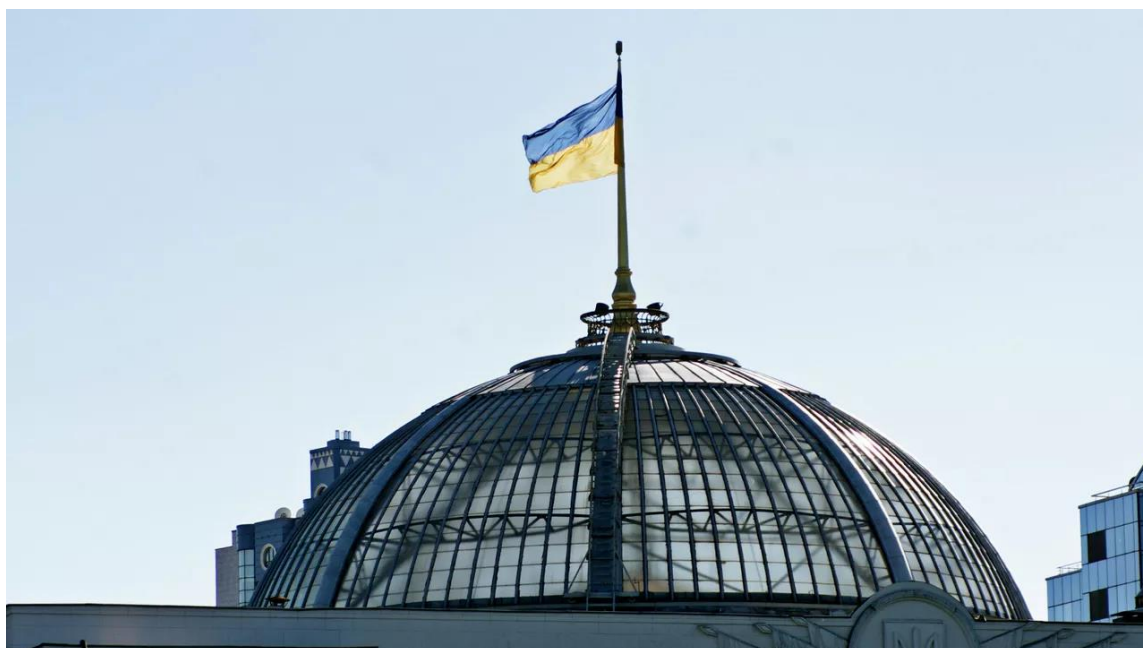


**Translation**

**RIA, *Ukraine Announces Near-Total Blocking of Access to Russian Websites* (20 April 2022), available at: <https://ria.ru/20220420/sayty-1784463195.html>.**

## **Ukraine announces near-total blocking of access to Russian websites**

Rada says it has almost completely blocked access to Russian websites in Ukraine



© RIA Novosti / Stringer

The building of the Verkhovnaya Rada of Ukraine. Archive photo.

MOSCOW, 20 Apr - RIA Novosti. Verkhovnaya Rada deputy and head of the Digital Infrastructure Subcommittee Aleksandr Fedienko ("Servant of the People") said on Wednesday that access to Russian Internet resources was almost completely blocked in Ukraine.

"Our operators, following the decision of the National Coordination Centre, which issued the relevant order, have blocked the entire cyberspace of the Russian Federation. It is practically impossible to open any Russian website from the territory of Ukraine," Fedienko said on the "Ukraine 24" TV channel.

Earlier, a representative of the Russian delegation to the UN, Yaroslav Yeremin, said that a large-scale information war has been launched against Russia, with Ukraine, Lithuania, Latvia and Estonia in the vanguard, while other European countries and the USA are also actively involved in the anti-Russian campaign.

In his words, a total censorship of the information space is being imposed without any attempts to justify it, making it impossible for most citizens of Ukraine and other countries to obtain objective data on the course of the Russian military operation and to distinguish fakes from reliable information.



**Annex 465**

TASS, *Re-Broadcasting of 15 Russian Channels Was Banned in Ukraine* (9 September 2014)

(translation)



**Translation**

TASS, *Ukraine Bans Retransmission of 15 Russian TV Channels* (9 September 2014), available at: <https://tass.ru/mezhdunarodnaya-panorama/1430068>.

## **Ukraine bans retransmission of 15 Russian TV channels**

*TASS*

KIEV, 9 September. /ITAR-TASS/. The Kiev District Administrative Court has banned rebroadcasting of 15 Russian channels in the country's air and cable networks, the National Television and Radio Broadcasting Council of Ukraine said. This was reported by the press service of the council, citing its head Yuriy Artemenko. "At this stage, the monitoring of Ukrainian and Russian-language channels, which are of an information and journalistic nature, is being carried out," Artemenko said.

The banned channels include "Channel One. Worldwide Network", "RTR-Planeta", "NTV-Mir", "Russia 24", TVCI, "Russia 1", NTV, TNT, "Peterburg-5", "Zvezda", REN TV, RBC-TV, LifeNews, RT (Russia Today) and "History".

Earlier, representatives of the National Television and Radio Broadcasting Council together with the Ministry of Internal Affairs inspected about 5,000 public establishments to check compliance with the requirement to ban retransmission of Russian channels. The checks were carried out in hotels, holiday camps, entertainment and other public establishments.

### **Russian-language TV channels shut down in Ukraine**

On 14 August, the National Television and Radio Broadcasting Council of Ukraine obliged providers to switch off the Russian-language version of the Euronews TV channel.

According to the first deputy head of the organisation, Olga Gerasymyuk, the Russian-language version of Euronews "is a product of the Russian editorial office and has a propaganda nature".

In July, the National Television and Radio Broadcasting Council of Ukraine banned the broadcasting of five Russian TV channels because of "content that does not comply with the Ukrainian law on television". The ban was imposed on RBC TV, "RTR-Planeta", "NTV-Mir," "Russia 24" and "TV Center - International". In May, it was reported that the Ukrainian State Committee for Television and Radio Broadcasting demanded a ban on broadcasting Russian films about the army. According to the agency, they "praise the Armed Forces of the Russian Federation".



**Annex 466**

RT, *Ukraine Issues New Ban on Russian Language* (16 August 2022)





## Ukraine issues new ban on Russian language



Russian language and literature courses will no longer be taught in Ukraine, according to an updated curriculum posted by the Ministry of Education on its website on Tuesday.

Among the courses excluded were ‘Russian and Foreign Literature’, ‘Russian language for general educational institutions with instruction in Russian’ for grades 5-9, and instruction in Ukrainian or Russian for grades 10-11.

While nearly all Russian and Belarusian books will be dropped from the school program, the ministry notes that it will allow some works by authors who wrote in Russian but whose *“life and work were closely connected with Ukraine,”* such as Nikolay Gogol and Mikhail Bulgakov.

According to the updated curriculum, foreign literature courses in Ukrainian schools will now focus on works by writers such as Jean de La Fontaine, O. Henry, Anna Gavalda, and Joseph Roth.

The ministry also announced that it will be updating history courses in Ukrainian schools *“to take into account new historiographic developments.”* Specifically, it will update courses on Ukrainian and world history for grades 6 to 11 to include the ongoing military conflict between Kiev and Moscow.

Last month, Ukrainian officials introduced a new stage of the law on ‘Ensuring the functioning of the Ukrainian language as a state language’, which introduces fines for speaking Russian. The law applies to workers in institutions such as government agencies, education, science, and media.

*“Citizens of the country must use the Ukrainian language in all aspects of social life,”* the commissioner for the protection of the state language, Taras Kremen, explained, calling on people to report offenders to local law enforcement.

Russian is a native language in much of Ukraine and predominant in many cities in both the east and south of the country. However, Kiev has been taking steps to outlaw its use in most fields.

Moscow has expressed concern for years over the clampdown on Russian. Last September, Russian Foreign Minister Sergey Lavrov said that *“discrimination against the Russian language in Ukraine has reached the scale of a disaster.”*



**Annex 467**

KyivPost, *Russian Language Excluded from Kyiv State Schooling* (11 November 2022)





KYIV

# Russian Language Excluded from Kyiv State Schooling

Kyiv City Council has completely excluded the Russian language from being taught as part of the curricula at municipal institutions of preschool and general secondary education. According to the Kyiv

by Kyiv Post | November 11, 2022, 2:17 pm



Photo: Kyiv City Council

[COPY LINK](#)

Kyiv City Council has completely excluded the Russian language from being taught as part of the curricula at municipal institutions of preschool and general secondary education.

According to the Kyiv City Council's press service, Kyiv City Council held a vote on Thursday, Nov. 10, in which 64 local lawmakers of the 120-member council approved the exclusion of Russian language from local schooling.

According to local lawmaker Vadym Vasylchuk, who is also chairman of the Standing Committee on Education and Science, Family, Youth, and Sports, in the current conditions of war with the Russian Federation, it is inappropriate and incorrect to conduct the educational process and study of Russian in preschool and general secondary education institutions that belong to the communal property of the territorial community of Kyiv.

“Russian leaders have stated repeatedly that ‘Russia reaches as far as the Russian language is spread.’ In this regard, the deputy corps of Kyiv City Council has adopted a decision that will enable it to avoid escalation of tension in society and step up protection of the educational space of Kyiv from the hybrid influences of the aggressor state. Language does matter, and in wartime it is a matter of national security,” Vasylchuk said.

He added that the decision provides for carrying out organizational and legal actions to transitional groups and classes from Russian to Ukrainian, the state language.

Kyiv City Council also plans to introduce a moratorium on the public use of Russian-language cultural products in the capital.

At the end of June, Odesa Region and the city of Mykolaiv removed Russian from their school curriculum.

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#### RELATED ARTICLES

**Annex 468**

Law of Ukraine No. 743-VII “On Preventing the Prosecution and Punishment of Persons in Connection with the Events that Occurred during Peaceful Assemblies and on Invalidating Certain Laws of Ukraine”, 21 February 2014

(translation)





**Law of Ukraine No. 743-VII "On the prevention of prosecution and punishment of persons in connection with the events that took place during peaceful assemblies, and recognition of certain laws of Ukraine as having lost their validity", 21 February 2014, available at: <https://zakon.rada.gov.ua/go/743-18>**

## *THE LAW OF UKRAINE*

### **On the prevention of prosecution and punishment of persons in connection with the events that took place during peaceful assemblies, and recognition of certain laws of Ukraine as having lost their validity**

**(Information of the Verkhovna Rada (VVR), 2014, No. 12, Article 186)**

The Verkhovna Rada of Ukraine **d e c r e e s**:

**I. Article 1.** Exonerate from criminal responsibility in the manner and under the conditions specified by this Law, persons who were participants in the mass protest actions that began on November 21, 2013, and are:

suspected or accused (defendants) of committing, between November 21, 2013 and the date of entry into force of this Law, including actions that contain signs of criminal offenses provided for in Articles 109, 112, 113, 121, 122, 125, 128, 129, 146, 147, 151<sup>1</sup>, 161, 162, 170, 174, 182, 185, 186, 187, 189, 194, 195, 196, 197 - 1, 231, 236, 239, 241, 255, 256, 257<sup>258</sup>, 258<sup>1</sup>, 258<sup>2</sup>, 258<sup>3</sup>, 258<sup>4</sup>, 258<sup>5</sup>, 259, 260, 261, 264, 267, 270, 270<sup>1</sup>, 277, 279, 280, 286, 289, 291, 293, 294, 295, 296, 304, 325, 335, 336, 337, 341, 342, 343. . . \_ \_

persons who have committed actions that may contain signs of criminal offenses provided for in the above-mentioned articles of the Criminal Code of Ukraine, provided that the actions of these persons are related to participation in mass protests.

Close relevant criminal proceedings.

For the purpose of this Law, a person's participation in mass protests is confirmed by his statement to the relevant body or official.

**Article 2.** Exempt from punishment in the form of deprivation of liberty for a certain period of time and from other punishments not related to deprivation of liberty, in the manner and under the conditions determined by this Law, persons who have been convicted of the crimes provided for in Article 1 of this Law.

**Article 3.** Close criminal proceedings initiated in connection with the crimes provided for in Article 1 of this Law, in which no person has been notified of suspicion.

**Article 4.** Exempt from administrative liability persons who were participants in mass protests that began on November 21, 2013, for committing any administrative offenses provided for by the Code of Ukraine on Administrative Offenses during the period from November 21, 2013 to the date of entry into force of this Law offenses, provided that these offenses are related to mass protest actions, in the manner specified by this Code.

**Article 5.** Execution of this Law in terms of exemption from criminal liability and punishment of persons specified in Articles 1 and 2 of this Law is entrusted to the courts, and in terms of closure of criminal proceedings specified in Article 3 of this Law - to prosecutor's offices.

Enforcement of this Law in terms of exemption from administrative liability of the persons specified in Article 4 of this Law is entrusted to the courts.

**Article 6.** This Law is applied:

1) in relation to suspects, criminal proceedings against whom are being conducted by pre-trial investigation bodies, - by a court within the territorial jurisdiction of which pre-trial investigation is being carried out, at the request of the suspect, his defense counsel, legal representative or prosecutor, who conducts procedural management of relevant pre-trial investigations; relevant petitions are submitted without conducting a full pre-trial investigation;

2) in relation to the accused (defendants), in respect of whom criminal proceedings are conducted by the court and have not been considered before the entry into force of this Law, as well as in relation to the accused (defendants), in respect of whom criminal proceedings have been considered, but the verdicts have not gained legal force, - by courts carrying out the relevant court proceedings, at the request of the accused (defendant), his defense counsel, legal representative, or the prosecutor who maintains the state prosecution;

3) with respect to convicted persons - by the courts that passed the relevant sentences, at the request of the convicted person, his defense counsel, legal representative or the prosecutor who maintained the state prosecution;

4) within the framework of criminal proceedings provided for in Article 3 of this Law, by the prosecutor, who carries out procedural management of relevant pre-trial investigations, without conducting a full pre-trial investigation.

**Article 7.** The question of the application of this Law shall be decided by the court in a court session. Non-arrival at the court session of persons who were duly informed about the place and time of consideration of the issue does not prevent the court session from being held.

**Article 8.** Provisions of the Law of Ukraine "On the Application of Amnesty in Ukraine" , the Criminal Code of Ukraine , the Criminal Procedure Code of Ukraine , the Code of Ukraine on Administrative Offenses may be applied during the implementation of this Law to the extent that it does not contradict it.

**Article 9.** Prohibit the collection, registration, accumulation, storage, adaptation, change, renewal, use and distribution (distribution, sale, transfer) of personal data of persons who were participants in the mass protest actions that began on November 21, 2013, which were obtained in connection with the participation of these persons in protest actions. These personal data are subject to destruction in accordance with the procedure established by law.

**Article 10.** Officials and officials who fail to comply with this Law within one month from the date of entry into force of this Law shall be subject to mandatory prosecution in the manner determined by the laws of Ukraine.

## II. FINAL AND TRANSITIONAL PROVISIONS

### 1. Recognize as invalid:

Law of Ukraine "On Elimination of Negative Consequences and Prevention of Persecution and Punishment of Persons for Events that Occurred During Peaceful Assemblies" dated December 19, 2013 No. 712-VII;

Law of Ukraine "On Amendments to the Law of Ukraine "On Elimination of Negative Consequences and Prevention of Persecution and Punishment of Persons for Events That Occurred During Peaceful Assemblies" dated January 16, 2014 No. 731-VII ;

Law of Ukraine "On Elimination of Negative Consequences and Prevention of Persecution and Punishment of Persons for Events That Occurred During Peaceful Assemblies" dated January 29, 2014 No. 737-VII.

2. The Prosecutor General of Ukraine shall immediately, but no later than the next day after the date of entry into force of this Law, instruct lower-level prosecutors, who carry out procedural management of pre-trial investigations, to petition the courts, within whose territorial jurisdiction pre-trial investigations are conducted, for exemption from criminal prosecution liability, as well as from punishing the persons specified in Articles 1 and 2 of this Law, as well as taking procedural actions and making procedural decisions regarding the closure of criminal proceedings provided for in Article 3 of this Law.

Prosecutors must immediately, from the day after the date of entry into force of this Law, file a petition with the courts within the territorial jurisdiction of which the pre-trial investigation is being conducted, for exemption from criminal liability, as well as from punishment of the persons specified in Articles 1 and 2 of this Law , as well as perform procedural actions and make procedural decisions regarding the closure of criminal proceedings provided for in Article 3 of this Law.

Courts must immediately, but no later than the next day from the date of receipt of the petition of the suspect, the accused (defendant), the convicted person, his defender, legal representative, the person against whom an administrative penalty has been applied, or the prosecutor for exemption from criminal and administrative liability, as well as from punishment of persons , specified in Articles 1 and 2 of this Law, to carry out its review.

3. Authorities and their officials (officials), enterprises, institutions, organizations of all forms of ownership are prohibited from discriminating, persecuting and prosecuting persons for their participation in mass protests that began on November 21, 2013 and continued until the date of entry into force of this by law

4. The provisions of this Law apply to the criminal proceedings, information about which was entered into the Unified Register of Pretrial Investigations under No. 12013110100018056 on December 6, 2013, against Viktor Mykolayovych Smaliy, born on August 25, 1976, for the commission of a criminal offense provided for in the second part of Article 15, Article 377 of the Criminal Code of Ukraine , and on the criminal proceedings that were opened against Lutsenko Yury Vitaliyovych, born on December 14, 1964, for the commission of a criminal offense provided for in Article 110 of the Criminal Code of Ukraine.

5. This Law enters into force on the day following its publication.

**Acting  
President of Ukraine,  
Chairman of the Verkhovna  
Rada  
of Ukraine**

**O.TURCHINOV**

**Kyiv,  
February 21, 2014  
No. 743-VII**



On the prevention of prosecution and punishment of persons in connection with events that took place during peaceful assemblies, and recognition of certain laws of Ukraine as having lost their validity Law of Ukraine on February

21, 2014 No. 743-VII

Adoption on **February 21, 2014**

Direct link :

<https://zakon.rada.gov.ua/go/743-18>

Legislation of Ukraine  
as of March 9, 2023  
valid



743-18

## Publications of document

- **Voice of Ukraine** on February 27, 2014 — No. 37
- **Government courier** on February 28, 2014 — No. 39
- **Офіційний вісник України** on March 7, 2014 — 2014, № 18, page 11, article 528, код акта 71632/2014
- **Відомості Верховної Ради України** on March 21, 2014 — 2014, № 12, page 784, article 186



**Annex 469**

Law of Ukraine No. 1680-VII “On the Special Procedure for Local Self-Government in Certain Areas of Donetsk and Lugansk Regions”, 16 September 2014

(translation)



**Law of Ukraine No. 1680-VII "About the special order of local self-government in certain districts of Donetsk and Luhansk regions" 16 September 2014, available at: <https://zakon.rada.gov.ua/laws/show/1680-18>**

## *THE LAW OF UKRAINE*

**About the special order of local self-government in certain districts of Donetsk and Luhansk regions**

(Reports of the Verkhovna Rada (VVR), 2014, No. 45, Article 2043)

{With changes introduced in accordance with Laws  
No. 256-VIII dated 17.03.2015 , VVR, 2015, No. 17, Article 125,  
No. 2167-VIII dated 06.10.2017 , VVR, 2017, No. 40-41, Article 384,  
No. 2588 -VIII from 04.10.2018 , VVR, 2018, No. 42, art. 333  
No. 364-IX from 12.12.2019 , VVR, 2020, No. 14, art. 82  
No. 1078-IX from 15.12.2020 , VVR, 2021, no. 16, Article 143  
No. 1930-IX dated 02.12.2021 }

This Law defines the temporary procedure for the organization of local self-government, the activities of local self-government bodies in certain areas of Donetsk and Luhansk regions with the aim of creating conditions for the fastest possible normalization of the situation, restoration of law and order, constitutional rights and freedoms of citizens, as well as the rights and legitimate interests of legal entities, creating conditions for return of residents to forcibly abandoned places of permanent residence, their reintegration, as well as for the restoration of life in settlements in Donetsk and Luhansk regions and the development of territories.

**Article 1.** In accordance with this Law, a special procedure for local self-government is temporarily introduced from the date of its entry into force, taking into account the provisions of the Law of Ukraine "On Creating the Necessary Conditions for the Peaceful Settlement of the Situation in Certain Areas of Donetsk and Luhansk Oblasts" until December 31, 2022 inclusive in separate districts of Donetsk and Luhansk regions, which include districts, cities, towns, villages determined by the decision of the Verkhovna Rada of Ukraine (hereinafter referred to as separate districts of Donetsk and Luhansk regions).

*{Article 1 as amended by Law No. 2167-VIII of October 6, 2017 ; as amended in accordance with Laws No. 2588-VIII dated 04.10.2018 , No. 364-IX dated 12.12.2019 , No. 1078-IX dated 15.12.2020 , No. 1930-IX dated 02.12.2021 }*

**Article 2.** The legislation of Ukraine in certain districts of the Donetsk and Luhansk regions during the period of validity of the special order of local self-government shall be in effect taking into account the features specified by this Law.

**Article 3.** The state guarantees, in accordance with the law, the prevention of criminal prosecution, criminal and administrative liability and punishment of persons participating in the events on the territory of Donetsk and Luhansk regions.

Authorities and their officials, enterprises, institutions, organizations of all forms of ownership are prohibited from discriminating, persecuting and holding persons accountable for the events that took place in the Donetsk and Luhansk regions.

**Article 4.** The state guarantees, in accordance with the Law of Ukraine "On the Principles of State Language Policy", the right to linguistic self-determination of every resident in certain districts of Donetsk and Luhansk regions regarding the language they consider to be their native language, the choice of the language of communication, the free use of Russian and any other language in public and private life, study and support of Russian and any other language, their free development and equality.

Local self-government bodies, local bodies of executive power in the manner and within the limits of the powers provided for by the Law of Ukraine "On the Principles of State Language Policy", other laws of Ukraine, international treaties of Ukraine, the binding consent of which has been granted by the Verkhovna Rada of Ukraine, contribute in certain districts Donetsk and Luhansk oblasts to use Russian and other languages in oral and written form in the field of education, in mass media and create opportunities for their use in the activities of state authorities and local self-government bodies, in judicial proceedings, in economic and social activities, during cultural events events and in other spheres of social life.

**Article 5.** In certain districts of Donetsk and Luhansk regions, local self-government is carried out in accordance with the Constitution and laws of Ukraine by relevant territorial communities directly and through local self-government bodies.

The powers of deputies of local councils and officials elected in extraordinary elections, appointed by the Verkhovna Rada of Ukraine by this Law, cannot be prematurely terminated.

In some areas of Donetsk and Luhansk regions, the laws of Ukraine introduce a special procedure for appointing heads of prosecutor's offices and courts, which provides for the participation of local self-government bodies in solving these issues.

**Article 6.** In order to ensure coordinated activities of local self-government bodies and central and local executive bodies to ensure the development of certain districts of Donetsk and Luhansk regions, the Cabinet of Ministers of Ukraine, ministries, other central bodies of executive power may enter into agreements with relevant local self-government bodies regarding economic, social and cultural development of individual districts.

The initiative regarding the conclusion of an agreement on the economic, social and cultural development of certain districts of Donetsk and Luhansk regions belongs to the relevant local self-government bodies.

In order to conclude an agreement on the economic, social and cultural development of certain districts of Donetsk and Luhansk regions, local self-government bodies submit to the Cabinet of Ministers of Ukraine, ministries, other central bodies of executive power proposals on issues of development of certain districts that need to be resolved by the Cabinet of Ministers of Ukraine, ministries, other central bodies executive authorities, implementation of joint projects of the government and local self-government bodies. The Cabinet of Ministers of Ukraine, a ministry, another central body of the executive power considers the submitted proposals and, within ten days from the date of receipt of such proposals, opens the consultation procedure with representatives of local self-government bodies of certain districts of Donetsk and Luhansk regions, interested business entities, and the public.

In the course of consultations, representatives of the Cabinet of Ministers of Ukraine, ministries, other central bodies of executive power and local self-government bodies of certain districts of Donetsk and Luhansk regions, interested subjects, representatives of the public are preparing a draft agreement on the economic, social and cultural development of certain districts of Donetsk and Luhansk regions.

The agreement on the economic, social and cultural development of certain districts of Donetsk and Luhansk regions enters into force on the day of its approval by the Cabinet of Ministers of Ukraine, the ministry.

The Cabinet of Ministers of Ukraine monitors the implementation by the executive authorities of the agreements concluded regarding the economic, social and cultural development of certain districts of Donetsk and Luhansk regions, listens to their reports, and takes, in accordance with the law, measures to ensure the parties' implementation of the agreements concluded.

**Article 7.** The state supports the socio-economic development of certain districts of Donetsk and Luhansk regions.

State support consists in the introduction by law of economic and investment activities different from the general economic regime aimed at the restoration of industrial facilities, transport and social infrastructure, housing stock, reorientation of industrial potential, creation of new jobs, attraction of investments and loans for restoration and development objects located in separate districts of Donetsk and Luhansk regions.

In order to implement sustainable socio-economic development of certain districts of Donetsk and Luhansk regions, the Cabinet of Ministers of Ukraine, in accordance with the Law of Ukraine "On State Target Programs", approves the state target program, which defines measures, tasks and indicators aimed at creating conditions for comprehensive and balanced territorial development, restoration of production and export potential, ensuring the effective use of resource and industrial potential, the needs of the population of the relevant territories for high-tech competitive environmentally friendly products, high-quality services, creating a favorable environment for attracting investments and optimal implementation of investment activities, expanding the scope of employment by creating new jobs.

The Law on the State Budget of Ukraine provides annually for expenditures aimed at state support for the socio-economic development of certain districts of Donetsk and Luhansk regions. Ukraine guarantees the identification of such expenses of the general fund of the State Budget of Ukraine as protected expenses, the amount of which cannot be changed in the event of a reduction in the approved budget allocations.

**Article 8.** Executive bodies promote the development of cross-border cooperation in certain districts of Donetsk and Luhansk regions aimed at solving common development problems, strengthening and deepening good-neighborly relations between territorial communities, local self-government bodies of certain districts with administrative and territorial units of the Russian Federation on the basis of agreements on cross-border cooperation concluded by territorial communities, local self-government bodies, local executive bodies of Ukraine and territorial communities within the competence established by law.

**Article 9.** In some districts of Donetsk and Luhansk regions, by decision of the city, village, and village councils, people's militia units are created, which are entrusted with the task of protecting public order in the settlements of these districts.

The coordination of the activities of the people's militia units for the protection of public order in populated areas is carried out by the relevant village, settlement, and city mayor.

People's militia units are formed on a voluntary basis from the number of citizens of Ukraine who permanently live in the respective settlements of certain districts of Donetsk and Luhansk regions.

People's militia units, during the protection of public order, exercise the powers provided for them by the laws of Ukraine.

The village, settlement, and city mayor informs the local population about the formation and activities of the people's militia units through mass media.

**Article 10.** Final provisions

1. This Law enters into force on the day of its publication.

2. In accordance with paragraph 30 of the first part of Article 85 of the Constitution of Ukraine, to appoint extraordinary elections of deputies of district, city, district in cities, village, village councils, village, village, city heads in certain districts of Donetsk and Luhansk regions for Sunday, December 7, 2014.

The Cabinet of Ministers of Ukraine, within the limits of its authority, to take urgent measures to ensure the financing of extraordinary elections, specified in the first paragraph of this clause, at the expense of the reserve fund of the State Budget of Ukraine.



3. The Cabinet of Ministers of Ukraine should urgently, with the participation of local self-government bodies of certain districts of Donetsk and Luhansk regions, prepare and submit draft laws to the Verkhovna Rada of Ukraine for consideration and ensure the adoption of subordinate legal acts arising from this Law.

4. Articles 2-9 of this Law shall be effective from the date of acquisition of powers by local self-government bodies in certain districts of Donetsk and Luhansk regions, elected at extraordinary elections held in accordance with the Constitution of Ukraine, this and other laws of Ukraine, in compliance with the principles of general, equal, free and transparent elections, as well as publicity and openness of the election process as the main principles of electoral law, established by the Constitution of Ukraine and international treaties of Ukraine, which establish universally recognized international standards for ensuring human rights and are part of the national legislation of Ukraine, including with mandatory observance of OSCE standards regarding conducting democratic elections, with the provision of:

participation in election observation by international impartial observers, in particular from the OSCE Bureau of Democratic Institutions and Human Rights, the Congress of Local and Regional Authorities of the Council of Europe, other international organizations and foreign states, as well as other official observers;

safe operating conditions and unimpeded participation of official observers in the election process;

withdrawal of all illegal armed formations, their military equipment, as well as militants and mercenaries from the territory of Ukraine;

preventing illegal interference in the election process, including by illegal armed groups;

compliance with the principles of political pluralism and multipartyism, equal rights and opportunities to participate in the election process;

freedom of pre-election campaigning, equal opportunities of access to mass media and, for this purpose, restoration of Ukrainian television and radio broadcasting, circulation of Ukrainian print mass media throughout the territory of Donetsk and Luhansk regions;

observance of guarantees of free expression of will and secret voting, electoral rights of internally displaced persons who were forced to leave their places of residence in certain areas of Donetsk and Luhansk regions;

transparent counting of votes, establishment of voting results and results of local elections.

*{Article 10 is supplemented by clause 4 in accordance with Law No. 256-VIII dated 03.17.2015 }*

5. The special procedure for the activities of local self-government bodies in certain districts of Donetsk and Luhansk regions provided for by this Law shall be implemented exclusively by local self-government bodies elected at extraordinary elections appointed and held in accordance with the Constitution of Ukraine, this and other laws of Ukraine .

*{Article 10 is supplemented by clause 5 in accordance with Law No. 256-VIII dated 03.17.2015 }*

**President of Ukraine**

**P. POROSHENKO**

**Kyiv,  
September 16, 2014  
No. 1680-VII**



Про особливий порядок місцевого самоврядування в окремих районах Донецької та Луганської областей

Law of Ukraine on September 16, 2014 № 1680-VII

Revision on **December 18, 2021**, on the basis — [1930-IX](#)

Direct link:

<https://zakon.rada.gov.ua/go/1680-18>

Legislation of Ukraine

as of March 9, 2023

valid



1680-18

## Publications of document

- **Голос України** on October 18, 2014 — № 201
- **Урядовий кур'єр** on October 22, 2014 — № 195
- **Офіційний вісник України** on October 31, 2014 — 2014, № 85, page 9, article 2386, код акта 74320/2014
- **Відомості Верховної Ради України** on November 7, 2014 — 2014, № 45, page 2996, article 2043



**Annex 470**

Law of Ukraine No. 2268-VIII “On the Peculiarities of the State Policy on Ensuring Ukraine’s State Sovereignty Over Temporarily Occupied Territories in Donetsk and Lugansk Regions”, 18 January 2018

(translation)



**Translation**

**Law of Ukraine No. 2268-VIII "About the peculiarities of the state policy to ensure the state sovereignty of Ukraine in the temporarily occupied territories in the Donetsk and Luhansk regions", 18 January 2018, available at: <https://zakon.rada.gov.ua/laws/show/1680-18>**

***THE LAW OF UKRAINE***

*{The law became invalid on the basis of Law No. 2217-IX dated 04/21/2022 }*

**About the peculiarities of the state policy to ensure the state sovereignty of Ukraine in the temporarily occupied territories in the Donetsk and Luhansk regions**

**(Information of the Verkhovna Rada (VVR), 2018, No. 10, Article 54)**

{With changes introduced in accordance with Laws  
No. 113-IX dated 19.09.2019 , VVR, 2019, No. 42, Article 238  
No. 948-IX dated 03.11.2020 }

Verkhovna Rada of Ukraine,

based on the Declaration on State Sovereignty of Ukraine and the Constitution of Ukraine ,

emphasizing that the sovereignty of Ukraine extends to its entire territory, which is integral and inviolable within the internationally recognized state border,

guided by the Charter of the United Nations and the Declaration on Principles of International Law Relating to Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations of October 24, 1970, the Final Act of the Conference on Security and Cooperation in Europe of August 1, 1975 ,

based on the fact that in accordance with points "a" , "b" , "c" , "d" and "g" of Article 3 of Resolution 3314 (XXIX) of the United Nations General Assembly "Definition of aggression" of December 14, 1974 the use of armed force by the Russian Federation against Ukraine constitutes a crime of armed aggression and grossly violates the Memorandum on Security Guarantees in Connection with Ukraine's Accession to the Treaty on the Non-Proliferation of Nuclear Weapons dated December 5, 1994 and the Treaty on Friendship, Cooperation and Partnership between Ukraine and the Russian Federation dated May 31, 1997,

considering that the date of the beginning of the occupation of part of the territory of Ukraine, in particular the Autonomous Republic of Crimea and the city of Sevastopol, is determined by the Law of Ukraine "On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine",

confirming the Address of the Verkhovna Rada of Ukraine to the United Nations, the European Parliament, the Parliamentary Assembly of the Council of Europe, the NATO Parliamentary Assembly, the OSCE Parliamentary Assembly, the GUAM Parliamentary Assembly, national parliaments of the world countries on the recognition of the Russian Federation as an aggressor state, approved by the Resolution of the Verkhovna Rada of Ukraine from January 27, 2015 No. 129-VIII, and the Statement of the Verkhovna Rada of Ukraine "On Repelling the Armed Aggression of the Russian Federation and Overcoming Its Consequences" , approved by Resolution No. 337-VIII of the Verkhovna Rada of Ukraine dated April 21, 2015,

noting that in light of the provisions of the IV Hague Convention on the Laws and Customs of War on Land and its annex: Provisions on the Laws and Customs of War on Land dated October 18, 1907, the Geneva Convention for the Protection of the Civilian Population in Time of War dated August 12, 1949 and of the Additional Protocol to the Geneva Conventions of August 12, 1949, concerning the Protection of Victims of International Armed Conflicts (Protocol I), of June 8, 1977, one of the consequences of the armed aggression of the Russian Federation against Ukraine was the temporary occupation of part of the territory of Ukraine,

not recognizing the temporary occupation of part of the territory of Ukraine by the Russian Federation,

based on the provisions of the Resolution of the United Nations General Assembly "On the Territorial Integrity of Ukraine" dated March 27, 2014 No. 68/262, which emphasize the illegitimacy of holding a referendum in the Autonomous Republic of Crimea and call on the international community not to recognize any change in the status of the Autonomous Republic of Crimea and the city of Sevastopol based on the results of the said referendum,

taking into account the resolutions of the General Assembly of the United Nations "The state of affairs in the field of human rights in the Autonomous Republic of Crimea and the city of Sevastopol (Ukraine)" dated December 19, 2016 No. 71/205 and dated December 19, 2017 No. 72/190, which recognize the Autonomous Republic of Crimea and the city of Sevastopol as territory temporarily occupied by the Russian Federation,

confirming the inalienable sovereign right of Ukraine to restore and preserve its territorial integrity within the internationally recognized state border, including the territory of the Autonomous Republic of Crimea and the city of Sevastopol,

noting that the armed aggression of the Russian Federation began with unannounced and covert incursions into the territory of Ukraine by units of the armed forces and other law enforcement agencies of the Russian Federation, as well as by organizing and supporting terrorist activities,

taking into account that the Russian Federation commits the crime of aggression against Ukraine and carries out the temporary occupation of part of its territory with the help of the armed forces of the Russian Federation, consisting of regular units and units subordinated to the Ministry of Defense of the Russian Federation, units and special formations subordinated to other forces agencies of the Russian Federation, their advisers, instructors and irregular illegal armed formations, armed gangs and groups of mercenaries created, subordinated, managed and financed by the Russian Federation, as well as with the help of the occupation administration of the Russian Federation, which consists of its state bodies and structures, functionally responsible for management of the temporarily occupied territories of Ukraine, and self-proclaimed bodies under the control of the Russian Federation, who usurped the performance of official functions in the temporarily occupied territories of Ukraine,

noting that the actions of the Russian Federation on the territory of certain districts of Donetsk and Luhansk regions, the Autonomous Republic of Crimea and the city of Sevastopol grossly violate the principles and norms of international law, in particular by: systematic non-compliance with the cease-fire regime and continued shelling of civilian objects and infrastructure, causing numerous victims among the civilian population, servicemen of the Armed Forces of Ukraine and other military formations formed in accordance with the laws of Ukraine; continuation of the practice of illegal detention and detention of Ukrainian citizens in the temporarily occupied territories, their illegal removal and detention in the territory of the Russian Federation; efforts to spread Russian legislation, including tax legislation, on the territory of certain districts of Donetsk and Luhansk regions, of the Autonomous Republic of Crimea and the city of Sevastopol, making illegal demands for the re-registration of enterprises and collection of funds in favor of the occupation administration of the Russian Federation in certain areas of the Donetsk and Luhansk regions, in the Autonomous Republic of Crimea and the city of Sevastopol; the introduction of the Russian ruble as a single currency in the territory of certain districts of the Donetsk and Luhansk regions, the Autonomous Republic of Crimea and the city of Sevastopol; the arbitrary application of Russian educational standards in educational institutions, the introduction of "external management" at enterprises in certain districts of Donetsk and Luhansk regions, in the Autonomous Republic of Crimea and the city of Sevastopol, and the recognition of illegal identification documents and vehicle registration marks in the territory of certain districts of Donetsk and Luhansk regions, Autonomous Republic of Crimea and the city of Sevastopol; organizing and carrying out forced disappearances, torture, inhumane treatment or punishment, extrajudicial executions against the civilian population, Ukrainian servicemen and hostages,

remaining committed to the course of political and diplomatic settlement of conflicts based on the principles and norms of international law and the Charter of the United Nations ,

confirming the inalienable sovereign right of Ukraine to self-defense in accordance with Article 51 of the Charter of the United Nations,

confirming the Statement of the Verkhovna Rada of Ukraine "On the withdrawal of Ukraine from certain obligations defined by the International Covenant on Civil and Political Rights and the Convention on the Protection of Rights and Fundamental Freedoms" , approved by Resolution of the Verkhovna Rada of Ukraine dated May 21, 2015 No. 462-VIII,

considering that the peculiarities of the legal regime on the territory of the Autonomous Republic of Crimea and the city of Sevastopol are determined by the Law of Ukraine "On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine",

adopts this Law, which aims to determine the specifics of the state policy to ensure the state sovereignty of Ukraine in the temporarily occupied territories in the Donetsk and Luhansk regions.

**Article 1.** As of the date of adoption of this Law, parts of the territory of Ukraine over which the armed forces of the Russian Federation and the occupation administration of the Russian Federation have established and exercise general control are recognized as temporarily occupied territories in the Donetsk and Luhansk regions, namely:

- 1) land territory and its internal waters within the boundaries of individual districts, cities, towns and villages of Donetsk and Luhansk regions;
- 2) internal sea waters adjacent to the land territory specified in clause 1 of this part;
- 3) the subsoil under the territories defined by clauses 1 and 2 of this part, and the airspace above these territories.

The borders and list of districts, cities, towns and villages, parts of their territories, temporarily occupied in the Donetsk and Luhansk regions , are determined by the President of Ukraine at the request of the Ministry of Defense of Ukraine, prepared on the basis of proposals of the General Staff of the Armed Forces of Ukraine.

**Article 2.** The legal status of the temporarily occupied territories in the Donetsk and Luhansk regions, the Autonomous Republic of Crimea and the city of Sevastopol, as well as the legal regime in these territories are determined by this Law, the Law of Ukraine "On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine" , other laws of Ukraine, international treaties, the binding consent of which was given by the Verkhovna Rada of Ukraine, principles and norms of international law.

The temporary occupation by the Russian Federation of the territories of Ukraine defined by the first part of Article 1 of this Law, regardless of its duration, is illegal and does not create any territorial rights for the Russian Federation.

The activities of the armed forces of the Russian Federation and the occupation administration of the Russian Federation in the Donetsk and Luhansk regions, which are contrary to the norms of international law, are illegal, and any act issued in connection with such activities is invalid and does not create any legal consequences, except for documents, which confirm the fact of the birth or death of a person in the temporarily occupied territories in the Donetsk and Luhansk regions, which are attached in accordance with the application for the state registration of the birth of a person and the application for the state registration of the death of a person.

Responsibility for material or non-material damage caused to Ukraine as a result of the armed aggression of the Russian Federation rests with the Russian Federation in accordance with the principles and norms of international law.

Within the temporarily occupied territories in Donetsk and Luhansk regions, there is a special procedure for ensuring the rights and freedoms of the civilian population, defined by this Law, other laws of Ukraine, international treaties, the binding consent of which was given by the Verkhovna Rada of Ukraine, principles and norms of international law.

Individuals, regardless of their stay on the register as internally displaced persons or their acquisition of a special legal status, and legal entities retain the right of ownership and other property rights to property, including immovable property, including land plots located on temporarily occupied territories in the Donetsk and Luhansk regions, if such property is acquired in accordance with the laws of Ukraine.

The state of Ukraine, territorial communities of villages, towns, cities located in the temporarily occupied territories in the Donetsk and Luhansk regions, state authorities, local self-government bodies and other subjects of public law retain ownership rights, other real rights to property, including for real estate, including land plots located in temporarily occupied territories in Donetsk and Luhansk regions.

The procedure for the regulation of transactions and the exercise of the rights of subjects, defined in parts six and seven of this article, defined by the Law of Ukraine "On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine" , applies, subject to the necessary changes (*mutatis mutandis*), to the temporarily occupied territories of Ukraine in the Donetsk and Luhansk regions, except for the procedure for the entry of persons to and from the temporarily occupied territories in the Donetsk and Luhansk regions, which is established in accordance with this Law, and the procedure for the territorial jurisdiction of cases of defendants located in the temporarily occupied territories in the Donetsk and Luhansk regions regional courts, established in accordance with the Law of Ukraine "On the implementation of justice and criminal proceedings in connection with the anti-terrorist operation".

**Article 3.** The state policy for ensuring the state sovereignty of Ukraine in the temporarily occupied territories in the Donetsk and Luhansk regions is based on the Constitution and laws of Ukraine, international treaties, the binding consent of which was given by the Verkhovna Rada of Ukraine, principles and norms of international law.

**Article 4.** The goals of the state policy to ensure the state sovereignty of Ukraine in the temporarily occupied territories in the Donetsk and Luhansk regions are:

- 1) liberation of temporarily occupied territories in Donetsk and Luhansk regions and restoration of constitutional order in these territories;
- 2) protection of the rights, freedoms and legitimate interests of individuals and legal entities;
- 3) ensuring the independence, unity and territorial integrity of Ukraine.

**Article 5.** In order to ensure the state sovereignty of Ukraine in the temporarily occupied territories in the Donetsk and Luhansk regions, state authorities and their officials, acting on the basis, within the limits of authority and in the manner provided by the Constitution and laws of Ukraine :

- 1) take measures to protect the rights and freedoms of the civilian population;
- 2) carry out, in compliance with Ukraine's international obligations, international treaties, the binding consent of which has been given by the Verkhovna Rada of Ukraine, the principles and norms of international law, political-diplomatic, sanctioning and other measures aimed at restoring the territorial integrity of Ukraine within the internationally recognized state border ;
- 3) take measures to ensure national security and defense, repulse and deter armed aggression of the Russian Federation;
- 4) develop the defense and security potential of Ukraine with the involvement of state resources and international aid in order to repel the armed aggression of the Russian Federation;
- 5) use the mechanisms of bilateral international cooperation, international organizations and international judicial bodies with the aim of preserving and strengthening the sanctions applied to the Russian Federation by members of the international community, as well as bringing guilty persons to criminal responsibility for crimes against peace, human security and international legal order.

*{Clause 5 of the first part of Article 5 as amended in accordance with Law No. 948-IX dated November 3, 2020 }*

**Article 6.** The main areas of protection of the rights and freedoms of the civilian population in the temporarily occupied territories in the Donetsk and Luhansk regions are:

- 1) protection of fundamental political and civil rights and freedoms of a person;
- 2) taking measures for the release by the Russian Federation, the occupation administration of the Russian Federation of all illegally detained and detained citizens of Ukraine;
- 3) assistance in ensuring the restoration of violated material rights;
- 4) facilitating the provision of socio-economic, ecological and cultural needs, in particular through the implementation of measures determined by the central executive body of Ukraine, which ensures the formation and implementation of state policy on temporarily occupied territories, in accordance with the relevant decisions of the Cabinet of Ministers of Ukraine;
- 5) provision of legal and humanitarian aid, including with the involvement of international aid, in particular the provision of medical and social services in territories controlled by Ukraine;
- 6) promoting the maintenance of cultural ties;
- 7) ensuring access to educational institutions and mass media of Ukraine.

Peculiarities of the realization of other rights and freedoms of the civilian population and the commission of criminal acts in the temporarily occupied territories in the Donetsk and Luhansk regions are determined by the laws of Ukraine.

The procedure for the entry of persons and the movement of goods to the temporarily occupied territories in the Donetsk and Luhansk regions and the exit of persons and the movement of goods from such territories shall be established in accordance with this Law.

The Cabinet of Ministers of Ukraine takes all measures provided for by the legislation of Ukraine to protect the rights and freedoms of a person and a citizen, in particular, it constantly monitors the state of compliance with the rights and freedoms of a person and a citizen and documents the facts of violations of such rights and freedoms in the temporarily occupied territories of Ukraine, based on the results of which it publishes and provides appropriate information to international organizations in the field of protection of human rights and freedoms and takes the necessary measures for the formation of an **interdepartmental coordinating body** with the aim of summarizing the legal position of the state on the issue of repelling and deterring the armed aggression of the Russian Federation and preparing a consolidated claim of Ukraine to the Russian Federation regarding the implementation of its international legal responsibility for armed aggression against Ukraine.

The Human Rights Commissioner of the Verkhovna Rada of Ukraine exercises parliamentary control over the observance of the constitutional rights and freedoms of a person and a citizen in the temporarily occupied territories in the Donetsk and Luhansk regions and, if necessary, presents a special report to the Verkhovna Rada of Ukraine on the state of observance of the rights and freedoms of a person and a citizen in these territories .

Ukraine is not responsible for the illegal actions of the Russian Federation or its occupation administration in the temporarily occupied territories in the Donetsk and Luhansk regions or for illegal decisions taken by them.

**Article 7.** In order to ensure national security, in particular state, economic, informational, humanitarian and ecological, repelling and deterring the armed aggression of the Russian Federation in the Donetsk and Luhansk regions, the bodies of the security and defense sector, other state bodies of Ukraine, their officials carry out measures to restore territorial integrity of Ukraine, as well as ensure the comprehensive development of security, economic, information and telecommunication, social and humanitarian infrastructure in the territories adjacent to the temporarily occupied territories in the Donetsk and Luhansk regions, implement measures to strengthen the defense and security capabilities of Ukraine in accordance with the strategic defense planning documents.

The Russian Federation as an occupying power in accordance with the IV Hague Convention on the Laws and Customs of War on Land and its annex: Regulations on the Laws and Customs of War on Land dated October 18, 1907, the Geneva Convention for the Protection of the Civilian Population in Time of War dated August 12, 1949 year and the Additional Protocol to the Geneva Conventions dated August 12, 1949, relating to the protection of victims of international armed conflicts (Protocol I), dated June 8, 1977 is responsible for violations of the protection of the rights of the civilian population.

The fact of the final withdrawal and complete absence of all armed formations of the Russian Federation in the Donetsk and Luhansk regions in accordance with the procedure specified by this Law is established by the Minister of Defense of Ukraine and the Minister of Internal Affairs of Ukraine by means of a joint submission to the President of Ukraine, who makes the appropriate decision solely on this basis.

**Article 8.** To ensure national security and defense, repel and deter armed aggression of the Russian Federation in the Donetsk and Luhansk regions:

1) The General Staff of the Armed Forces of Ukraine, in agreement with the relevant leaders, engages and uses forces and means (personnel and specialists of individual divisions, military units, weapons, military equipment, special vehicles and vehicles, means of communication and telecommunications, other material and technical means) of the Armed Forces of Ukraine, other military formations formed in accordance with the laws of Ukraine (the Security Service of Ukraine, the State Service for Special Communications and Information Protection of Ukraine, the National Guard of Ukraine, the State Border Service of Ukraine, the State Guard of Ukraine, the State Special Transport Service), special law enforcement agencies, the Ministry of Internal Affairs of Ukraine, the National Police of Ukraine, intelligence agencies of Ukraine, the central executive body, that implements state policy in the field of civil protection, as well as employees of health care institutions;  
{*Clause 1 of the first part of Article 8 as amended in accordance with Law No. 113-IX dated September 19, 2019* }

2) in the security zones adjacent to the area of hostilities, there is a special procedure, which provides for the provision of security and defense sector bodies and other state bodies of Ukraine with special powers necessary for the implementation of measures to ensure national security and defense, repulse and deter armed aggression of the Russian Federation. The boundaries of the security zones adjacent to the area of hostilities are determined by the Chief of the General Staff - the Commander-in-Chief of the Armed Forces of Ukraine at the request of the Commander of the Joint Forces;

3) in the area of implementation of measures to ensure national security and defense, repel and deter armed aggression of the Russian Federation in the Donetsk and Luhansk regions, the possibility of exercising by authorized persons of pre-trial investigation bodies and the prosecutor's office powers in criminal proceedings regarding offenses committed in the area of implementation of the specified measures, in particular due to the mandatory admission of inquirers, investigators and prosecutors to this area, as well as providing them with appropriate assistance. The admission of inquirers, investigators and prosecutors to the area of implementation of measures to ensure national security and defense, repel and deter armed aggression of the Russian Federation in the Donetsk and Luhansk regions is carried out in accordance with the procedure determined by the Commander of the Joint Forces.

{*The first part of Article 8 is supplemented by paragraph 3 in accordance with Law No. 948-IX dated November 3, 2020* }



Provision of the Armed Forces of Ukraine, other military formations formed in accordance with the laws of Ukraine (the Security Service of Ukraine, the State Service of Special Communications and Information Protection of Ukraine, the National Guard of Ukraine, the State Border Service of Ukraine, the Office of the State Security of Ukraine, the State Special Transport Service), law enforcement of special-purpose bodies, the Ministry of Internal Affairs of Ukraine, the National Police of Ukraine, intelligence agencies of Ukraine, the central executive body that implements state policy in the field of civil protection, employees of health care institutions with the necessary means and resources is carried out by the Cabinet of Ministers of Ukraine.

*{Part two of Article 8 as amended by Law No. 113-IX dated 09/19/2019 }*

The initiation and completion of measures to ensure national security and defense, repel and deter armed aggression of the Russian Federation in the Donetsk and Luhansk regions are determined by separate decisions of the Supreme Commander-in-Chief of the Armed Forces of Ukraine.

**Article 9.** Strategic management of the forces and means of the Armed Forces of Ukraine, other military formations formed in accordance with the laws of Ukraine, the Ministry of Internal Affairs of Ukraine, the National Police of Ukraine, the central executive body that implements state policy in the field of civil protection, which are involved in the implementation of measures with ensuring national security and defense, repelling and deterring the armed aggression of the Russian Federation in the Donetsk and Luhansk regions, is carried out by the General Staff of the Armed Forces of Ukraine.

Management of the forces and means of the Armed Forces of Ukraine, other military formations formed in accordance with the laws of Ukraine, the Ministry of Internal Affairs of Ukraine, the National Police of Ukraine, the central executive body that implements state policy in the field of civil protection, which are involved in the implementation of measures to ensure national security and defense, repulse and deterrence of the armed aggression of the Russian Federation directly in the Donetsk and Luhansk regions is carried out by the Commander of the United Forces, who is appointed by the President of Ukraine on the proposal of the Chief of the General Staff - the Commander-in-Chief of the Armed Forces of Ukraine.

The commander of the joint forces exercises his authority through the Joint Operational Headquarters of the Armed Forces of Ukraine. The powers of the Commander of the Joint Forces are determined by the Regulation on the Joint Operational Headquarters of the Armed Forces of Ukraine, which is developed by the General Staff of the Armed Forces of Ukraine and approved by the Supreme Commander-in-Chief of the Armed Forces of Ukraine at the request of the Minister of Defense of Ukraine.

The Joint Operational Headquarters of the Armed Forces of Ukraine, through the relevant military management bodies, plans, organizes and monitors the implementation of measures to ensure national security and defense, repulse and deter armed aggression of the Russian Federation in the Donetsk and Luhansk regions, directs, coordinates and controls the activities of the military civil or military administrations (if they are formed) in Donetsk and Luhansk regions on issues of national security and defense.

Military personnel, employees of law enforcement agencies and other persons who are involved in the implementation of measures to ensure national security and defense, repulse and deter armed aggression of the Russian Federation in the Donetsk and Luhansk regions, for the duration of such measures, are subordinate to the Commander of the Joint Forces, whose decision is binding mandatory.

The interference of any persons, regardless of their position, in the management of measures to ensure national security and defense, repel and contain the armed aggression of the Russian Federation in the Donetsk and Luhansk regions is not allowed.

**Article 10.** In the event of the expansion of the armed aggression of the Russian Federation beyond the borders of the Autonomous Republic of Crimea and the city of Sevastopol, Donetsk and Luhansk regions, the forces and means specified in Article 8 of this Law, in the manner established by Article 9 of this Law.

**Article 11.** The legal basis for repelling and deterring the armed aggression of the Russian Federation and restoring the territorial integrity of Ukraine is the Constitution of Ukraine, the legislation of Ukraine and Article 51 of the Charter of the United Nations.

**Article 12.** Entry of persons and movement of goods to temporarily occupied territories in Donetsk and Luhansk regions and exit of persons and movement of goods from such territories are carried out through entry-exit control points.

In the event of a real threat to the life and health of persons crossing the demarcation line, the commander of the joint forces has the right to restrict the entry of these persons to the temporarily occupied territories of Donetsk and Luhansk regions for the period of existence of this threat.

The procedure for the entry of persons, the movement of goods to the temporarily occupied territories in the Donetsk and Luhansk regions, and the exit of persons and the movement of goods from such territories are determined by the Cabinet of Ministers of Ukraine.

The presence of persons not involved in such activities in the area of implementation of measures to ensure national security and defense, repel and deter armed aggression of the Russian Federation in the Donetsk and Luhansk regions may be temporarily limited by the Commander of the United Forces for the period of such activities.

The legal requirements of officials involved in the implementation of measures to ensure national security and defense, repel and contain the armed aggression of the Russian Federation in the Donetsk and Luhansk regions are mandatory for citizens and officials.

In order to ensure the vital interests of society and the state during the repulsion of armed aggression in security zones adjacent to the area of hostilities, military personnel, law enforcement officers and persons specified in Article 8 of this Law are involved in the implementation of measures to ensure national security and defense, repulsion and deterring the armed aggression of the Russian Federation in the Donetsk and Luhansk regions, in accordance with the Constitution and legislation of Ukraine have the right to:

1) in case of extreme necessity, use weapons and special means against persons who have committed or are committing offenses or other actions that prevent the fulfillment of the legal requirements of persons involved in the implementation of measures to ensure national security and defense, repulse and deter armed aggression of the Russian Federation in Donetsk and Luhansk regions, or actions related to an unauthorized attempt to penetrate into the area of implementation of the specified measures;

2) detain and deliver the persons specified in clause 1 of this part to the authorities of the National Police of Ukraine;

3) check citizens' and officials' identity documents, and in the absence of documents - detain them for identification purposes;

4) carry out a personal inspection of citizens, an inspection of their possessions, vehicles and items transported by them;

5) temporarily restrict or prohibit the movement of vehicles and pedestrians on streets and roads, prevent vehicles and citizens from entering certain areas and objects, remove citizens from certain areas and objects, tow away vehicles;

6) enter (penetrate) residential and other premises, land plots belonging to citizens, the territory and premises of enterprises, institutions and organizations, inspect vehicles for the implementation of measures to ensure national security and defense, repulse and deter armed aggression of the Russian Federation Federations in Donetsk and Luhansk regions;

7) use means of communication and vehicles for official purposes, including special ones belonging to citizens (with their consent), enterprises, institutions and organizations, except for vehicles of diplomatic, consular and other representative offices of foreign states and international organizations.

#### **Article 13.** Final and transitional provisions

1. This Law enters into force on the day following its publication.

2. By this Law, the Verkhovna Rada of Ukraine, in accordance with **paragraph 9** of the first part of Article 85 of the Constitution of Ukraine, approves the decision of the President of Ukraine on the use of the Armed Forces of Ukraine and other military formations formed in accordance with the laws of Ukraine, adopted in accordance with paragraph 19 of the first part of Article 106 of the Constitution of Ukraine, for repelling and deterring the armed aggression of the Russian Federation in the Donetsk and Luhansk regions and ensuring the state sovereignty of Ukraine in the temporarily occupied territories in the Donetsk and Luhansk regions.

3. This Law applies without prejudice to the inalienable sovereign right of Ukraine to the territory of the Autonomous Republic of Crimea and the city of Sevastopol temporarily occupied by the Russian Federation and measures aimed at restoring the territorial integrity of Ukraine within its internationally recognized state border.

4. Make changes to the following legislative acts of Ukraine:

1) in the Law of Ukraine "On the Status of War Veterans, Guarantees of Their Social Protection" (Vedomosti Verkhovna Rada of Ukraine, 1993, No. 45, Article 425 with the following amendments):

a) in **paragraph 19** of the first part of Article 6:

add the first paragraph with the words "in the implementation of measures to ensure national security and defense, repel and deter armed aggression of the Russian Federation in the Donetsk and Luhansk regions, ensure their implementation, being directly in the districts and during the implementation of the specified measures";

the second paragraph should be read as follows:

"The procedure for granting the status of a participant in hostilities to the persons specified in the first paragraph of this clause, the categories of such persons and the terms of their participation (ensuring the conduct) in the anti-terrorist operation, in measures to ensure national security and defense, repel and deter the armed aggression of the Russian Federation in Donetsk and Luhansk regions, as well as the areas of the anti-terrorist operation are determined by the Cabinet of Ministers of Ukraine. The areas of implementation of measures to ensure national security and defense, repulse and deter armed aggression of the Russian Federation are determined in accordance with the Law of Ukraine "On Peculiarities of State Policy to Ensure State Sovereignty of Ukraine in the Temporarily Occupied Territories in Donetsk and Luhansk Oblasts".specified in the first paragraph of this clause, shall be determined by the Cabinet of Ministers of Ukraine";

b) in **part two** of Article 7:

in **point 11** the words "as well as employees of enterprises, institutions, organizations who were involved in ensuring the anti-terrorist operation and became disabled as a result of injury, contusion or mutilation received during the implementation of the anti-terrorist operation directly in the districts and during its implementation" shall be replaced by the words "under the time of direct participation in the implementation of measures to ensure national security and defense, repel and deter armed aggression of the Russian Federation in the Donetsk and Luhansk regions, being directly in the districts and during the implementation of the specified measures, as well as employees of enterprises, institutions, organizations that were involved in ensuring carrying out an anti-terrorist operation, to ensure the implementation of measures to ensure national security and defense,repelling and deterring the armed aggression of the Russian Federation in the Donetsk and Luhansk regions and became disabled as a result of injury, contusion, mutilation or illness received during the implementation of anti-terrorist operations directly in the districts and during its implementation, during the implementation of measures to ensure the national of security and defense, repelling and deterring the armed aggression of the Russian Federation in the Donetsk and Luhansk regions, being directly in the districts and during the implementation of the specified measures";while ensuring the implementation of measures to ensure national security and defense, repelling and deterring armed aggression of the Russian Federation in the Donetsk and Luhansk regions, being directly in the districts and during the implementation of the specified measures";while ensuring the implementation of measures to ensure

national security and defense, repelling and deterring armed aggression of the Russian Federation in the Donetsk and Luhansk regions, being directly in the districts and during the implementation of the specified measures";

Paragraph 14 should be read as follows:

"14) persons who voluntarily ensured (or voluntarily participated in ensuring) the conduct of an anti-terrorist operation, the implementation of measures to ensure national security and defense, repel and deter armed aggression of the Russian Federation in the Donetsk and Luhansk regions (including volunteering) and became persons with disabilities as a result of injury, contusion, mutilation or disease received during the implementation of an anti-terrorist operation, being directly in the districts and during its implementation, during the implementation of measures to ensure national security and defense, repel and deter armed aggression of the Russian Federation in Donetsk and Luhansk regions, being directly in the districts and during the implementation of the specified measures";

c) in Clause 13 of Article 9:

add the first paragraph with the words "who were involved and directly participated in ensuring the implementation of measures to ensure national security and defense, repel and deter armed aggression of the Russian Federation in the Donetsk and Luhansk regions, being directly in the districts and during the implementation of the specified measures, in the order established legislation";

the second paragraph should be read as follows:

"The procedure for granting the status of a participant in the war to the persons specified in the first paragraph of this clause, the categories of such persons, the terms of their participation in ensuring the conduct of an anti-terrorist operation, in ensuring the implementation of measures to ensure national security and defense, repelling and deterring the armed aggression of the Russian Federation in Donetsk and Luhansk regions, as well as the regions of the anti-terrorist operation are determined by the Cabinet of Ministers of Ukraine. The regions of implementation of measures to ensure national security and defense, repel and deter armed aggression of the Russian Federation are determined in accordance with the Law of Ukraine "On Peculiarities of State Policy to Ensure State Sovereignty of Ukraine in the Temporarily Occupied Territories of Donetsk and Luhansk regions";

d) in Clause 1 of Article 10:

the fifth paragraph should be amended as follows:

"families of persons who voluntarily ensured (or voluntarily participated in ensuring) the conduct of an anti-terrorist operation, implementation of measures to ensure national security and defense, repel and deter armed aggression of the Russian Federation in the Donetsk and Luhansk regions (including volunteer activities) and died (missing), died as a result of injury, contusion, mutilation or disease received during the implementation of an anti-terrorist operation (including the implementation of volunteer activities), being directly in the districts and during its implementation, during the implementation of measures to ensure the national security and defense, repelling and deterring the armed aggression of the Russian Federation in the Donetsk and Luhansk regions (including the implementation of volunteer activities), being directly in the districts and during the implementation of the specified measures";

in the eighth paragraph of the word "and died (missing), died as a result of injury, contusion or mutilation received during direct participation in an anti-terrorist operation, ensuring its implementation, being directly in the areas of the anti-terrorist operation during its implementation, as well as the families of employees enterprises, institutions, organizations that were involved in ensuring the conduct of an anti-terrorist operation and died (missing), died as a result of injuries, contusions or mutilations received while ensuring the conduct of an anti-terrorist operation directly in the districts and during its implementation" replace with the words "in the implementation of measures for ensuring national security and defense, repelling and deterring the armed aggression of the Russian Federation in the Donetsk and Luhansk regions, ensuring their implementation, while being directly in the areas and during the implementation of the specified measures, and died (missing), died as a result of injury, contusion, mutilation or disease received during direct participation in the anti-terrorist operation, ensuring its implementation, while being directly in the areas of the anti-terrorist operation during its period conducting, during direct participation in the implementation of measures to ensure national security and defense, repelling and deterring the armed aggression of the Russian Federation in the Donetsk and Luhansk regions, in ensuring their implementation, being directly in the districts and during the implementation of the specified measures, as well as families employees of enterprises, institutions, and organizations that were involved in ensuring the anti-terrorist operation, ensuring the implementation of measures to ensure national security and defense, repelling and deterring armed aggression of the Russian Federation in the Donetsk and Luhansk regions and died (missing), died as a result of injury, contusion, mutilation or disease received during the implementation of an anti-terrorist operation directly in the districts and during its implementation, ensuring the implementation of measures to ensure national security and defense, repelling and deterring the armed aggression of the Russian Federation in the Donetsk and Luhansk regions, being directly in the districts and during the implementation of the specified measures";injuries or diseases received during the implementation of an anti-terrorist operation directly in the districts and during its implementation, ensuring the implementation of measures to ensure national security and defense, repelling and deterring the armed aggression of the Russian Federation in the Donetsk and Luhansk regions, while being directly in the districts and during the period implementation of the specified measures";injuries or diseases received during the implementation of an anti-terrorist operation directly in the districts and during its implementation, ensuring the implementation of measures to ensure national security and defense, repelling and deterring the armed aggression of the Russian Federation in the Donetsk and Luhansk regions, while being directly in the districts and during the period implementation of the specified measures";

2) in the Law of Ukraine "On Local Self-Government in Ukraine" (Vedomosti Verkhovna Rada of Ukraine, 1997, No. 24, Article 170 with the following amendments):

a) add the first sentence of the second part of Article 42 with the words "or the Law of Ukraine "On the Legal Regime of Martial Law";

b) in Article 78 :

Clause 3 of the first part shall be amended as follows:

"3) provided by the laws of Ukraine "On military-civilian administrations" , "On the legal regime of martial law";

in part five, replace the word "relevant military-civilian administration" with the words "relevant military-civilian, military administration";

c) in Article 79 :

in the second paragraph of the second part of the word "in the case stipulated by the Law of Ukraine "On military-civilian administrations" replace the words "in the cases stipulated by the laws of Ukraine "On military-civilian administrations" and "On the legal regime of martial law" ;

in paragraph 3<sup>1</sup> of part eleven, the word "relevant military-civilian administration" should be replaced by the words "relevant military-civilian, military administration";

d) in Article :

add the second paragraph of the second part with the following content:

"The powers of the headman may be prematurely terminated also in the case provided for by the Law of Ukraine "On the Legal Regime of Martial Law";

in part seven :

in paragraph 5, replace the words "the second part of this article" with the words "the first paragraph of the second part of this article";

add item 6 with the following content:

"6) on the basis specified in the second paragraph of the second part of this article - from the date of entry into force of the act of the President of Ukraine on the formation of the relevant military administration of the settlement (settlements)";

3) in the Law of Ukraine "On Military-Civil Administrations" (Reports of the Verkhovna Rada of Ukraine, 2015, No. 13, Article 87, No. 40-41, Article 382; 2016, No. 10, Article 108):

a) in the preamble, replace the words "in the area of the anti-terrorist operation" with the words "in the area of repelling the armed aggression of the Russian Federation, in particular in the area of the anti-terrorist operation";

b) in the first part of Article 1:

in the first paragraph, replace the words "in the area of the anti-terrorist operation" with the words "in the area of repelling the armed aggression of the Russian Federation, in particular in the area of the anti-terrorist operation";

in the second paragraph:

after the words "as part of the Anti-terrorist Center under the Security Service of Ukraine" add the words "(in the case of their formation to fulfill the powers of the relevant bodies in the area of the anti-terrorist operation) or as part of the Joint Operational Headquarters of the Armed Forces of Ukraine (in the case of their creation to fulfill the powers relevant authorities in the area of implementation of measures to ensure national security and defense, repel and deter armed aggression of the Russian Federation in the Donetsk and Luhansk regions)";

after the words "participation in countermeasures" add the words "acts of armed aggression" and after the words "catastrophes in the area" - the words "repulse of the armed aggression of the Russian Federation, in particular";

c) in Article 3 :

the fourth part after the words "with the Anti-terrorist Center under the Security Service of Ukraine" should be supplemented with the words "(in the case of formation to fulfill the powers of relevant authorities in the area of the anti-terrorist operation) or with the Joint Operational Headquarters of the Armed Forces of Ukraine (in the case of formation to fulfill the powers of relevant bodies in the area of implementation of measures to ensure national security and defense, repel and deter armed aggression of the Russian Federation in the Donetsk and Luhansk regions)";

add part six with the words "and in the event of the formation of military-civilian administrations to carry out the powers of relevant bodies in the area of measures to ensure national security and defense, repulse and deter armed aggression of the Russian Federation in the Donetsk and Luhansk regions - at the request of the Commander of the United Forces" ;

in part eight, replace the words "the head of the Anti-Terrorist Center under the Security Service of Ukraine at the request of the head of the relevant military-civilian administration" with the words "at the request of the head of the relevant military-civilian administration, the head of the Anti-Terrorist Center at the Security Service of Ukraine, and in the case of the formation of military-civilian administrations of populated areas to carry out the powers of the relevant bodies in the area of measures to ensure national security and defense, repulse and deter armed aggression of the Russian Federation in the Donetsk and Luhansk regions - the Commander of the United Forces";

in part nine :

in the first sentence, replace the words "and if the relevant regional military-civilian administrations have not been formed - the head of the Anti-Terrorist Center under the Security Service of Ukraine" with the words "if the relevant regional military-civilian administrations have not been formed - the head of the Anti-Terrorist Center under the Security Service of Ukraine, and in the case the formation of military-civilian administrations of settlements, district military-civilian

administrations to fulfill the powers of relevant bodies in the area of implementing measures to ensure national security and defense, repel and deter armed aggression of the Russian Federation in the Donetsk and Luhansk regions - Commander of the United Forces";

the second sentence should be supplemented with the words "and in the event of the formation of military-civilian administrations to fulfill the powers of the relevant bodies in the area of implementation of measures to ensure national security and defense, repulse and deter armed aggression of the Russian Federation in the Donetsk and Luhansk regions - the Commander of the United Forces";

add a new paragraph with the following content to part eleven after the third paragraph:

"The powers of military-civilian administrations of settlements, district, regional military-civilian administrations are also terminated in accordance with the Law of Ukraine "On the Legal Regime of Martial Law".

In this regard, the fourth paragraph shall be considered the fifth paragraph;

in part thirteen, replace the words "by the head of the Anti-Terrorist Center under the Security Service of Ukraine at the request of the head of the relevant military-civilian administration without competitive selection" with the words "without competitive selection at the request of the head of the relevant military-civilian administration by the head of the Anti-Terrorist Center at the Security Service of Ukraine, and in the case of formation of military-civilian administrations of settlements to fulfill the powers of relevant bodies in the area of implementation of measures to ensure national security and defense, repel and deter armed aggression of the Russian Federation in the Donetsk and Luhansk regions - by the Commander of the United Forces";

d) the first paragraph of the first part of Article 5, after the words "with the Anti-Terrorist Center under the Security Service of Ukraine", add the words "and in the case of the formation of military-civilian administrations to exercise the powers of the relevant bodies in the area of implementing measures to ensure national security and defense, repulse and deter armed aggression of the Russian Federation in the Donetsk and Luhansk regions - in agreement with the Commander of the combined forces";

e) in Article 6 :

the second part should be written as follows:

"2. The military-civilian administration of the settlement (settlements) is headed by the head, who is appointed and dismissed by the head of the relevant regional military-civilian administration in agreement with the head of the Anti-Terrorist Center under the Security Service of Ukraine, and in the case of the formation of a military-civilian administration settlement (settlements) to exercise the powers of relevant bodies in the area of measures to ensure national security and defense, repulse and deter armed aggression of the Russian Federation in the Donetsk and Luhansk regions - in agreement with the Commander of the Joint Forces. If the relevant regional military-civilian the administration is not formed, the head of the military-civilian administration of the settlement (settlements) is appointed and dismissed by the head of the Anti-Terrorist Center under the Security Service of Ukraine, and in the case of the formation of the military-civilian administration of the settlement (settlements) to exercise the powers of the relevant authorities in the area of implementation of measures with ensuring national security and defense, repelling and deterring the armed aggression of the Russian Federation in the Donetsk and Luhansk regions - by the Commander of the United Forces"; repulse and containment of the armed aggression of the Russian Federation in the Donetsk and Luhansk regions - by the Commander of the United Forces"; repulse and containment of the armed aggression of the Russian Federation in the Donetsk and Luhansk regions - by the Commander of the United Forces";

point 10 of part three after the words "for the period until completion" add the words "repulse of the armed aggression of the Russian Federation, in particular";

e) to exclude the second part of Article 7;

4) in the Law of Ukraine "On the Legal Regime of Martial Law" (Annuals of the Verkhovna Rada of Ukraine, 2015, No. 28, Article 250):

a) in Article 4 :

add the first paragraph of part three with the words "or termination of their powers in accordance with the law";

the first sentence of the fourth part, after the words "within the terms established by the Law of Ukraine "On Local Self-Government in Ukraine", add the words "or the termination of their powers in accordance with the law";

supplement with part nine of the following content:

"9. In connection with the formation of military administrations of settlements, the powers of the military-civilian administrations of these settlements are terminated from the day the relevant military administration begins to exercise its powers.

In the case of the formation of district, oblast military administrations, on the day of entry into force of the act of the President of Ukraine on their formation, the powers of the respective district, oblast military-civilian administrations shall be terminated";

b) Article 28 shall be supplemented with paragraph 2<sup>1</sup> of the following content:

"2<sup>1</sup>. In the case of the introduction of martial law in certain localities in connection with the armed aggression of the Russian Federation in the Donetsk and Luhansk regions:

1) on the day of entry into force of the act of the President of Ukraine on the establishment of a military administration, the following powers shall be terminated in accordance with this Law:

of the regional council, its executive apparatus, officials and officials of local self-government who work in these bodies, - in case of formation of the corresponding regional military administration;

of the district council, its executive apparatus, officials and officials of local self-government who work in these bodies, - in case of formation of the corresponding district military administration;

village, settlement, city, district councils in cities (in the case of their creation) councils, their executive bodies, village, settlement, city mayors, other officials and officials of local self-government who work in these local self-government bodies, elders - in the case of the formation of a military administration of the relevant settlement (settlements);

2) district, oblast military administrations exercise in the relevant territory, together with the powers of local state administrations, the powers to introduce and implement measures of the legal regime of martial law, and also exercise the powers provided for in clauses 1-10 of part three of Article 15 of this Law;

3) military administrations of settlements, district, regional military administrations exercise their powers until the day of the first meeting of the first session of the corresponding council elected after the abolition of martial law;

4) direction, coordination and control over the activities of regional military administrations in matters of defense, public order and security, the implementation of measures of the legal regime of martial law are carried out by the United Operational Headquarters of the Armed Forces of Ukraine under the general leadership of the General Headquarters of the Armed Forces of Ukraine, and in other matters - The Cabinet of Ministers of Ukraine within its powers; direction, coordination and control over the activities of district military administrations in matters of defense, public order and security, implementation of martial law measures are carried out by regional military administrations, and in other matters by the Cabinet of Ministers of Ukraine, regional state administrations within their powers;

5) The General Staff of the Armed Forces of Ukraine exercises the powers provided for in clauses 1, 3, and 4 of Article 14 of this Law, as well as the organization of training and implementation of general leadership of the Armed Forces of Ukraine, units, units and bodies of other military formations formed in accordance with the laws of Ukraine and law enforcement agencies during their implementation of measures of the legal regime of martial law;

6) The commander of the joint forces directs the forces and means of the Armed Forces of Ukraine, other military formations formed in accordance with the laws of Ukraine, which are directly involved in the implementation of measures to ensure national security and defense, repulse and deter armed aggression of the Russian Federation and the legal regime of military state, through the relevant bodies of military administration";

5) clause 3 of the first part of article 3 of the Law of Ukraine "On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine" (Vidomosti Verkhovna Rada of Ukraine, 2014, No. 26, Article 892) shall be amended as follows:

"3) subsoil under the territories specified in clauses 1 and 2 of this part, and the airspace above these territories";

6) Article 28 of the Civil Procedure Code of Ukraine (Vedomosti of the Verkhovna Rada of Ukraine, 2017, No. 48, Article 436) shall be supplemented with a new part of the following content after the sixteenth part:

"17. Lawsuits for the protection of violated, unrecognized or disputed rights, freedoms or interests of natural persons (including compensation for damage caused as a result of restrictions on the exercise of the right to own real property or its destruction, damage) in connection with the armed aggression of the Russian Federation, armed conflict, temporary occupation of the territory of Ukraine, emergency situations of a natural or man-made nature can also be presented at the place of residence or stay of the plaintiff";

7) the first part of Article 5 of the Law of Ukraine "On Court Fees" (Vedomosti Verkhovna Rada of Ukraine, 2012, No. 14, Article 87 with subsequent amendments) shall be supplemented with paragraphs 21 and 22 of the following content:

"21) applicants - in cases of applications for the establishment of facts of legal significance submitted in connection with armed aggression, armed conflict, temporary occupation of the territory of Ukraine, emergency situations of a natural or man-made nature that led to forced resettlement from temporarily occupied the territory of Ukraine, death, injury, captivity, illegal deprivation of liberty or kidnapping, as well as violation of the right of ownership of movable and/or immovable property;

22) plaintiffs - in cases of claims against the aggressor state of the Russian Federation for compensation for property and/or moral damage caused in connection with the temporary occupation of the territory of Ukraine, armed aggression, armed conflict that led to forced resettlement from the temporarily occupied territories of Ukraine, death, injury, captivity, illegal deprivation of liberty or kidnapping, as well as violation of the right to ownership of movable and/or immovable property";

8) Article 3 of the Law of Ukraine "On Combating Terrorism" (Vedomosti Verkhovna Rada of Ukraine, 2003, No. 25, Article 180) shall be supplemented by the tenth paragraph with the following content:

"an anti-terrorist operation can be carried out simultaneously with repelling armed aggression in accordance with Article 51 of the Charter of the United Nations and/or under the conditions of the introduction of martial law or a state of emergency in accordance with the Constitution of Ukraine and the legislation of Ukraine."

5. To establish that specific features of the activities of higher education institutions and scientific institutions displaced from the temporarily occupied territory are regulated by Articles 2 and 5<sup>1</sup> of the Law of Ukraine "On Temporary Measures for the Period of the Anti-Terrorist Operation".

6. Acts of the Cabinet of Ministers of Ukraine, as well as restrictions put into effect by decisions of the President of Ukraine, shall apply until the Cabinet of Ministers of Ukraine adopts any decisions regarding the application of the provisions of this Law.

7. The Cabinet of Ministers of Ukraine within one month from the date of entry into force of this Law:

to bring its normative legal acts into compliance with this Law;

to ensure that the ministries and other central bodies of executive power bring their regulatory acts into compliance with this Law.

President of Ukraine

P. POROSHENKO

Kyiv,  
January 18, 2018  
No. 2268-VIII



Про особливості державної політики із забезпечення державного суверенітету України на тимчасово окупованих територіях у Донецькій та Луганській областях

Law of Ukraine on January 18, 2018 № 2268-VIII

Loss of force on **May 7, 2022**, on the basis — [2217-LX](#)

Direct link:

<https://zakon.rada.gov.ua/go/2268-19>

Legislation of Ukraine  
as of March 9, 2023  
invalid



2268-19

## Publications of document

- **Голос України** on February 23, 2018 — № 37
- **Урядовий кур'єр** on February 28, 2018 — № 41
- **Офіційний вісник України** on March 6, 2018 — 2018, № 19, page 7, article 630, код акта 89242/2018
- **Відомості Верховної Ради України** on March 9, 2018 — 2018, № 10, page 67, article 54





**Annex 471**

Resolution of the Verkhovnaya Rada of Ukraine No. 795-IX “On Calling Regular Local Elections in 2020”, 15 July 2020

(translation)



**Translation**

**Resolution of the Verkhovna Rada of Ukraine No. 795-IX "About the appointment of the next local elections in 2020", 15 July 2020, available at: <https://zakon.rada.gov.ua/laws/show/795-IX#Text>**

***RESOLUTION of  
the Verkhovna Rada of Ukraine***

**About the appointment of the next local elections in 2020**

**(Information of the Verkhovna Rada of Ukraine (VVR), 2020, No. 33, Article 230)**

In accordance with paragraph 30 of the first part of Article 85 of the Constitution of Ukraine, the second part of Article 194 of the Election Code of Ukraine, guided by the fifth part of Article 8 of the Law of Ukraine "On ensuring the rights and freedoms of citizens and the legal regime in the temporarily occupied territory of Ukraine", Article 2 of the Law of Ukraine On the peculiarities of the state policy to ensure the state sovereignty of Ukraine in the temporarily occupied territories in the Donetsk and Luhansk regions", the Law of Ukraine "On Amendments to Certain Laws of Ukraine Regarding the Determination of Territories and Administrative Centers of Territorial Communities", Articles 1, 3 Law of Ukraine "On Military-Civil Administrations", Decree of the President of Ukraine dated February 7, 2019 No. 32/2019 "On the boundaries and list of districts, cities, towns and villages, parts of their territories, temporarily occupied in Donetsk and Luhansk regions".

The Verkhovna Rada of Ukraine **d e c r e e s** :

1. Schedule regular elections of deputies of local councils and village, settlement, and city heads (except those specified in clauses 2 and 3 of this Resolution) for Sunday, October 25, 2020.

2. Elections of deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, deputies of local councils and heads of villages, towns, and cities in the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol, and in certain districts, cities, towns, and villages of the Donetsk and Luhansk regions are not scheduled or held.

3. Due to the impossibility of ensuring the representation of common interests of territorial communities of villages, towns and cities of Donetsk and Luhansk regions, elections of deputies of Donetsk and Luhansk regional councils are not appointed and are not held.

4. Elections of deputies of local councils and village, township, city mayors, not appointed in accordance with paragraphs 2 and 3 of this Resolution, will be appointed in the order and terms established by separate laws, under the conditions of: cessation of the temporary occupation and armed aggression of the Russian Federation against Ukraine, and Namely: withdrawal of all illegal armed formations managed, controlled and financed by the Russian Federation, Russian occupation forces, and their military equipment from the territory of Ukraine; restoration of full control of Ukraine over the state border of Ukraine; disarmament of all illegal armed formations and mercenaries operating in the temporarily occupied territories of Ukraine; restoration of the constitutional system and law and order in the temporarily occupied territories of Ukraine; ensuring the safety of citizens of Ukraine,

5. Regular local elections will not be held in the case of the appointment of the first elections of deputies of the respective local councils and village, settlement, city heads on October 25, 2020.

6. Cabinet of Ministers of Ukraine:

1) take measures within the limits of authority to ensure financing of local elections on October 25, 2020 at the expense of the State Budget of Ukraine ;

2) together with the Central Election Commission, develop measures and recommendations aimed at preventing the spread of the coronavirus disease (COVID-19) during local elections on October 25, 2020, taking into account the requirements of the Election Code of Ukraine ;

3) make a calculation and estimate expenses for the provision of measures specified in sub-item 2 of this item.

7. The Central Election Commission shall, in accordance with the procedure established by the legislation of Ukraine, take measures regarding the financial and logistical support for the preparation and holding of the elections provided for in paragraph 1 of this Resolution, at the expense of the State Budget of Ukraine .

8. This Resolution enters into force on the day following its publication.

**Chairman of the Verkhovna  
Rada of Ukraine**

**D. RAZUMKOV**

**Kyiv,  
July 15, 2020  
No. 795-IX**



On the appointment of regular local elections in 2020  
Resolution of the Verkhovna Rada of Ukraine on July 15, 2020 No. 795-IX  
**Adoption on July 15, 2020**  
Direct link:  
<https://zakon.rada.gov.ua/go/795-20>

Legislation of Ukraine  
as of March 9, 2023  
valid



795-20

## Publications of document

- **Голос України** on July 22, 2020 — № 125
- **Офіційний вісник України** on August 4, 2020 — 2020, № 60, page 171, article 1902, код акта 100178/2020
- **Відомості Верховної Ради України** on August 14, 2020 — 2020, № 33, page 5, article 230

**Annex 472**

Metapicz, *Metadata for the Picture of Alleged Launch Site Image*



26.04.2021

online metadata and exif viewer

[home](#) [link](#)

Annex 9

# metapicz

[ VIEW YOUR METADATA ]



[Camera](#) [Copyright](#) [Location](#) [EXIF](#) [XMP](#) [Maker Notes](#) [ICC](#)

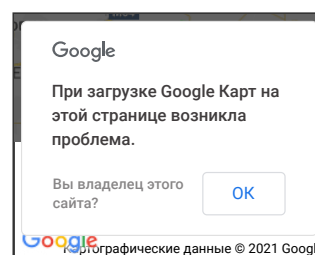
## Camera

|              |                   |
|--------------|-------------------|
| Make         | Apple             |
| Model        | iPhone 5s         |
| Exposure     | 1/604             |
| Aperture     | 2.2               |
| Focal Length | 4.1 mm            |
| ISO Speed    | 32                |
| Flash        | Off, Did not fire |

## Author and Copyright

Copyright not found.

## Location



|           |                               |
|-----------|-------------------------------|
| Latitude  | 48.009664 North               |
| Longitude | 38.759517 East                |
| Altitude  | 223.1619718 m Above Sea Level |

## EXIF

|                         |                     |
|-------------------------|---------------------|
| Make                    | Apple               |
| Model                   | iPhone 5s           |
| Orientation             | Horizontal (normal) |
| XResolution             | 72                  |
| YResolution             | 72                  |
| ResolutionUnit          | inches              |
| Software                | 7.1.2               |
| ModifyDate              | 2014:07:22 15:35:09 |
| YCbCrPositioning        | Centered            |
| ExposureTime            | 1/604               |
| FNumber                 | 2.2                 |
| ExposureProgram         | Program AE          |
| ISO                     | 32                  |
| ExifVersion             | 0221                |
| DateTimeOriginal        | 2014:07:22 15:35:09 |
| CreateDate              | 2014:07:22 15:35:09 |
| ComponentsConfiguration | Y, Cb, Cr, -        |
| ShutterSpeedValue       | 1/604               |

## XMP

XMP data not found.

[home](#) [link](#)

|                         |                                    |
|-------------------------|------------------------------------|
| MeteringMode            | Multi-segment                      |
| Flash                   | Off, Did not fire                  |
| FocalLength             | 4.1 mm                             |
| SubjectArea             | 1631 1223 1795 1077                |
| SubSecTimeOriginal      | 190                                |
| SubSecTimeDigitized     | 190                                |
| FlashpixVersion         | 0100                               |
| ColorSpace              | sRGB                               |
| ExifImageWidth          | 3264                               |
| ExifImageHeight         | 2448                               |
| SensingMethod           | One-chip color area                |
| SceneType               | Directly photographed              |
| ExposureMode            | Auto                               |
| WhiteBalance            | Auto                               |
| FocalLengthIn35mmFormat | 30 mm                              |
| SceneCaptureType        | Standard                           |
| LensInfo                | 4.12mm f/2.2                       |
| LensMake                | Apple                              |
| LensModel               | iPhone 5s back camera 4.12mm f/2.2 |
| GPSLatitudeRef          | North                              |
| GPSLatitude             | 48.009664                          |
| GPSLongitudeRef         | East                               |
| GPSLongitude            | 38.759517                          |
| GPSAltitudeRef          | Above Sea Level                    |
| GPSAltitude             | 223.1619718 m                      |
| GPSTimeStamp            | 12:35:06.19                        |
| GPSTmgDirectionRef      | True North                         |
| GPSTmgDirection         | 147.5902256                        |
| Compression             | JPEG (old-style)                   |
| ThumbnailOffset         | 1826                               |
| ThumbnailLength         | 10724                              |

## Maker Notes

|              |                 |
|--------------|-----------------|
| RunTimeFlags | Valid           |
| RunTimeValue | 122054451822541 |
| RunTimeScale | 1000000000      |
| RunTimeEpoch | 0               |

## ICC Profile

ICC Profile data not found.

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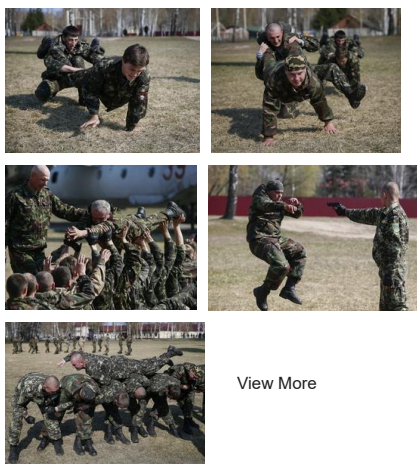
**Annex 473**

Pictures.reuters.com, *Members of a “Maidan” self-defence battalion take part in a training at a base of Ukraine's National Guard near Kiev (31 March 2014)*





Conceptually similar



[View More](#)



DOCUMENT DATE:  
31 March, 2014

Members of a "Maidan" self-defence battalion take the base for training to qualify for service in the ne UNREST)

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UKRAINE

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KIEV

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**Annex 474**

Verkhovnaya Rada of Ukraine, Resolution No. 802-VII “On Formation of the Cabinet of Ministers of Ukraine”, 27 February 2014

(translation)



Translation

Verkhovnaya Rada of Ukraine, Resolution No. 802-VII “On Formation of the Cabinet of Ministers of Ukraine”, 27 February 2014, available at: <http://zakon.rada.gov.ua/laws/show/802-VII>.

***RESOLUTION of***  
***Verkhovnaya Rada of Ukraine***  
**On the formation of the Cabinet of Ministers of Ukraine**  
**(Bulletin of the Verkhovnaya Rada (BVR), 2014, No. 12, p.204)**

*{For more information, see VR Resolutions*

No. 1526-VII of 19.06.2014, *BVR, 2014, No. 32, p.1149*

No. 1660-VII of 02.09.2014, *BVR, 2014, No. 40, p. 2022*

No. 10-VIII of 02.12.2014, *BVR, 2014, No. 52, p.2063*

No. 11-VIII of 02.12.2014, *BVR, 2014, No. 52, p. 2064*}

In accordance with clause 12 of part one of Article 85, part four of Article 114 of the Constitution of Ukraine, the **Verkhovnaya Rada of Ukraine resolves:**

*{For dismissal of members of the Cabinet of Ministers of Ukraine, see VR Resolution No. 11-VIII dated 02.12.2014}*

1. Appoint:

*{Vitaliy Yarema was dismissed from the post by the Resolution of the Verkhovnaya Rada of Ukraine No. 1526-VII of 19.06.2014;*

*{Volodymyr Borysovich Groysman was dismissed from office as Vice Prime Minister of Ukraine - Minister of Regional Development, Construction, Housing and Communal Services of Ukraine by Resolution of the Verkhovnaya Rada of Ukraine No. 10-VIII of 02.12.2014};*

Aleksandr Maksymovich Sych as Vice Prime Minister of Ukraine;

Arsen Borysovich Avakov as Minister of Internal Affairs;

Dmitry Sergeyevech Bulatov as Minister of Youth and Sports of Ukraine;

Maksym Yuriyevich Burbak as Minister of Infrastructure of Ukraine;

Lyudmyla Leontyevna Denisova as Minister of Social Policy of Ukraine;

Sergey Myronovich Kvit as Minister of Education and Science of Ukraine;

Andrey Vladimirovich Mokhnyk as Minister of Ecology and Natural Resources of Ukraine;

Oleg Stepanovich Musiy as Minister of Healthcare of Ukraine;

Yevgeniy Mikhailovich Nyshchuk as Minister of Culture of Ukraine;

Pavel Petrenko as Minister of Justice of Ukraine;

Yuriy Vasylyevich Prodan, Minister of Energy and Coal Industry of Ukraine;

Ostap Mikhailovich Semerak, Minister of the Cabinet of Ministers of Ukraine;

Ihor Aleksandrovich Shvayka as the Minister of Agrarian Policy and Food of Ukraine;

*{The resignation of Sheremet Pavlo Mykhailovich as the Minister of Economic Development and Trade of Ukraine was accepted in accordance with the Resolution of the Verkhovnaya Rada of Ukraine No. 1660-VII dated 02.09.2014};*

Aleksandr Shlapak as Minister of Finance of Ukraine.  
2. This Resolution shall enter into force upon its adoption.

**Chairman of the Verkhovnaya Rada of Ukraine**  
**Kiev**  
**27 February 2014**  
**No. 802-VII**

**O. TURCHINOV**



On the Formation of the Cabinet of Ministers of  
Ukraine Resolution of the Verkhovna Rada of Ukraine of  
27.02.2014 No. 802-VII **Wording of 02.12.2014**, grounds - 10-  
VIII, 11-VIII

*Permanent address: <https://zakon.rada.gov.ua/go/802-18>*

**Legislation of Ukraine as of 08.03.2023** in force

## **Publications of the document**

- **The Voice of Ukraine** of 01.03.2014 - No. 39, /  
Special Issue /.
- **Bulletin of the Verkhovna Rada of Ukraine** of  
21.03.2014 - 2014, no. 12, pp. 807, Article 204



**Annex 475**

GICHD, Explosive Ordnance Guide for Ukraine, 2022.





# EXPLOSIVE ORDNANCE GUIDE FOR UKRAINE

FIRST EDITION

## ACKNOWLEDGEMENTS

This guide was developed by Roly Evans and Bob Seddon with the support of Jovana Carapic and Tammy Hall.

GICHD would like to especially thank Sean Moorhouse for his advice during the development of this guide. Thanks also to John Montgomery, the Danish EOD and Search Center, the Dutch EOD Center and Kdo Kamir for their kind support to the CORD database and this guide.

Explosive Ordnance Guide for Ukraine, GICHD, 2022  
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## MON-50



Image © Danish EOD and Search Center

|                              |                                          |
|------------------------------|------------------------------------------|
| <b>ORDNANCE SUB-CATEGORY</b> | Anti-Personnel Directional Fragmentation |
| <b>EXPLOSIVE FILL (g)</b>    | 700g PVV-5A                              |
| <b>AUW (g)</b>               | 2000g                                    |
| <b>DIMENSIONS (mm)</b>       | 226x156x66                               |
| <b>COUNTRY OF ORIGIN</b>     | Russia/Bulgaria                          |
| <b>FUZE</b>                  | MUV/VPF/EPDr/NM with MD-5                |

MON stands for 'Mina Oskolochnaya Napravlennoy' and was developed as a Soviet version of the M18 Claymore. It is a directional fragmentation anti-personnel mine. It has a plastic casing, either green or brown in colour. On the concave side will be printed MON-50 with respective factory markings. For Russian version, on the other convex side the phrase "К ПРОТИВНИКУ" (k protivniku, "towards enemy") may be printed onto the plastic in black. The mine contains 700g of Plastichnym Vzryvchatym Veshchestvom - 5A (PVV-5A), an RDX based plastic explosive with 20% plasticiser.

The two detonator cavities enables two different means of initiation. For example the mine could be set for command initiation in one fuze well, and victim initiation by means of trip wire in another. For command initiation this mine is often used with the NM electrical initiator. For tripwire initiation, the MUV series of mechanical switches is most often used.

There have been recent reports that MON-50 and MON-90 AP mines have been found with anti-handling (tilt) devices in Ukraine or protected by 'keeper' anti-personnel blast mines. MON-50 mines in Ukraine have also been placed on top of ML-8 anti-lift initiators. Consideration should be given to pulling these devices using hook and line if boobytraps are suspected.

## MON-90



Image © Fenix Insight

|                              |                                          |
|------------------------------|------------------------------------------|
| <b>ORDNANCE SUB-CATEGORY</b> | Anti-Personnel Directional Fragmentation |
| <b>EXPLOSIVE FILL (g)</b>    | 6200g PVV-5A                             |
| <b>AUW (g)</b>               | 12100g                                   |
| <b>DIMENSIONS (mm)</b>       | 345x202x153                              |
| <b>COUNTRY OF ORIGIN</b>     | Russia/Bulgaria                          |
| <b>FUZE</b>                  | MUV/VPF/EPDr/NM with MD-5                |

This is a larger version of the MON-50, with a greater range. The MON-90 designation indicates an effective range of 90m.

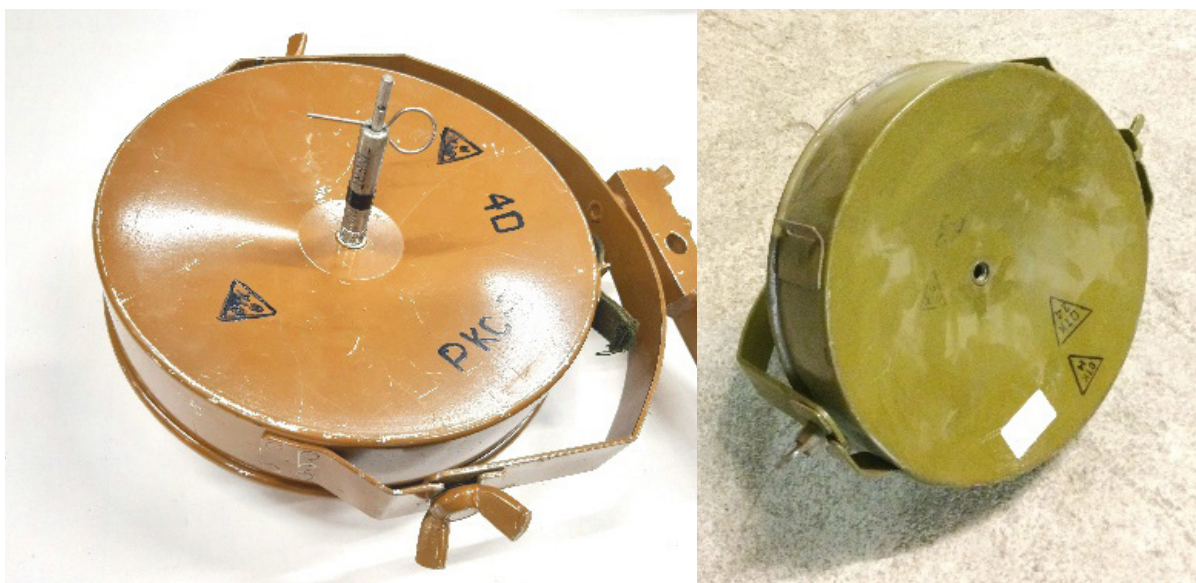
Unlike the MON-50, the MON-90 is not equipped with scissor legs. It is only equipped with a tree spike mounting. The MON-90 comes with a distinctive case (the same size as an 82mm mortar case) with an aiming marker indentation on the lid that braces the mine. Sometimes the MON-90 can be found deployed on this storage box.

As with the MON-50 the mine has two fuze wells with M-10 threads enabling employment of two different fuze types. The mine's fragmentation consists of 2,000 pieces of chopped steel, each 7 mm long. For command initiation this mine is often used with the NM electrical initiator. For tripwire initiation, the MUV series of mechanical switches is most often used.

The mine is typically a green base colour with black, stencilled markings. MON-90 and the batch number is stencilled on the rear of the body.



## MON-100



Left, INERT MON-100 with INERT MUV-1 fuze. Image © Kdo Kamir  
Right, Image © Danish EOD and Search Center

|                              |                                          |
|------------------------------|------------------------------------------|
| <b>ORDNANCE SUB-CATEGORY</b> | Anti-Personnel Directional Fragmentation |
| <b>EXPLOSIVE FILL (g)</b>    | 2000g TNT                                |
| <b>AUW (g)</b>               | 5000g                                    |
| <b>DIMENSIONS (mm)</b>       | 236x83                                   |
| <b>COUNTRY OF ORIGIN</b>     | Russia                                   |
| <b>FUZE</b>                  | MUV/VPF/EPDr/NM with MD-5                |

The MON-100 is the second-largest in the MON series, with the 100 designation indicating its intended lethal range of 100 metres. The MON-100 and the MON-200 are both large cylindrical directional fragmentation mines that are distinctly different from the smaller MON-50 and MON-90. The mine has a single fuze well in the centre of the concave face of the body. It can hold either electrical or non-electric detonators. It has a U-shaped, metal, frame, fitted with a spike for mounting. The metal frame has 2 pivots, which allow the mine to be aimed in a specific direction. The mine is also fitted with a canvas carrying handle on the side of the body. The mine's fragmentation consists of 400 pieces of chopped steel, each 10 mm long. The fragmentation is set into a resin matrix, immediately behind the convex side of the mine body. Owing to its size, the mine is typically command initiated, usually with an NM type initiator, but it could also be tripwire initiated, usually with an MUV-type mechanical switch.

## TM-62M



Image © Danish EOD and Search Center

|                              |                   |
|------------------------------|-------------------|
| <b>ORDNANCE SUB-CATEGORY</b> | Anti-Vehicle Mine |
| <b>EXPLOSIVE FILL (g)</b>    | 7500g TNT         |
| <b>AUW (g)</b>               | 9500g             |
| <b>DIMENSIONS (mm)</b>       | 320x128           |
| <b>COUNTRY OF ORIGIN</b>     | Russia            |
| <b>FUZE</b>                  | MVCh-62 / MVP-62  |

The TM-62M is a metal-bodied, AV, blast mine, which was developed from the earlier TM-57. The mine has a single, large, bakelite, central fuze well, with a metal-cased booster screwed onto the bottom of the fuze well. Like all other mines in the TM-62 series, the TM-62M will accept all fuzes that were developed for the TM-62 series, the TM-72 series and the TM-80 series of mines. Therefore, potentially this mine can be fitted with a range of magnetic influence fuzes. The TM-62M is typically fitted with the pressure-actuated, MVCh-62 pressure fuze, which contains a cocked-striker retained by ball bearings. It is armed by removing the safety clip from the arming button. This begins a clockwork arming delay where a spring-loaded striker moves from the horizontal to the vertical and in line with the detonator. Once armed a weight greater than 150 kg will initiate the fuze.

The image above shows the mine with an MVP minimum metal fuze. If deployed in the field in this way, it would be a waste of a fuze and would indicate a potential lack of training or lack of alternative fuzes for those who emplaced the mine.

The TM-62M is confirmed as being widely used in Ukraine since 2014. It is known to be used at roadblocks among other locations.

**Annex 476**

Selidovo City Court of Donetsk region, Case No. 242/2571/14-k, Sentence of 24 December 2014

(excerpt, translation)



**Excerpt**  
**Translation**

**Selydovo City Court of Donetsk region, Case No. 242/2571/14-k, Sentence of 24 December 2014, available at: <https://reyestr.court.gov.ua/Review/42086406>.**

Proceedings No. 242/2571/14-k

Case No. 1-kp/242/341/14

VERDICT

IN THE NAME OF UKRAINE

December 24, 2014, city of Selydovo

Selydovo City Court of Donetsk Region

composed of:

the presiding judge PERSON\_1,

with the secretary, PERSON\_2,

Having considered in an open court session in courtroom No. 1 of the Selydovo City Court of Donetsk Region criminal case No. 12014050500000560 against PERSON\_3, INFORMATION\_1, a native of the village of Nizhnyaya Maktoma, Almetyevsky district, Tatarstan, a citizen of Ukraine; completed secondary vocational education; unemployed; not married; has a dependent daughter, PERSON\_4, INFORMATION\_2, not previously convicted as per the requirements of Article 89 of the Criminal Code of Ukraine; who is registered and resides at the following address: ADDRESS\_1, -

who is accused under Article 146(2) of the Criminal Code of Ukraine;

with the participation of the parties to the criminal proceedings: prosecutor, PERSON\_5, the accused, PERSON\_3, the defense counsel, PERSON\_6, and the victim, PERSON\_7

HAS ESTABLISHED THAT:

On March 18, 2014, at about 21:20 (the exact time has not been established), the accused, PERSON\_3, near the house at ADDRESS\_2, in collusion with a person the case against whom has been separated into separate proceedings, committed an illegal abduction of an individual in collusion with a group of persons, which was accompanied by causing physical suffering to the victim.

[...]

The person the case against whom has been separated into separate proceedings made a phone call to the victim, PERSON\_7, with whom he was talking for some time via mobile phone. After he introduced himself as Ruslan, he learned that she was going from her place of work at the Central Ore-Dressing Plant "Ukraine" in the city of Ukrainsk, Donetsk region, to her place of residence at: ADDRESS\_3. Then PERSON\_3 and the person the case against whom has been separated into separate proceedings, having previously distributed roles among themselves, without informing PERSON\_8 of their further roles, agreed

that PERSON\_3 would observe PERSON\_7 all the way from work to her home, and then force her to the car of the person the case against whom has been separated into separate proceedings, who would be waiting for them in his car near the Raduga store located on Oktyabrskaya Street in the city of Ukrainsk, Donetsk region. PERSON\_3, picking up a metal chain that he had prepared in advance to overcome the resistance of PERSON\_7, went to the territory of the Central Ore-Dressing Plant "Ukraine", where he saw PERSON\_7 leaving the checkpoint and followed her. When PERSON\_7 was on her way, PERSON\_3, at approximately 21:20 (the exact time has not been established), while near the house at ADDRESS\_2, with the aim of illegally abducting PERSON\_7, in collusion with the person the case against whom has been separated into separate proceedings, deliberately threw a metal chain around PERSON\_7's neck, over her clothes, thereby inflicting physical pain to PERSON\_7, and threatened her with further physical violence if she screamed. PERSON\_7, fearing for her life and health, agreed to comply with the conditions of PERSON\_3, who soon removed the chain from her neck, took her by the hand and led her to a place agreed with the person the case against whom has been separated into separate proceedings. Since the movement of the victim, PERSON\_7, was effectively restricted from that time on, the illegal collusive abduction committed by a group of persons was completed. While standing near the Raduga store located on Oktyabrskaya Street in Ukrainsk, Donetsk region, PERSON\_3, threatening PERSON\_7 with physical violence, pulled a hat she was wearing over her eyes, limiting her ability to see the environment, and ordered her to get into a car GAZ-21 Volga, license plate No. NUMBER\_1. After that, PERSON\_7 got into the car in the rear passenger seat, while PERSON\_3 sat on her right and PERSON\_8 was already sitting on her left. Then PERSON\_3 grabbed and held PERSON\_7's hands with both hands, and the person the case against whom has been separated into separate proceedings, while being in the driver's seat tied the victim's hands with a jeans belt and pulled her hat over PERSON\_7's eyes, thereby limiting her ability to see and move her hands. After that, the person the case against whom has been separated into separate proceedings drove the car to the city of Selidovo, Donetsk region, where he dropped off PERSON\_9 on the way and continued to drive. Stopping on Gaidar Street in the city of Selydovo, Donetsk region, the person the case against whom has been separated into separate proceedings, put PERSON\_7 off the car, untied her eyes and hands, and then took her to his place of residence, at: ADDRESS\_4, leaving PERSON\_3 waiting for him in the car. After some time, the accused PERSON\_3 stopped waiting for PERSON\_10 and went home.

[...]

He knows from his wife's words that on 18.03.2014, when she was standing near her house after work, she was approached by an unfamiliar elderly man who pulled a hat over her eyes, put a metal chain around her neck and forced her into a car. Then, in the same car, she was abducted and transported to the house of PERSON\_11 in the town of Selidovo. Previously, he had had a conflict with PERSON\_11's adopted son. PERSON\_11's adopted son is serving a sentence in prison for inflicting bodily harm on him. Prior to this incident, PERSON\_11 had threatened him by phone that he would rape his wife. He believes that his wife's abduction was related to PERSON\_11's threats.

[...]

#### HAS RULED THAT:

**PERSON\_3** shall be found guilty as charged under Article 146(2) of the Criminal Code of Ukraine and shall be sentenced to two years' imprisonment under Article 146(2) of the Criminal Code of Ukraine.

Until the verdict enters into legal force, the measure of restraint in respect of **PERSON\_3** shall remain the same, i.e. personal recognizance.

**PERSON\_3**'s term for serving punishment shall run from the moment of his detention.

[...]

Judge

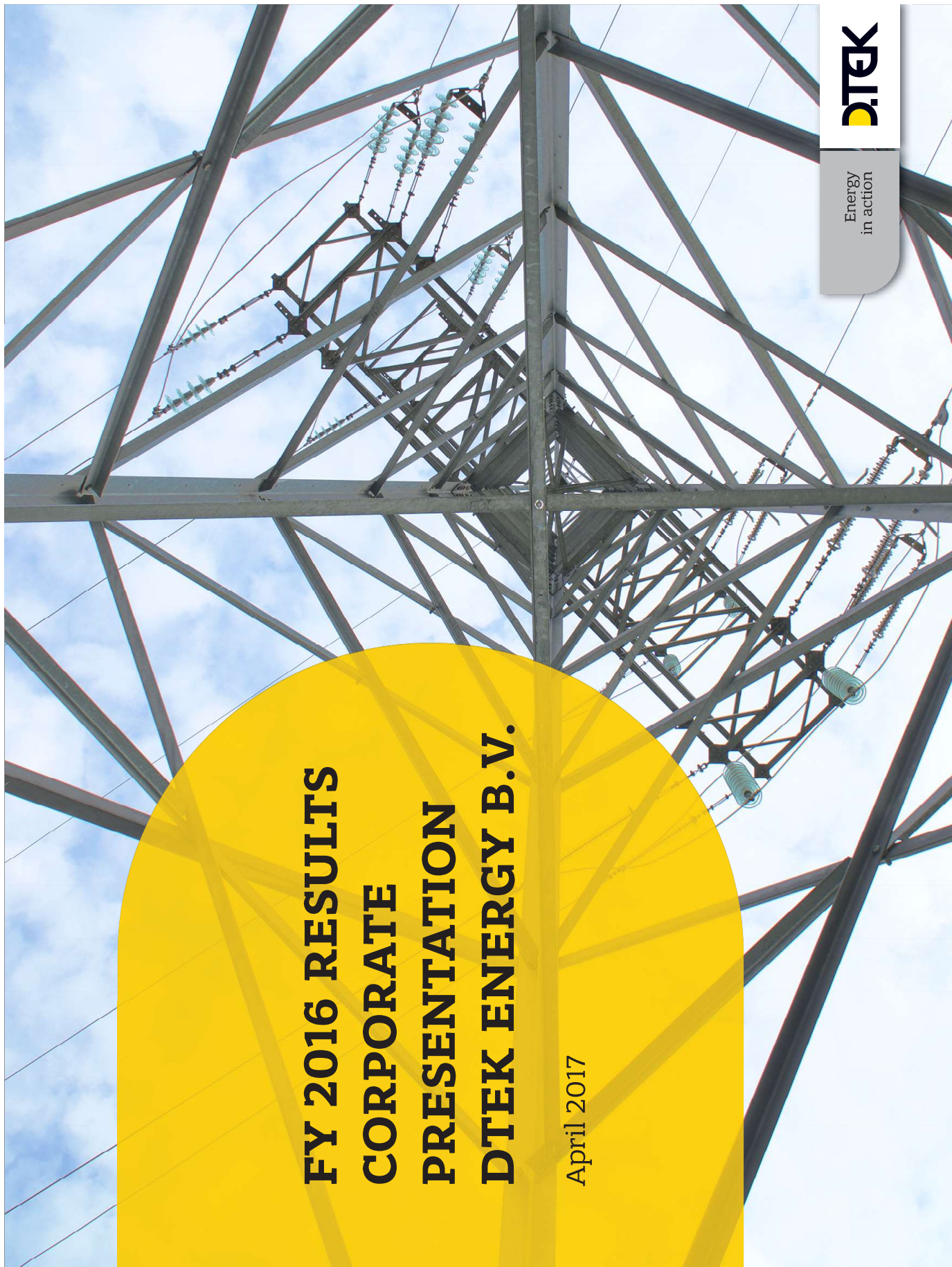




**Annex 477**

DTEK Energy B.V., FY 2016 Results Corporate Presentation DTEK Energy B.V., April 2017





**FY 2016 RESULTS  
CORPORATE  
PRESENTATION  
DTEK ENERGY B.V.**

April 2017



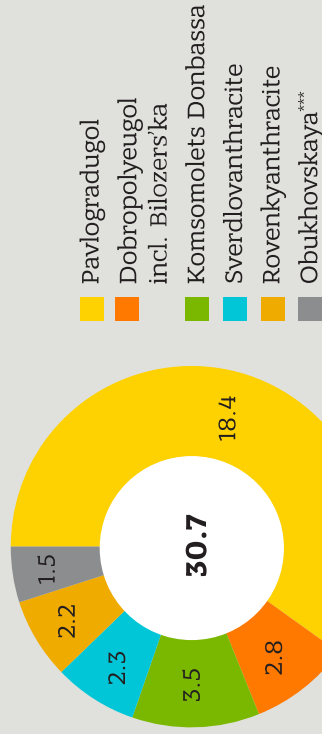
Energy  
in action



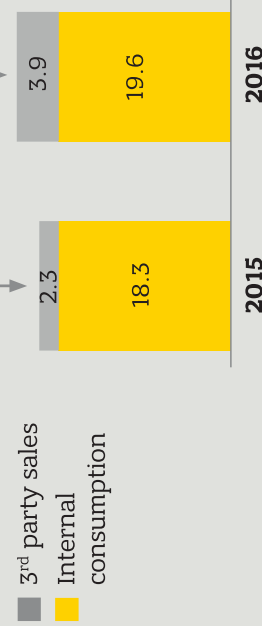
## Coal Mining

- In 2016 DTEK Energy produced 30.7 Mt of coal, 87% out of which was consumed within the SCM Group.
- Steam coal production reached 21.2 Mt. To offset decline in nuclear generation and prevent electricity shortages DTEK Pavlogradugol and DTEK Dobropolyeugol have increased production by 17.6% in 2H 2016 vs. 1H 2016.
- The extraction of anthracite in NCT increased by 74% to 8Mt mainly driven by resumption of DTEK Mine Komsomolets Donbassa operations. Company managed to improve deliveries from this regions: 4.83 Mt (increase by 49% comparing to 2015) were supplied to TPPs located in controlled-territory.
- The Company increased its 3rd party coal sales by 70% YoY (+1.6 Mt\*\*\*\*) to 3.9 Mt as a result of stabilized coal deliveries from the NCT, as well as the internal coal consumption by 7% (+1.3 Mt) following the increased output.
- Labour productivity at DTEK Energy coal mines increased from 55.7 tons/person/month in 2015 to 65.2 tons/person/month in 2016 (including the NCT mines) following resumption of mine operations in the NCT.

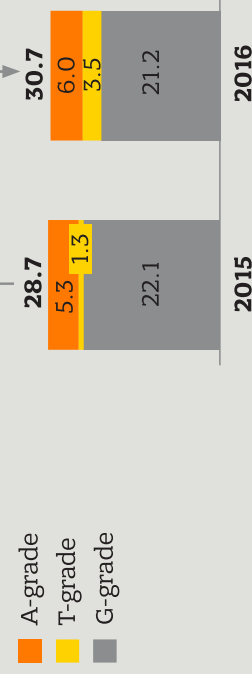
Coal mining in 2016\*, Mt



Coal sales\*\*, Mt



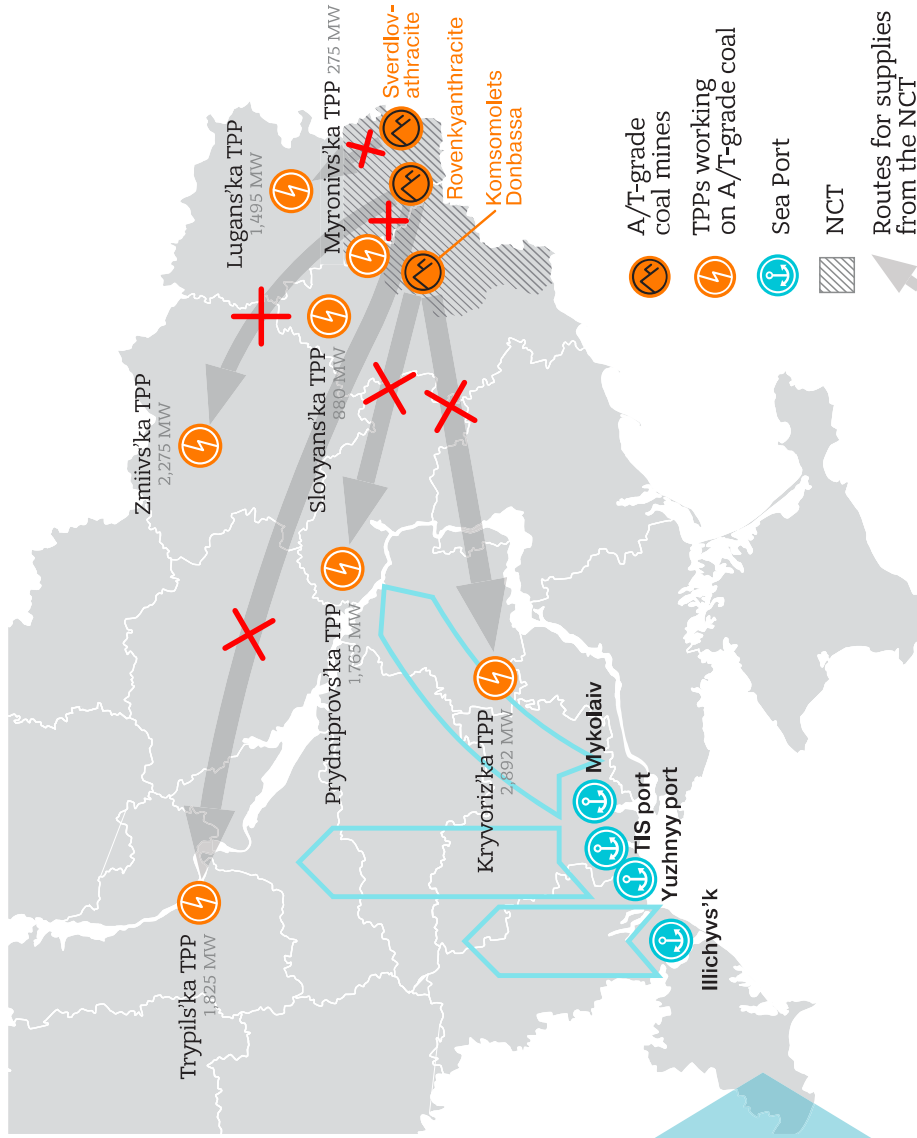
Coal mining by grade\*, Mt



\* Volume of coal mining is in tones of raw (Run-of-Mine) coal extracted by DTEK  
 \*\* Without 3rd party coal sales  
 \*\*\* Including Don-Anthracite and Suiivanthracite, located in Rostov region, Russia  
 \*\*\*\* Numbers may not add up due to rounding

## DTEK: anthracite mines and TPPs of Ukraine

- In 2016, coal-fired TPPs produced 31.8% of electricity in Ukraine (49.9 TWh).
- In March 2017 DTEK lost control over its coal companies located in the NCT zone: Sverdlovanthracite, Rovenkyanthracite and Komsomolets Donbassa Mine, which produced one million tonnes of anthracite per month.
- Emergency state in the energy sector was announced in mid-March. The country experiences difficulties with anthracite supplies (9 mln tonnes per year).



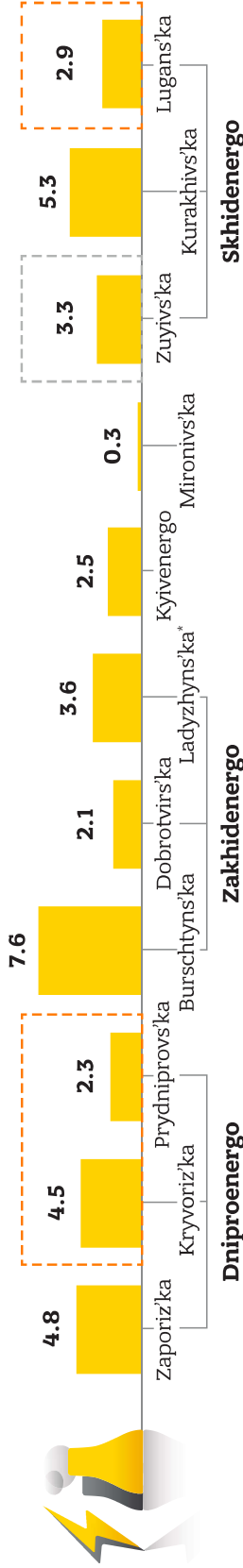
### Alternative points of imported resources supply, with further shipment to TPPs

- **Capacities:** 800,000 tonnes per month for all Ukrainian ports (about 9.6 mln tonnes per year).
- **Spot prices:** USD 78 (shipment exclusive), USD 100-110 (including shipment to TPPs).



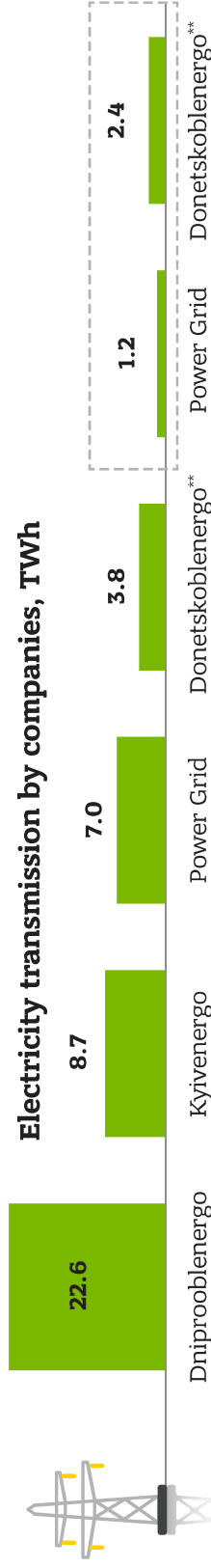
## DTEK Energy Exposure in NCT (2016)

### Power generation by TPP, TWh



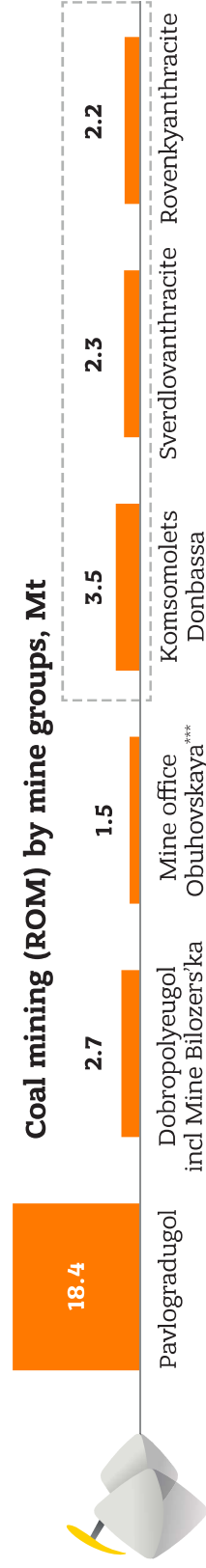
Power generation in the temporarily uncontrolled territory represents 8.2% of DTEK Energy's total output in 2016

### Electricity transmission by companies, TWh



Electricity transmission in the temporarily uncontrolled territory represents 8% of DTEK Energy's total transmission volumes including Kyivenergo in 2016

### Coal mining (ROM) by mine groups, Mt



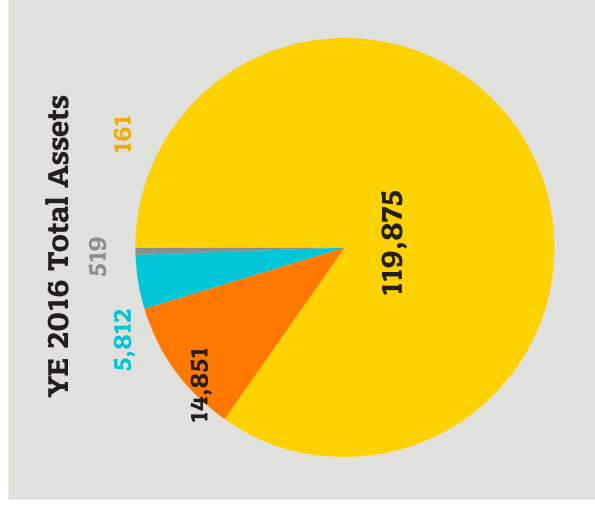
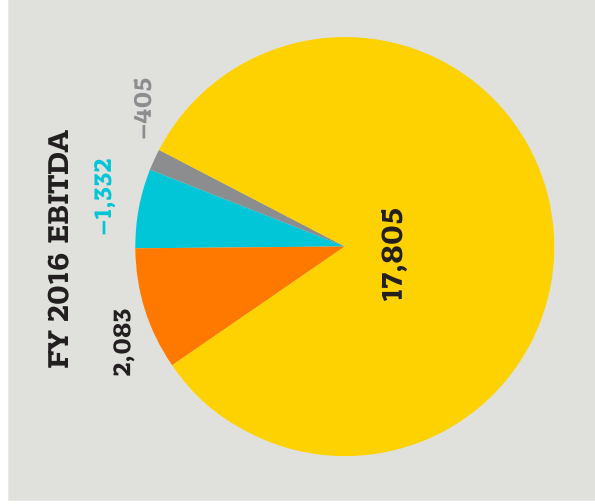
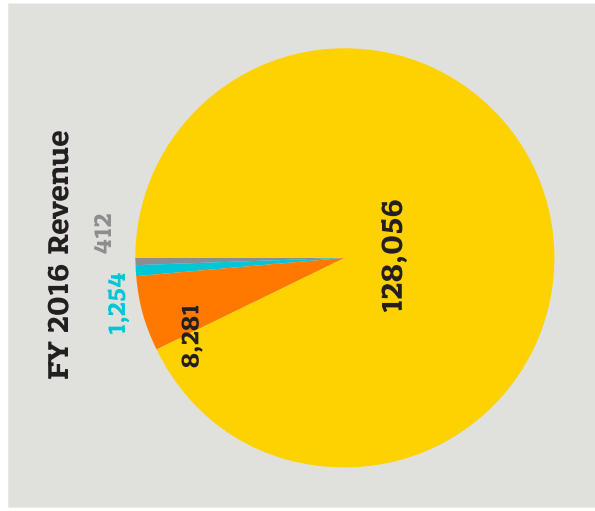
Coal mining in the temporarily uncontrolled territory represents 26% of DTEK Energy's total output in 2016

\* Including Ladyzhyn HPP / \*\* Including Energougol ENE  
 \*\*\*Including Don-Anthracite and Sulimanthracite, located in Rostov region, Russia.  
 Data until September 1, 2016

## DTEK Energy Exposure to the NCT in financial figures (2016)

### As of 2016 the aggregate DTEK Energy Exposure to the NCT accounts to<sup>1</sup>:

- 7.8% of Revenue<sup>2</sup> (UAH 9 947 mln or eqv. USD 389 mln<sup>3</sup>)
- 2.1% of EBITDA<sup>2</sup> (UAH 375 mln or eqv. USD 15 mln<sup>3</sup>), thereof:
  - NCT Coal segment generated 11.7% of the Total EBITDA of the Group (and 27% of EBITDA of Coal segment as a whole);
  - NCT Generation segment generated –7.3% of the Total EBITDA of the Group (and –17% of EBITDA of Generation segment as a whole);
  - NCT Distribution segment generated –2.3% of the Total EBITDA of the Group (and –110% of EBITDA of Distribution segment as a whole).
- 17.8% of Total Assets (UAH 21,343 mln or eqv. USD 785 mln<sup>3</sup>).



■ NCT Coal   
 ■ NCT Generation   
 ■ NCT Distribution   
 ■ Total for the Group

1. Segment information (Coal, Generation, Distribution) is presented on consolidated basis (excluding intercompany operations and balances between NCT companies)  
 2. Revenue and EBITDA in "TOTAL for the Group" include operations of Rostov mines for 8 months ended on 31.08.2016  
 3. Balances as at 31.12.16 were translated to USD using UAH/USD rate as at 31.12.2016 – 27.19; operations for 2016 are translated to USD, using average UAH/USD rate for the year 2016 – 25.55, per NBU data





**Annex 478**

Photo of remains of the rocket part of 122 Grad MLRS projectile in the pavement at Andrey  
Linev Street, opposite the western end of the house at 79A

(translation)



**Translation**

**Photo of remains of the rocket part of 122 Grad MLRS projectile in the pavement at Andrey Linev Street, opposite the western end of the house at 79A, available at: <https://lostarmour.info/articles/obstrel-kvartalov-mirnyy-i-gaevogo-goroda-luganska-s-primeneniem-rszo-grad-14-iyulya-2014-goda#>.**



Figure 12 - Photo of remains of the rocket part of 122 Grad MLRS projectile in the pavement at Andrey Linev Street, opposite the western end of the house at 79A.



**Annex 479**

VPK News, *Even school buses have been mobilised in Ukraine* (14 April 2021)

(translation)



Translation

VPK News, *Even school buses have been mobilised in Ukraine* (14 April 2021), available at: [https://vpk.name/news/500051\\_na\\_ukraine\\_mobilizovali\\_dazhe\\_shkolnye\\_avtobusy.html](https://vpk.name/news/500051_na_ukraine_mobilizovali_dazhe_shkolnye_avtobusy.html).

## Even school buses have been mobilised in Ukraine

*Rossiyskaya Gazeta*

**The Ukrainian military will travel around Donbass in a yellow KAVZ-39765 school bus. One such vehicle was spotted on a train carrying various equipment to Donbass. The train arrived at the Rozovka station.**

Despite the assurances of [#Ukrainian](#) authorities that the use of force in [#Donbass](#) is impossible, the Ministry of Defence of [#Ukraine](#) continues to pull trains with equipment into the JFO zone.

On April 10, 2021, arrived at the Rozovka station of Donetsk railway for unloading.

[pic.twitter.com/wGztAwTzTv](https://pic.twitter.com/wGztAwTzTv)

- Sukhoi Su-57 Felon (@I3omki) [April 12, 2021](#)

Such, so to speak, camouflage has sparked a heated discussion on social media. Many are outraged at the provocative actions of the Ukrainian armed forces. Indeed, if something goes wrong, they can always claim that a civilian vehicle was fired upon.

Others joke caustically, noting that Kiev's officials in uniform are forced to mobilise anything that can move, even ordinary civilian vehicles, for the war.

In principle, Ukrainian formations have been seen doing similar things before. Thus, at the height of the hostilities, a convoy of GAZ-66 vehicles with the appropriate insignia was engaged in towing twin small-calibre ZU-23-2 automatic cannons. If we talk about this echelon, other non-military vehicles such as Bogdan buses, off-road vehicles etc. are also present on the platforms.

There is also a lot of military equipment: BRDM-2 armoured reconnaissance and patrol vehicles, light MT-LB tracked transporters, anti-aircraft guns.

*Alexei Brusilov*





**Annex 480**

Verkhovnaya Rada of Ukraine, Resolution No. 1822-VIII “On Establishing Ukrainian Volunteer Day”, 17 January 2017

(translation)



Translation

Verkhovna Rada of Ukraine, Resolution No. 1822-VIII “On Establishing Ukrainian Volunteer Day”, 17 January 2017, available at: <https://zakon.rada.gov.ua/laws/show/1822-19#Text>.

## On Establishing Ukrainian Volunteer Day

Document 1822-VIII; in effect; up-to-date version – **Adopted on 17.01.2017**

|                                            |
|--------------------------------------------|
|                                            |
| RESOLUTION<br>Verkhovna Rada of<br>Ukraine |

### On Establishing Ukrainian Volunteer Day

In order to honor the courage and heroism of the defenders of Ukraine's independence, sovereignty and territorial integrity; to promote further strengthening of the patriotic spirit in society; to heighten public attention to and provide more care for members of volunteer formations; and to support the initiative of the public, the Verkhovna Rada of Ukraine hereby resolves that:

1. The Day of Ukrainian Volunteer in Ukraine be introduced, which is to be celebrated annually on March 14.
2. The Cabinet of Ministers of Ukraine be recommended to develop, with the involvement of the public and active members of volunteer formations who participated in the Revolution of Dignity, and, within one month from the date of adoption of this Resolution, approve a comprehensive plan of measures for celebrating the Day of Ukrainian Volunteer at the state level by providing, in particular: the holding of annual events to properly honor the feats of Ukrainian volunteers; the holding of thematic events devoted to mass public protests in educational institutions, military units, and cultural institutions;
3. The implementation of this Resolution be overseen by the Verkhovna Rada Committee on National Security and Defense and the Verkhovna Rada Committee on Veterans, Combatants, Participants of the Anti-Terrorist Operation and People with Disabilities.

4. This Resolution shall enter into force from the date of its adoption.

Chairman of the Verkhovna Rada A. PARUBIY  
of Ukraine

Kiev  
17 January 2017  
No. 1822-VIII

**Annex 481**

State Committee for Inter-ethnic Relations of the Republic of Crimea, Information for MFA  
(from 2014 to 2022 and plans for 2023)

(translation)



Translation**State Committee for Inter-ethnic Relations of the Republic of Crimea, Information for MFA (from 2014 to 2022 and plans for 2023).****Information for the Ministry of Foreign Affairs  
(from 2014 to 2022 and plans for 2023)****1. Interethnic relations (events, grant support)**

As part of the implementation of the State programme of the Republic of Crimea to strengthen the unity of the Russian nation and ethnocultural development of the peoples of Russia 'Republic of Crimea - territory of interethnic harmony', various forms of support for ethnic and cultural NGOs are provided.

(a) Grant support for the activities of ethnic cultural autonomies and non-governmental organizations (NGO) has been available since 2017.

For example, in 2017 the Yalyboyu-South Bank Social Support Fund received a subsidy of RUB 270,000.00 for the implementation of the 'Colours of the Peoples of the South Bank' project.

In 2018, the Regional NGO 'Ukrainian Community of Crimea' received a subsidy in the amount of RUB 2,508,490.00 to support the operation of the first Ukrainian-language network resource 'Pereyaslavskaya Rada 2.0'.

In 2020, the Crimean Regional NGO for Cultural Education of Children 'Armanchyk' was granted a subsidy in the amount of RUB 392,800.00 for the implementation of the project 'Children's Games of Crimean Tatars as part of the cultural heritage of the peoples of Crimea'.

In 2020 and 2022, a subsidy in the amount of RUB 2,000,000.00 (each year) was granted to the Regional NGO 'Ukrainian Community of Crimea' to support the operation of the first Ukrainian-language network resource 'Pereyaslavskaya Rada 2.0'.

In 2021, subsidies were granted to:

Regional NGO 'Ukrainian Community of Crimea' for the implementation of the project 'Publication of the magazine "Krimsyogodni" in Ukrainian, in the amount of RUB 500,000.00;

Crimean Regional NGO for Cultural Education of Children 'Armanchyk' for the project 'Tuvgyan tilnin baylygy - Wealth of Native Language' in the amount of RUB 460,000.00;

In 2022, the Crimean Regional NGO for Support and Development of Crimean Tatar Culture and Art received a subsidy for the project 'Ana Tili' in the amount of RUB 450,000.00.

In total, from 2017 to 2022 the State Committee of the Republic of Crimea supported 49 projects in various spheres. About RUB 19 mln was allocated from the budget of the Republic of Crimea for the implementation of these projects.

In 2018, 2020, and 2022, the Regional NGO 'Ukrainian Community of Crimea' received subsidies for the creation and operation of the first Ukrainian-language network resource 'Pereyaslavskaya Rada 2.0' to a total amount of RUB 6,508,490.00.

In the sphere of preserving ethnic cultures and traditions of the peoples living in the territory of the Republic of Crimea and strengthening interethnic relations, cooperation has been established between autonomous ethnic cultural organizations and NGOs with the State Budgetary Institution of the Republic of Crimea 'People's Friendship House'.

Over the entire period of its existence, the People's Friendship House has signed c. 100 cooperation agreements with ethnic cultural organizations and friendship houses in other federal subjects of the Russian Federation.

Under these agreements, the People's Friendship House provides ethnic cultural NGOs with financial, organizational, methodological and advisory support in conducting ethnic cultural events every year.

For example, approximately 70 events a year are held at the national level to promote the national cultures and traditions of the peoples of Crimea, and some 230 events are held at the municipal level.

Traditional holidays of Crimean Tatars and Ukrainians are celebrated annually in the Republic of Crimea, and events are held to mark memorable dates:

- Crimean Tatar national holiday 'Khydyrlez' (not held in 2020-2022 due to measures to prevent the spread of coronavirus infection);
- Crimean Tatar national holiday 'Derviza' (held from 2020);
- Muslim holiday Kurban-Bairam (Eid al-Fitr) (annually);
- Republican Festival-Contest of Crimean Tatar Culture 'Kefe Gulleri' (2015, 2018-2019, since 2020 annually),
- V Regional Festival of Crimean Tatar Culture 'Ichki Nagmeleri' (2015);
- Republican festival-competition of Crimean Tatar culture 'Qirim Naghmeleri' (since 2020 annually);
- Events dedicated to the Day of Revival of the Rehabilitated Peoples of Crimea (annually);
- Days of Crimean Tatar letters and culture (annually since 2019);
- Events dedicated to the Day of Remembrance of the Victims of the Deportation from Crimea (annually);
- T.G. Shevchenko's Memorial Day within the framework of the Days of Ukrainian Culture in Crimea (annually);
- Festival of Ukrainian culture 'Obzhynki' (annually);
- Event dedicated to the 150th anniversary of the birth of Lesya Ukrainka, within the framework of the Days of Ukrainian Culture (2021).

In 2015 and 2020, events were held at the Republican level dedicated to the 95th and 100th anniversary of twice Hero of the Soviet Union Amet-Khan Sultan. The most significant event was the opening of the monument to Amet-Khan Sultan on the namesake square in Simferopol on Amet-Khan Sultan's birthday.

In 2018, events dedicated to the 100th anniversary of the birth of the military fighter pilot, Colonel Emir-Usein Chalbash, were held at the republican level.

In 2017 and 2021, commemorative events dedicated to the 165th anniversary and 170th anniversary of the outstanding Crimean Tatar enlightener Ismail Gasprinsky were held at the republican level.

High-level events dedicated to the anniversaries of the prominent Crimean Tatar figures Yuriy Osmanov, Akim Dzhemilev, Seytumer Emin were also held.

In 2021, ceremonial events were held in Crimea on the 110th anniversary of the outstanding embroiderer Vera Roik.

The 18<sup>th</sup> of May, in accordance with the Law of the Republic of Crimea 'On Holidays and Commemorative Dates' of 29.12.2014, was declared the Day of Remembrance of the Victims of the Deportation. Every year, in accordance with this Law, the State Committee of Crimea for Interethnic relations, in order to prepare events in Crimea to commemorate the Day of Remembrance of the Victims of the Deportation, develops and adopts an order of the Council of Ministers of the Republic of Crimea approving the plan of commemorative events.

## **2. Resettlement of the rehabilitated peoples of Crimea (the 'Ensuring interethnic harmony' section of the State Programme of the Russian Federation 'Social and economic**



**development of the Republic of Crimea and the city of Sevastopol’, purchase of housing, material assistance, compensations).**

With coordination by the State Committee for Interethnic Relations of the Republic of Crimea under the ‘Ensuring interethnic harmony’ section of the State Programme of the Russian Federation ‘Social and economic development of the Republic of Crimea and the city of Sevastopol’, 74 housing, social, communal (engineering) and road infrastructure facilities worth c. RUB 17.3 bn were designed and constructed between 2014 and 2022 to ensure improvement in the standard of living of citizens from among the rehabilitated peoples of Crimea in places of their compact residence.

To date, 46 of the 74 facilities have been commissioned, making it possible to improve the level of development in some 35 areas of compact settlement:

- Four pre-school educational organizations have been opened, with 1,300 places, in the city of Simferopol (Fontany, Lugovoye and Khoshkeldy conglomerates), the city of Bakhchisaray and Simferopol District (Molodezhnoye urban settlement);

- 76.9 km of gas supply networks were commissioned in the city of Simferopol (Beloe-4 conglomerate), in Sudak (Suuk-Su, Alchak, Asret conglomerates), in Feodosia (Chelnokova conglomerates), in Simferopol District (Molodezhnoye urban settlement, Akropolis, Aykavan, Beloe-6 conglomerates);

- 73.7 km of power supply networks put into operation in the city of Simferopol (Lugoye-2, Bepalova street), in Feodosia (Chelnokova conglomerate and Greek quarter), in Belogorsk district (Nizhnie Oreshniki village), in Simferopol District (Aykavan, Beloye-6, two conglomerates in Levadki, ‘Vasiet’ conglomerate Stroganovkaarray ‘Buki’ conglomerate in Dobroye, ‘New’ conglomerate in Mirnoye);

- 49 km of water supply networks were commissioned in the city of Simferopol (Bepalova Street), in Feodosia (Chelnokova and Greek Quarter conglomerates), in Simferopol district (Stroganovka-1,2,3 stages, two conglomerate in Urozhaynoye village);

- 15.8 km of sewerage networks were commissioned in the city of Simferopol (Kamenka and Ak-Mechet conglomerates);

- 21.7 km of paved roads commissioned in Yevpatoria (microdistricts ‘Ismail-bey’ and Sputnik-2), in Simferopol (microdistricts ‘Fountains’ and ‘Ak-mechet’), in Simferopol district (transit road through ‘Beloye-6’, ‘Aykavan’ and ‘Beloye-5’ conglomerates of Simferopol, Rodnikovo Village conglomerate ‘Temelli’, Molodezhnoye urban settlement).

From 2014 to 01.01.2023, 739 families received housing within the framework of measures for the improvement of housing conditions under the Federal Target Programme and Republican Targeted Investment Programme (RAIP).

In 2022, construction of multi-unit residential houses was completed in: Yevpatoriya city (108 flats), Orekhovo village, Saki district (72 flats, of which 35 flats were distributed), Simferopol city (72 flats), Krasnoperekopsk city (72 flats).

The planned time for distribution of the remaining 289 flats built in 2022 is the first half of 2023.

Moreover, there are plans to complete another 12 multi-unit housing projects under the State Programme (1262 flats):

- Alushta (72 flats),
- Bakhchisaray (168 flats),
- Dzhankoy (72 flats),
- Saki (36 flats),
- Simferopol (162 flats),
- Feodosia (72 flats),
- Kerch (72 flats),
- Sudak (72 flats),
- Kirovsky district (48 flats),

- Leninsky district (48 flats),
- Simferopol district (2 houses with 160 flats each),
- Yalta (120 flats).

...The 'Revival' museum, including lightly coloured marble pillars and a sculptural image 'Prayer' made of steel bars, in the form of hands folded in prayer, and the park area, symbolise the restoration of rights and revival of rehabilitated peoples in the Crimea.

The Museum houses a thematic exhibition dedicated to the memory of victims of the deportation of the peoples of Crimea.

The building was constructed as part of the Republican Targeted Investment Programme (RAIP). Project cost: RUB 451,675 mln.

Construction site: near the railway station 'Siren' of Bakhchisarai district (village of Zheleznodorozhnoye). Chief administrator of the budget funds: Ministry of Construction and Architecture of the Republic of Crimea.

## **6. Language preservation (publication of socially significant literature, development of national mass media)**

In 2015, Directive of the Council of Ministers of the Republic of Crimea №291-r of 02.04.2015, established the State Autonomous Institution of the Republic of Crimea 'Ismail Gasprinskiy Media Centre', which provides preparation and publication of socially important literature, as well as print media in native languages of the peoples of Crimea. Over the entire period of its activity, the institution has published 220 books with a total number of copies over 80,000, and supported the publication of 15 print media in native languages, including:

1. Newspaper 'Meraba'
2. Newspaper 'Yan'y Dyunya' (New World)
3. Newspaper 'Sholam'
4. Newspaper 'Tavrika'
5. Newspaper 'Izvor'
6. Newspaper 'Hoffnung'
7. Newspaper 'Black Sea Cossack Herald'
8. Newspaper 'Krimskiy Vysnik'
9. Magazine 'Our Crimea'
10. Magazine 'Yildiz' (The Star)
11. Magazine 'We Are the Youth Magazine of Crimea'
12. Magazine 'Dove Massis'
13. Magazine 'Arzy'
14. Magazine 'Ana tili ojalaryna' (For Native Language Teachers)
15. Magazine 'Krym'.

### **Books published by Ismail Gasprinskiy Media Centre in 2015-2022 in the Crimean Tatar language and on Crimean Tatar issues**

| <b>Number of books</b> | <b>Total number of copies</b> | <b>Total cost, RUB</b> |
|------------------------|-------------------------------|------------------------|
| <b>2015</b>            |                               |                        |
| 10                     | 5700                          | 734,290.00             |
| <b>2016</b>            |                               |                        |
| 14                     | 4100                          | 778,940.00             |
| <b>2017</b>            |                               |                        |
| 27                     | 9000                          | 1,897,093.01           |
| <b>2018</b>            |                               |                        |
| 19                     | 8900                          | 1,945,819.00           |
| <b>2019</b>            |                               |                        |
| 26                     | 11700                         | 2,442,450.00           |

|               |       |               |
|---------------|-------|---------------|
| <b>2020</b>   |       |               |
| 18            | 6600  | 1,817,325.00  |
| <b>2021</b>   |       |               |
| 20            | 6400  | 2,277,797.00  |
| <b>2022</b>   |       |               |
| 16            | 4800  | 1,540,250.00  |
| <b>TOTAL:</b> |       |               |
| 150           | 57200 | 13,433,964.01 |

**Books published by Ismail Gasprinskiy Media Centre in 2015-2022 in the Ukrainian language and on Ukrainian issues**

| Number of books | Total number of copies | Total cost, RUB |
|-----------------|------------------------|-----------------|
| <b>2018</b>     |                        |                 |
| 1               | 300                    | 280,000.00      |
| <b>2019</b>     |                        |                 |
| 1               | 500                    | 92,000.00       |
| <b>2020</b>     |                        |                 |
| 3               | 1100                   | 147,100.00      |
| <b>2021</b>     |                        |                 |
| 2               | 700                    | 296,032.00      |
| <b>TOTAL:</b>   |                        |                 |
| 7               | 2600                   | 815,132.00      |

**7. Information on students instructed in the state languages of the Republic of Crimea (Russian, Ukrainian, Crimean Tatar) in general education institutions of the Republic of Crimea in 2022/2023 academic year**

In the school year 2022/2023, there are 545 general educational organizations in the Republic of Crimea with 230,300 students.

Education is provided in the three state languages of the Republic of Crimea - Russian, Ukrainian and Crimean Tatar.

There are 528 general educational institutions with instruction in Russian.

16 general educational organizations provide instruction in the Crimean Tatar language (261 classes, 5,462 students). Moreover, 119 Crimean Tatar language classes have been opened in 21 general educational organizations with Russian as the language of instruction (1,905 students).

One general educational organization with Ukrainian as the language of instruction (9 classes, 182 students) continues to function in Feodosia. Besides, a Ukrainian language class has been opened at the Simferopol Academic Gymnasium (15 students).

Thus, 222,800 students are taught in Russian (96.7% of the total number), 7,300 students - in Crimean Tatar (3.2%), and 197 students - in Ukrainian (0.1%).

In the school year 2022/2023, seven native languages of the peoples of the Russian Federation living in the Republic of Crimea are taught and studied in the general education institutions of the Republic of Crimea:

- Armenian (134 students)
- Bulgarian (49 students)
- Greek (142 students)
- Crimean Tatar (33,351 students)
- German (117 students)
- Russian (178,454 students)
- Ukrainian (3,486 students).

In the school year 2022/2023, 78,600 children (of preschool age) attend 562 educational organizations of the Republic of Crimea with programmes of preschool education, of whom 72,600 (98.33 per cent) are instructed in Russian, 1,300 (1.63 per cent) in Crimean Tatar, and 31 (0.04 per cent) in Ukrainian.

#### **8. 'Kalga-Sultan'**

According to information of the Ministry of Culture of the Republic of Crimea, the object of cultural heritage 'Site of urban development of Ak-Mosque, XVII-XVIII centuries (place of probable location of the palace of Kalga-Sultan)' is included in the list of newly identified objects of archeological heritage in the Republic of Crimea by Order No. 41 of 27.03.2018 of the State Committee for Cultural Heritage Protection of the Republic of Crimea.

#### **9. Construction of the Multi-ethnic Youth Centre at Fevzi Yakubov**

##### **KIPU**

The main administrator of budget funds is the Ministry of Construction and Architecture of the Republic of Crimea, the customer/developer is GKU RC 'Investment and Construction Directorate of the Republic of Crimea'.

Contractor: 'StroyTechImport' LLC, State Contract No. 191/EP-SMR of 23.05.2022, amount - RUB 532.88 mln.

Construction readiness - 53%. Commissioning according to schedule - December 2026.

Technical and economic information about the facility:

- Building area - 22 437 sq.m;
- Student dormitory for 725 persons;
- Administrative and household floor;
- Infirmary (first-aid station);
- Winter garden;
- Snack bars on the floors.

#### **10. Hajj**

Since 2014, the State Committee for Interethnic Relations of the Republic of Crimea, in accordance with the Action Plan of assistance in the organization and conduct of Hajj by Muslims of Crimea, coordinates, on an annual basis, the interaction of the relevant ministries and departments of the Republic of Crimea (Ministry of Interior, Ministry of Health, Ministry of Transport, Interregional Department of Rospotrebnadzor for the Republic of Crimea and Sevastopol, etc.) with the CRO 'Spiritual Administration of Muslims of the Republic of Crimea and Sevastopol' on the preparation and accomodating pilgrims for Hajj (obtaining Russian passports, vaccination and medical checkups, visa support, transfer, other practical issues).

A total of 3,062 pilgrims from the Republic of Crimea performed Hajj from 2014 to 2022.

The Hajj trip of Crimean Muslims helps to meet the confessional needs of Crimeans, preserves the traditions of good neighbourhood, and contributes to further successful integration of Muslims of the Republic of Crimea into the Muslim community of the Russian Federation.

#### **11. National and cultural autonomies, NGO, local autonomies**

As of 16 February 2023, there were 13 registered regional and 73 local national-cultural autonomies in the Republic of Crimea and some 25 non-profit ethnic and cultural organizations. According to the available data, there are 14 active Crimean Tatar organizations (see attached), the NGO 'Regional National and Cultural Autonomy of Ukrainians of the Republic of Crimea "Ukrainian Community of Crimea"', and three local Ukrainian national-cultural autonomies:

- NGO 'Local national-cultural autonomy of Ukrainians of the city of Simferopol';
- NGO 'Local national-cultural autonomy of Ukrainians of Nizhnegorod District';
- NGO 'Local national-cultural autonomy of Ukrainians of Simferopol District'.

## **12. Construction of the Cathedral Mosque in Simferopol**

The construction of the main mosque of Crimea is nearing completion. The builders have opened the facade of the building and removed the temporary fence. Major construction works are to be completed by the end of the year.

Cast-iron fence sections, external communication networks, marble fencing and columns have been installed. Inside the mosque building, installation of air-conditioning system has been completed. Finishing works are carried out in the guest and administrative buildings. Every day, more than 120 people are at work on the site.

The investor of the project is a non-profit organization ‘The Fund of Support of Socio-Cultural Projects’. All works are supported by the Government of the Republic of Crimea and monitored by the Spiritual Administration of Muslims of Crimea and Sevastopol.

The completion of all works at the construction of the Complex is planned for the second half of 2023.

As of now, the construction readiness is more than 85%.

### **Additional Information:**

In accordance with the legislation of the Russian Federation, all peoples living in the Republic of Crimea enjoy equal rights and freedoms in the matters of satisfying ethno-religious needs, preservation and development of national identity, traditions and languages.

The Constitution of the Republic of Crimea proclaims three State languages (Russian, Ukrainian and Crimean Tatar).

The traditional Christian and Muslim holidays of Easter, Holy Trinity Day, Eid al-Fitr (Kurban-Bairam) and Oraza al-Fitr (Oraza-Bairam) are officially declared annual non-working days for all Crimean residents.

Under current legislation, Crimean Tatars and Ukrainians, as all other peoples of the Russian Federation, enjoy equal rights to use their mother tongue and freely choose their language of communication, education, instruction and creative expression. All peoples of the Russian Federation are guaranteed the right to preserve their native language and to create conditions for its study and development.

The following cultural institutions operate in the Republic of Crimea: the Crimean Tatar State Academic Musical Drama Theatre, the Crimean Tatar Museum of Cultural and Historical Heritage and the Museum's structural subdivisions (the Museum of twice Hero of the Soviet Union Amet Khan Sultan, the memorial complex ‘The Way of Revival of the Peoples of Crimea’ in the village of Syuren, Bakhchisarai district).

Order of the Council of Ministers of the Republic of Crimea No. 507-r of 9 June 2015 ‘On creation of the autonomous non-profit organization “Public Crimean Tatar TV and Radio Company”’ created ‘Millet’ TV channel and ‘Vatan-Sedasy’ radio in the Republic of Crimea, whose main purpose is to provide services for the production and distribution of TV and radio channels providing in-depth and comprehensive coverage of social, political, economic and cultural life of the Republic of Crimea, prompt information about events in the Republic of Crimea and beyond in all spheres of interest to the Crimean Tatar people, predominantly in Crimean Tatar, as well as perform other tasks in providing TV broadcasting services.

There is a hall of Ukrainian embroidery history in the Crimean Ethnographic Museum in Simferopol, and a house-museum of Lesya Ukrainka in the city of Yalta near the monument to Lesya Ukrainka.



**Annex 482**

Roskomnadzor, List of existing media outlets operating in the territory of the Republic of Crimea and/or Sevastopol fully or primarily in Ukrainian and/or Crimean Tatar from 18 March 2014 until present time

(translation)





**Translation**

**Roskomnadzor, List of existing media outlets operating in the territory of the Republic of Crimea and/or Sevastopol fully or primarily in Ukrainian and/or Crimean Tatar from 18 March 2014 until present time.**

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS MEDIA OF  
THE RUSSIAN FEDERATION  
**Federal Service for Supervision in the Sphere of Telecom, Information Technologies and  
Mass Communications (Roskomnadzor)**

**DEPUTY HEAD**

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**Kitaigorodskiy Proyezd, 7/2, Moscow, 109992  
Tel./fax (495) 122-25-21; <http://rkn.gov.ru>**

No. 04SV-12354 dated 15.02.2023  
On the provision of materials for case  
“Ukraine vs Russian Federation” in  
the International Court of Justice

To: <...>,  
Deputy Minister of Foreign Affairs  
of the Russian Federation

Dear Mikhail Yuryevich,

The Federal Service for Supervision in the Sphere of Telecom, Information Technologies and Mass Communications has considered Letter #1572/dp dated 31 January 2023 on the provision of materials under the case of ‘Ukraine vs Russian Federation’ in the International Court of Justice and hereby sends the requested materials (see attached).

Annexes:

1. List of active mass media performing activities in the Republic of Crimea and/or the city of Sevastopol – 1 \*xls file;
2. List of mass media having performed activities in the Republic of Crimea and/or the city of Sevastopol – 1 \*xls file;
3. Court decisions – 6 \*pdf files.

Yours,  
(digital signature)

<...>

Ex. by <...>  
Tel. <...>

| Annex No. 1                                                                                                                                                                                   |                      |                                          |                      |                               |                                                                                                                   |                                                                                                                                      |                                                                                                                |                                       |  |  |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|------------------------------------------|----------------------|-------------------------------|-------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|---------------------------------------|--|--|
| List of existing media outlets operating in the territory of the Republic of Crimea and/or Sevastopol fully or primarily in Ukrainian and/or Crimean Tatar from 18.03.2014 until present time |                      |                                          |                      |                               |                                                                                                                   |                                                                                                                                      |                                                                                                                |                                       |  |  |
| No.                                                                                                                                                                                           | Name of media outlet | Certificate number (registration number) | Date of registration | Form of periodic distribution | Editorial address                                                                                                 | Subject matter and/or specialisation of the media                                                                                    | Languages                                                                                                      | Territory of distribution             |  |  |
| 1                                                                                                                                                                                             | TVCh.                | EL No. TU 91 - 00266                     | 14.04.2016           | TV channel                    | 296400, Republic of Crimea, Chernomorskiy District, Chernomorskoye Urban-type Settlement ( uts), Kirov street, 17 | Social, economic, sports, cultural and educational, advertising in accordance with Russian advertising legislation                   | Russian, Crimean Tatar, Ukrainian                                                                              | Republic of Crimea                    |  |  |
| 2                                                                                                                                                                                             | BONUM INITIUM        | PI No. TU 91 - 00194                     | 08.06.2015           | print media, collection       | 295015, Republic of Crimea, Simferopol, 8, Uchebny per.                                                           | Educational media. Cultural and educational, advertising in accordance with the legislation of the Russian Federation on advertising | English, Russian, Crimean Tatar, Ukrainian                                                                     | Republic of Crimea                    |  |  |
| 3                                                                                                                                                                                             | News Front TV        | EL No. FS 77 - 68770                     | 17.02.2017           | TV channel                    | 295034, Republic of Crimea, Simferopol, Strelkovaya str., 57                                                      | Informational and analytical, advertising in accordance with the advertising legislation of the Russian Federation                   | Bulgarian, English, French, German, Russian, Italian, Polish, Portuguese, Serbian, Spanish, Turkish, Ukrainian | Russian Federation, foreign countries |  |  |

|   |                                                        |                      |            |                        |                                                                                            |                                                                                                                                                      |                                            |                                |
|---|--------------------------------------------------------|----------------------|------------|------------------------|--------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|--------------------------------|
| 4 | Ana tili ojalaryna                                     | PI No. TU 91 - 00342 | 12.04.2018 | print media magazine   | 295048, Republic of Crimea, Simferopol, Uchebny per., 8                                    | Educational media. Educational, Scientific and Methodological, Advertising in accordance with the advertising legislation of the Russian Federation  | Russian, Crimean Tatar, Ukrainian          | Republic of Crimea             |
| 5 | Bulletin of Physiotherapy and Balneology               | PI No. FS 77 - 61831 | 18.05.2015 | print media magazine   | 295006, Republic of Crimea, Simferopol, Lenina Blvd., 5/7                                  | Scientific, advertising in accordance with the advertising legislation of the Russian Federation                                                     | English, Russian, Ukrainian                | Russian Federation             |
| 6 | Visit to every home                                    | PI No. TU 91 - 00112 | 26.02.2015 | print media newspaper  | 297400, Republic of Crimea, Evpatoria, Frunze str., 28/41 a, 102                           | Advertising and entertainment and information                                                                                                        | English, Russian, Crimean Tatar, Ukrainian | Republic of Crimea             |
| 7 | Showcase of western Crimea                             | PI No. TU 91 - 00113 | 26.02.2015 | print media newspaper  | 297400, Republic of Crimea, Evpatoria, Frunze str., 28/41 a, 102                           | Advertising and entertainment, advertising over 40%                                                                                                  | English, Russian, Crimean Tatar, Ukrainian | Republic of Crimea             |
| 8 | Issues of Crimean Tatar Philology, History and Culture | PI No. TU 91 - 00192 | 08.06.2015 | print media collection | 295015, Republic of Crimea, Simferopol, Uchebny per., 8                                    | Educational media. Educational, cultural and awareness-raising, advertising in accordance with the advertising legislation of the Russian Federation | English, Russian, Crimean Tatar, Ukrainian | Republic of Crimea             |
| 9 | Voice of Crimea new                                    | PI No. FS 77 - 60738 | 11.02.2015 | print media newspaper  | 297577, Republic of Crimea, Simferopol district, Pionerskoe village, B.Chichibabin str. 11 | Socio-political, cultural and educational                                                                                                            | Russian, Crimean Tatar, Ukrainian          | Republic of Crimea, Sevastopol |

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| 10 | Humanitarian paradigm    | EL No. FS 77 - 70608 | 03.08.2017 | Online edition        | 298670, Republic of Crimea, Yalta, Koreiz uts, Sevastopolskoe Shosse, 1, fl. 3 | Informational, nature of information: scientific, popular science, scientific-practical, literary-publicistic, advertising in accordance with the legislation of the Russian Federation on advertising | English, Russian, Ukrainian       | Russian Federation, foreign countries               |
| 11 | Humanities               | PI No. FS 77 - 61793 | 18.05.2015 | print media magazine  | 298635, Republic of Crimea, Yalta, Sevastopolskaya str. 2A                     | Scientific, advertising in accordance with the advertising legislation of the Russian Federation                                                                                                       | English, Russian, Ukrainian       | Russian Federation, foreign countries               |
| 12 | Sunrise of Siwash Valley | PI No. TU 91 - 00387 | 21.01.2021 | print media newspaper | 296100, Republic of Crimea, Dzhankoy, Krymskaya str., 75                       | Informational, informational-analytical, journalistic, cultural-educational, entertainment, advertising in accordance with the legislation of the Russian Federation on advertising                    | Russian, Crimean Tatar, Ukrainian | Dzhankoy and Dzhankoy District (Republic of Crimea) |

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| 13 | Proceedings of the Crimean Astrophysical Observatory                            | PI No. FS 77 - 69531 | 25.04.2017 | print media magazine | 298409, Republic of Crimea, Bakhchisarai district, Nauchnyy uts. | Results of original research on stellar physics, relativistic astrophysics, high-energy astrophysics, galactic and extragalactic physics, solar and solar system bodies physics, astrometry, celestial mechanics, upper atmosphere physics, and geodynamics                               | English, Russian, Ukrainian                | Russian Federation, foreign countries |
| 14 | Engineering and Pedagogical Herald: Light Industry                              | PI No. 91 - 00191    | 08.06.2015 | print media almanac  | 295015, Republic of Crimea, Simferopol, Uchebny per., 8          | Educational media. Educational, cultural and awareness-raising, advertising in accordance with the advertising legislation of the Russian Federation                                                                                                                                      | English, Russian, Crimean Tatar, Ukrainian | Republic of Crimea                    |
| 15 | Information and computer technology in the economy, education and social sphere | PI No. 91 - 00251    | 19.02.2016 | print media magazine | 295015, Republic of Crimea, Simferopol, Uchebny per., 8          | Educational media. Publication of scientific research on issues related to information and computer technology and innovative approaches in the economy, management, social sphere and education, advertising in accordance with the legislation of the Russian Federation on advertising | English, Russian, Crimean Tatar, Ukrainian | Republic of Crimea                    |

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| 16 | Information and methodological magazine 'ARTEC - SO-BYTIE' | PI No. FS 77 - 71963 | 26.12.2017 | print media magazine   | 298645, Republic of Crimea, Yalta, Gurzuf uts., Leningradskaya str., 41 | Educational media. Educational, advertising in accordance with the legislation of the Russian Federation on advertising                                        | Russian, Ukrainian                         | Russian Federation |
| 17 | Yildiz                                                     | PI No. 91 - 00296    | 27.02.2017 | print media magazine   | 295048, Republic of Crimea, Simferopol, Trubachenko Street, 23 A        | Literary and artistic, advertising in accordance with Russian advertising legislation                                                                          | Russian, Crimean Tatar, Ukrainian          | Republic of Crimea |
| 18 | Key to your future profession                              | PI No. TU 91 - 00193 | 08.06.2015 | print media collection | 295015, Republic of Crimea, Simferopol, Uchebny per., 8                 | Educational media. Cultural and educational, educational, advertising in accordance with the legislation of the Russian Federation on advertising              | English, Russian, Crimean Tatar, Ukrainian | Republic of Crimea |
| 19 | Crimea 24                                                  | EL No. FS 77 - 59765 | 30.10.2014 | TV channel             | 295001, Republic of Crimea, Simferopol, Studencheskaya str., 14         | Information and analysis, cultural and educational, entertainment, music, advertising in accordance with the advertising legislation of the Russian Federation | Russian, Crimean Tatar, Ukrainian          | Russian Federation |

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| 20 | Crimea Point     | EL No. FS 77 - 59762 | 30.10.2014 | Radio channel  | 295001, Republic of Crimea, Simferopol, Studencheskaya str., 14 | Information and analysis, cultural and educational, music and entertainment, socio-economic, advertising in accordance with the legislation of the Russian Federation                      | Russian, Armenian, Bulgarian, Greek, Crimean Tatar, German, Ukrainian | Russian Federation                    |
| 21 | Crimea today     | IA No. FS 77 - 78535 | 29.06.2020 | News agency    | 295011, Republic of Crimea, Simferopol, Samokisha str., 30      | Informational and analytical, cultural and educational, cultural, public information, socio-political, political, advertising in accordance with the legislation of the Russian Federation | English, Russian, Ukrainian                                           | Russian Federation, foreign countries |
| 22 | Crimean Magazine | EL No. FS 77 - 83636 | 26.07.2022 | Online edition | 295011, Republic of Crimea, Simferopol, Kozlova str. 45A        | Socio-political, economic, spiritual-educational, cultural, information, advertising in accordance with the legislation of the Russian Federation                                          | Russian, English, Ukrainian, Crimean Tatar                            | Russian Federation, foreign countries |

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| 23 | Crimean Journal of Experimental and Clinical Medicine      | PI No. FS 77 - 61787 | 18.05.2015 | print media magazine | 295006, Republic of Crimea, Simferopol, Lenina Blvd., 5/7 | Scientific, advertising in accordance with the advertising legislation of the Russian Federation                                                                                                                                                         | English, Russian, Ukrainian                         | Russian Federation |
| 24 | Crimean Therapeutic Journal                                | PI No. FS 77 - 61812 | 18.05.2015 | print media magazine | 295006, Republic of Crimea, Simferopol, Lenina Blvd., 5/7 | Scientific, advertising in accordance with the advertising legislation of the Russian Federation                                                                                                                                                         | English, Russian, Ukrainian                         | Russian Federation |
| 25 | Crimean Tatar Philology: Problems of Research and Teaching | PI No. TU 91 - 00307 | 29.05.2017 | print media magazine | 295015, Republic of Crimea, Simferopol, Uchebny per., 8   | Cultural and educational media. Cultural-educational The publications reflect the results of scientific research on educational and cultural-educational issues related to Crimean Tatar, Turkish, Russian, Ukrainian, English philology, No advertising | English, Russian, Crimean Tatar, Turkish, Ukrainian | Republic of Crimea |



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| 26 | Qirim            | PI No. TU 91 - 00155 | 10.04.2015 | print media newspaper | 295000, Republic of Crimea, Simferopol, Karl Liebknecht St., 14, apt. 14    | Cultural and educational, socio-political, socio-economic and local history, coverage of the activities of state and executive authorities of the Republic of Crimea                         | Russian, Crimean Tatar, Ukrainian                                                                                                          | Republic of Crimea                    |
| 27 | World of nations | EL No. FS 77 - 66126 | 20.06.2016 | Online edition        | 298670, Republic of Crimea, Yalta, Koreiz uts., Sevastopolskoe sh. 1, fl. 3 | Informational, spiritual-educational, cultural-educational, scientific-popular and scientific-practical advertising in accordance with the advertising legislation of the Russian Federation | Armenian, Bulgarian, Czech, English, French, German, Greek, Russian, Italian, Chinese, Crimean Tatar, Moldovan, Polish, Spanish, Ukrainian | Russian Federation, foreign countries |
| 28 | The Sea          | EL No. FS 77 - 63539 | 30.10.2015 | Radio channel         | 295001, Republic of Crimea, Simferopol, Studencheskaya str., 14             | Information, cultural and educational, entertainment, advertising in accordance with the advertising legislation of the Russian Federation                                                   | Russian, Crimean Tatar, Ukrainian                                                                                                          | Russian Federation                    |
| 29 | Nova-Press       | EL No. FS 77 - 82217 | 23.11.2021 | Online edition        | 295034, Republic of Crimea, Simferopol, Dzerzhinskogo Street, 10            | Socio-political, social, human rights, entertainment, statistical                                                                                                                            | Russian, Ukrainian, Crimean Tatar                                                                                                          | Russian Federation, foreign countries |

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| 30 | SPECIAL OPINION<br>ONLINE                                       | EL No. FS 77 -<br>77822 | 19.02.2020 | Online edition            | 299009, Sevastopol<br>city, Geroev<br>Sevastopolya str. 22       | Informational and<br>analytical, public                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | English, Russian,<br>Ukrainian                   | Russian Federation,<br>foreign countries |
| 31 | Pedagogical<br>experimentation:<br>approaches and<br>challenges | PI No. 91 - 00242       | 24.12.2015 | print media<br>collection | 295015, Republic<br>of Crimea,<br>Simferopol,<br>Uchebny per., 8 | Educational media.<br>Educational<br>and<br>cultural-educational<br>nature of publications<br>highlighting features<br>of planning the course<br>of a pedagogical<br>experiment, its<br>organisation, conduct<br>and data processing,<br>cultural-educational<br>Educational and<br>cultural-educational<br>nature of publications<br>highlighting features<br>of planning the course<br>of a pedagogical<br>experiment, its<br>organisation, conduct<br>and data processing,<br>advertising in<br>accordance with the<br>legislation of the<br>Russian Federation on<br>advertising | English, Russian,<br>Crimean Tatar,<br>Ukrainian | Republic of Crimea                       |

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| 32 | First Crimean                              | EL No. FS 77 - 59764 | 30.10.2014 | TV channel             | 295001, Republic of Crimea, Simferopol, Studencheskaya str., 14                                | Information and analysis, cultural and educational, entertainment, music, advertising in accordance with the legislation of the Russian Federation                                                   | Russian, Armenian, Bulgarian, Greek, Crimean Tatar, German, Ukrainian | Russian Federation |
| 33 | The Right Choice                           | PI No. FS 77 - 83906 | 12.09.2022 | print media newspaper  | 296400, Republic of Crimea, Cheromorskiy District, Chernomorskoye village, Rybatskaya str. 34A | Analytical, informational, informational-analytical, political, work, career, legal, advertising in accordance with Russian advertising legislation                                                  | Russian, Ukrainian                                                    | Russian Federation |
| 34 | Challenges of modern teacher education     | PI No. FS 77 - 61807 | 18.05.2015 | print media collection | 298635, Republic of Crimea, Yalta, Sevastopolskaya str. 2A                                     | Scientific                                                                                                                                                                                           | English, Russian, Ukrainian                                           | Russian Federation |
| 35 | Path to pedagogics: problems and solutions | PI No. TU 91 - 00189 | 08.06.2015 | print media collection | 295015, Republic of Crimea, Simferopol, Uchebny per. 8                                         | Educational media. Educational, cultural-educational, theory, history and contemporary problems of pedagogy, advertising in accordance with the legislation of the Russian Federation on advertising | English, Russian, Crimean Tatar, Ukrainian                            | Republic of Crimea |

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| 36 | Radio<br>'Komsomolskaya<br>Pravda. Crimea'.          | EL No. FS 77 -<br>60749 | 09.02.2015 | Radio channel            | 295011, Republic<br>of Crimea,<br>Simferopol,<br>Sergeyeva-<br>Tsenskogo St.,<br>12/4, entrance 1  | Informational,<br>cultural, educational,<br>musical, recreational                                                                                                                                            | Russian, Armenian,<br>Bulgarian, Greek,<br>Crimean Tatar,<br>German, Ukrainian | Republic of<br>Crimea, Sevastopol |
| 37 | Radio Crimea                                         | EL No. FS 77 -<br>59761 | 30.10.2014 | Radio channel            | 295001, Republic<br>of Crimea,<br>Simferopol,<br>Studencheskaya str.<br>14                         | Information and<br>analysis, cultural and<br>educational, music<br>and entertainment,<br>socio-economic,<br>advertising in<br>accordance with the<br>advertising legislation<br>of the Russian<br>Federation | Russian, Armenian,<br>Bulgarian, Greek,<br>Crimean Tatar,<br>German, Ukrainian | Russian Federation                |
| 38 | SPRAVEDLIVAYA<br>RUSSIA in the<br>Republic of Crimea | PI No. TU 91 -<br>00386 | 12.01.2021 | print media<br>newspaper | 295011, Republic<br>of Crimea,<br>Simferopol,<br>Gorkogo St., 24/13<br>bld. 19                     | Socio-political,<br>informational,<br>advertising in<br>accordance with<br>Russian advertising<br>legislation                                                                                                | Russian, Crimean<br>Tatar, Ukrainian                                           | Sevastopol,<br>Republic of Crimea |
| 39 | Northern Tavrida                                     | PI No. TU 91 -<br>00395 | 01.02.2022 | print media<br>newspaper | 25, block 40,<br>General Koryavko<br>Microdistrict,<br>Armyansk,<br>Republic of Crimea,<br>296012. | Socio-political                                                                                                                                                                                              | Russian, Crimean<br>Tatar, Ukrainian                                           | Republic of Crimea                |

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| 40 | Rural worker of<br>Crimea                                                          | PI No. TU 91 -<br>00312 | 31.08.2017 | print media<br>newspaper | 295006, Republic<br>of Crimea,<br>Simferopol,<br>Pavlenko str., 1,<br>office 410    | Socio-political,<br>cultural and<br>educational,<br>placement of<br>regulatory documents<br>of public authorities<br>and local authorities,<br>advertising in<br>accordance with the<br>legislation of the<br>Russian Federation on<br>advertising | Russian, Crimean<br>Tatar, Ukrainian | Republic of Crimea |
| 41 | Tavrichesky Herald<br>of Computer Science<br>and Mathematics                       | PI No. FS 77 - 61826    | 18.05.2015 | print media<br>magazine  | 295007, Republic<br>of Crimea,<br>Simferopol,<br>Akademika<br>Vernadskogo Ave.<br>4 | Scientific, advertising<br>in accordance with the<br>advertising legislation<br>of the Russian<br>Federation                                                                                                                                       | English, Russian,<br>Ukrainian       | Russian Federation |
| 42 | Tavrida Medical and<br>Biological Bulletin                                         | PI No. FS 77 - 61811    | 18.05.2015 | print media<br>magazine  | 295006, Republic<br>of Crimea,<br>Simferopol, Lenin<br>str. 5/7                     | Scientific, advertising<br>in accordance with the<br>advertising legislation<br>of the Russian<br>Federation                                                                                                                                       | English, Russian,<br>Ukrainian       | Russian Federation |
| 43 | Scientific Notes of<br>the Crimean<br>Engineering and<br>Pedagogical<br>University | PI No. FS 77 - 62022    | 17.06.2015 | print media<br>magazine  | 295015, Republic<br>of Crimea,<br>Simferopol,<br>Uchebny per. 8                     | Educational, cultural<br>and awareness-raising<br>nature of research<br>publications in<br>ecoNormics, technical<br>sciences, professional<br>pedagogy                                                                                             | English, Russian,<br>Ukrainian       | Russian Federation |

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| 44 | Scientific Notes of the Crimean Engineering and Pedagogical University. Series: Biological Sciences | PI No. TU 91 - 00264 | 08.06.2015 | print media magazine | 295015, Republic of Crimea, Simferopol, Uchebny per. 8                | Educational media. Educational, cultural and awareness-raising, advertising in accordance with the advertising legislation of the Russian Federation | English, Russian, Crimean Tatar, Ukrainian | Republic of Crimea |
| 45 | Scientific Notes of the Crimean Engineering and Pedagogical University. Series: Philology. History  | PI No. TU 91 - 00185 | 08.06.2015 | print media magazine | 295015, Republic of Crimea, Simferopol, Uchebny per. 8                | Educational media. Educational, cultural and awareness-raising, advertising in accordance with the advertising legislation of the Russian Federation | English, Russian, Crimean Tatar, Ukrainian | Republic of Crimea |
| 46 | Scientific Notes of the Vernadsky Crimean Federal University. Biology. Chemistry                    | PI No. FS 77 - 61791 | 18.05.2015 | print media magazine | 295007, Republic of Crimea, Simferopol, Akademika Vernadskogo Ave. 4. | Scientific, advertising in accordance with the advertising legislation of the Russian Federation                                                     | English, Russian, Ukrainian                | Russian Federation |
| 47 | Scientific Notes of the V.I. Vernadsky Crimean Federal University. Historical Sciences              | PI No. FS 77 - 61819 | 18.05.2015 | print media magazine | 295007, Republic of Crimea, Simferopol, Akademika Vernadskogo Ave. 4  | Scientific, advertising in accordance with the advertising legislation of the Russian Federation                                                     | English, Russian, Ukrainian                | Russian Federation |

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| 48 | Scientific Notes of the V.I. Vernadsky Crimean Federal University. Sociology. Pedagogy. Psychology | PI No. FS 77 - 61813 | 18.05.2015 | print media magazine | 295007, Republic of Crimea, Simferopol, Yaltinskaya Street, 20, Bldg. 2, aud. 308 | Scientific, advertising in accordance with the advertising legislation of the Russian Federation | English, Russian, Ukrainian | Russian Federation |
| 49 | Scientific Notes of the Vernadsky Crimean Federal University. Philological Sciences                | PI No. FS 77 - 61821 | 18.05.2015 | print media magazine | 295007, Republic of Crimea, Simferopol, Akademika Vernadskogo Ave. 4              | Scientific, advertising in accordance with the advertising legislation of the Russian Federation | English, Russian, Ukrainian | Russian Federation |
| 50 | Scientific Notes of the V.I. Vernadsky Crimean Federal University. Political science. Culturology  | PI No. FS 77 - 61823 | 18.05.2015 | print media magazine | 295007, Republic of Crimea, Simferopol, Yaltinskaya Street, 20, Bldg. 2, aud. 308 | Scientific, advertising in accordance with the advertising legislation of the Russian Federation | English, Russian, Ukrainian | Russian Federation |

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| 51 | Scientific Notes of the Vernadsky Crimean Federal University. Juridical Sciences | PI No. FS 77 - 61832 | 18.05.2015 | print media magazine   | 295007, Republic of Crimea, Simferopol, Akademika Vernadskogo Ave. 4 | Scientific, advertising in accordance with the advertising legislation of the Russian Federation                                                     | English, Russian, Ukrainian                | Russian Federation |
| 52 | Man-Nature-Society: Theory and practice of life safety, ecology and valeology    | PI No. TU 91 - 00186 | 08.06.2015 | print media collection | 295015, Republic of Crimea, Simferopol, Uchebny per. 8               | Educational media. Educational, cultural and awareness-raising, advertising in accordance with the advertising legislation of the Russian Federation | English, Russian, Crimean Tatar, Ukrainian | Republic of Crimea |
| 53 | January pedagogical readings                                                     | PI No. TU 91 - 00190 | 08.06.2015 | print media collection | 295015, Republic of Crimea, Simferopol, Uchebny per. 8               | Educational media. Educational, cultural and awareness-raising, advertising in accordance with the advertising legislation of the Russian Federation | English, Russian, Crimean Tatar, Ukrainian | Republic of Crimea |
| 54 | 'Source of wisdom'                                                               | PI No. TU 91 - 00172 | 24.04.2015 | print media magazine   | 295001, Republic of Crimea, Simferopol, Kurchatov Street, 4          | Religious Islamic, cultural and educational, advertising in accordance with the legislation of the Russian Federation on advertising                 | Russian, Crimean Tatar                     | Republic of Crimea |



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| 55 | 'Heed.'                                         | PI No. TU 91 - 00171 | 24.04.2015 | print media newspaper | 295001, Republic of Crimea, Simferopol, Kurchatov Street, 4                                                                          | Religious Islamic, cultural and educational, advertising in accordance with the legislation of the Russian Federation on advertising              | Russian, Crimean Tatar          | Republic of Crimea                    |
| 56 | Armanczyk                                       | PI No. FS 77 - 61125 | 03.04.2015 | print media magazine  | 295006, Republic of Crimea, Simferopol, Dolgorukovskaya St., 14 bld. 16                                                              | Media for children. An informative and educational magazine for children to learn and improve their native Crimean Tatar language                 | Russian, Crimean Tatar          | Russian Federation, foreign countries |
| 57 | Bakhchisarai district newspaper Glory to Labour | PI No. TU 91 - 00287 | 23.12.2016 | print media newspaper | 298403, Republic of Crimea, Bakhchisarai, Simferopolskaya str., 32A                                                                  | Socio-political, advertising in accordance with Russian advertising legislation                                                                   | Russian, Crimean Tatar          | Republic of Crimea                    |
| 58 | Vatan sedasi                                    | EL No. FS 77 - 81700 | 19.08.2021 | Radio channel         | 295015, Republic of Crimea, Simferopol, Kozlova str. 45A, offices 186, 186A, 187, 187A, 187B, 196, 197, 198, 200, 201, 290, 291, 292 | Information and analysis, cultural and entertainment, music, advertising in accordance with the advertising legislation of the Russian Federation | Russian, Crimean Tatar, Turkish | Russian Federation, foreign countries |
| 59 | Arzy magazine                                   | PI No. TU 91 - 00097 | 31.12.2014 | print media magazine  | 295024, Republic of Crimea, Simferopol, Kestane Street, 7                                                                            | Socio-political, fiction and journalism, women's magazine                                                                                         | Russian, Crimean Tatar          | Republic of Crimea                    |

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| 60 | Meraba                     | PI No. 91 - 00245    | 18.01.2016 | print media newspaper | 295048, Republic of Crimea, Simferopol, Trubachenko Street, 23A                                                                      | Socio-political, advertising in accordance with Russian advertising legislation                                                      | Russian, Crimean Tatar | Republic of Crimea                    |
| 61 | Millet                     | EL No. FS 77 - 81699 | 19.08.2021 | TV channel            | 295015, Republic of Crimea, Simferopol, Kozlova str. 45A, offices 186, 186A, 187, 187A, 187B, 196, 197, 198, 200, 201, 290, 291, 292 | Information and analysis, cultural and entertainment, advertising in accordance with the legislation of the Russian Federation       | Russian, Crimean Tatar | Russian Federation, foreign countries |
| 62 | Millet                     | EL No. FS 77 - 81701 | 19.08.2021 | Online edition        | 295015, Republic of Crimea, Simferopol, Kozlova str. 45A, offices 186, 186A, 187, 187A, 187B, 196, 197, 198, 200, 201, 290, 291, 292 | Information and analysis, cultural and entertainment, advertising in accordance with the legislation of the Russian Federation       | Russian, Crimean Tatar | Russian Federation, foreign countries |
| 63 | Us! Crimean Youth Magazine | PI No. TU 91 - 00397 | 12.07.2022 | print media magazine  | 295048, Republic of Crimea, Simferopol, Trubachenko Street, 23A                                                                      | Educational media. Cultural and educational, advertising in accordance with the legislation of the Russian Federation on advertising | Russian, Crimean Tatar | Republic of Crimea                    |
| 64 | Suvdag sesi                | PI No. 91 - 00161    | 15.04.2015 | print media newspaper | 298000, Republic of Crimea, Sudak, Oktyabrskaya str. 36                                                                              | Information, socio-political, advertising in accordance with the legislation of the Russian Federation                               | Crimean Tatar          | Republic of Crimea                    |

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| 65 | JANIDUNYA | PI No. TU 91 -<br>00323 | 30.10.2017 | print media<br>newspaper | 295000, Republic<br>of Crimea,<br>Simferopol, Gorky<br>str. 23/3, | Socio-political,<br>advertising in<br>accordance with<br>Russian advertising<br>legislation | Crimean Tatar | Republic of Crimea |
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**Annex 483**

The President of Ukraine, Decree No. 405/2014 “On the Decision of the National Security and Defence Council of Ukraine dated 13 April 2014 “On Urgent Measures to Overcome the Terrorist Threat and Preserve the Territorial Integrity of Ukraine”, 14 April 2014

(translation)



Translation

**The President of Ukraine, Decree No. 405/2014 “On the Decision of the National Security and Defence Council of Ukraine dated 13 April 2014 “On Urgent Measures to Overcome the Terrorist Threat and Preserve the Territorial Integrity of Ukraine”, 14 April 2014, available at: <https://zakon.rada.gov.ua/laws/show/405/2014#text>.**



*Decree  
of the President of Ukraine*

**On the decision of the National Security and Defense Council of  
Ukraine dated April 13, 2014 "On urgent measures to overcome  
the terrorist threat and preserve the territorial integrity of  
Ukraine"**

In accordance with Articles 107 and 112 of the Constitution of Ukraine, I decree :

1. To implement the decision of the National Security and Defense Council of Ukraine dated April 13, 2014 "On urgent measures to overcome the terrorist threat and preserve the territorial integrity of Ukraine" (attached, secretly).

2. Control over the implementation of the decision of the National Security and Defense Council of Ukraine put into effect by this Decree shall be entrusted to the Secretary of the National Security and Defense Council of Ukraine.

3. This Decree enters into force from the day of its publication.

**Acting  
President of Ukraine,  
Chairman of the Verkhovna  
Rada  
of Ukraine**

**O.TURCHINOV**

**Київ,  
April 14, 2014  
No. 405/2014**



Про рішення Ради національної безпеки і оборони України від 13 квітня 2014 року "Про невідкладні заходи щодо подолання терористичної загрози і збереження територіальної цілісності України"

Decree of the President of Ukraine on April 14, 2014 № 405/2014

Adoption on **April 14, 2014**

Direct link:

<https://zakon.rada.gov.ua/go/405/2014>

Legislation of Ukraine

as of March 10, 2023

valid



405/2014

## Publications of document

- **Офіційний вісник Президента України** on April 14, 2014 — 2014, № 14, page 3, article 745





**Annex 484**

Facebook, *Ruslan Balbek, Forum of the Crimean Tatar Social-Political Powers, Declaration*  
(17 August 2019)

(translation)



Translation

Facebook, *Ruslan Balbek, Forum of the Crimean Tatar Social-Political Powers, Declaration* (17 August 2019), available at:

[https://www.facebook.com/story.php?story\\_fbid=pfbid031LDapErFLdRtZmnJVUqtfcUsSzefqQZNcEPCvdVagh8MM9CaYvf57UDFEJJ84gntl&id=100009094776367&mibextid=Nif5oz](https://www.facebook.com/story.php?story_fbid=pfbid031LDapErFLdRtZmnJVUqtfcUsSzefqQZNcEPCvdVagh8MM9CaYvf57UDFEJJ84gntl&id=100009094776367&mibextid=Nif5oz).

## Ruslan Balbek - A forum was held today...

*Ruslan Balbek*

A forum of public and political forces of the Crimean Tatar people was held today. Around 500 delegates from different regions of the peninsula gathered to discuss the development prospects of the Republic of Crimea. Participants included leading Crimean Tatar organizations, heads of Crimean Tatar institutions, KIPU professors, and representatives of Crimean Tatar intellectuals and clergy.

Most of those present were candidates for parliament from different regions. At the event, the participants got to know each other and felt that they were not alone, but could become part of a single constructive force.

For the first time, the Crimean Tatars are not running in opposition but in tandem with the ruling party. 'United Russia was the only party that gave Crimean Tatars passable spots on the party list'!

The guests of honour included Haji Emirali Ablaev, Mufti of Crimea and Sevastopol, Lenur Abduramanov, Chairman of the State Committee of the Republic of Crimea, representatives of the Crimean Tatar Council under the President of Crimea, representatives of the Interregional Public Movement of the Crimean Tatar People "Qirim" and myself.

It was a common thread running through the forum that the Crimean Tatar people are going through one of the periods of their development. Over the past 5 years so much has been done that was not done in several decades before - the Cathedral Mosque is being built, the Khan's Palace is being renovated and restored, a polyethnic centre is being completed, kindergartens, schools and FAPs have been opened, large-scale projects such as the Crimean bridge, the Simferopol airport, a modern high-tech Semashko hospital, the Tavrida federal highway, two major power plants and much, much more have been implemented.

Crimean Tatars have been rehabilitated, roads are being built in places of compact residence, and gas, electricity and water supply lines are being laid. Housing is being built, and financial assistance is allocated annually to complete the construction of a house...

Of course, this gives rise to gratitude - to our President, the federal centre and the Head of the Republic Sergei Aksyonov.

The forum participants expressed their support for the course chosen by the Russian president and the Head of the Republic of Crimea. At the end, they prepared an appeal to their compatriots to participate in the elections on the single voting day of 8 September 2019. You can read the appeal in the files attached to this publication.



**Annex 485**

DTEK Energy B.V., Abbreviated IFRS Consolidated Financial Statements, 31 December 2015



**DTEK Energy B.V.**

Abbreviated IFRS Consolidated Financial Statements

**31 December 2015**

**DTEK Energy B.V.**  
**Notes to the Abbreviated Consolidated Financial Statements – 31 December 2015**

**1 The Organisation and its Operations**

DTEK Energy B.V. (the "Company") is a private limited liability company incorporated in the Netherlands on 16 April 2009. The Company was renamed on 19 September 2014 and its former name was DTEK Holdings B.V. The Company was formed through the contribution by System Capital Management Limited and InvestCom Services Limited of their 100% equity interest in DTEK Holding Limited, a Cyprus registered entity and predecessor to the Company. The Company and its subsidiaries (together referred to as "the Group" or "DTEK") are beneficially owned by Mr. Rinat Akhmetov, through various entities commonly referred to as System Capital Management ("SCM"). Mr. Akhmetov has a number of other business interests outside of the Group. Related party transactions are detailed in Note 8. At 19 of September 2014 the Company's immediate parent has changed; the new parent is DTEK B.V.

DTEK Energy B.V. is a vertically integrated power generating and distribution group. Its principal activities are coal mining for further supply to its power generating facilities and finally distribution of electricity to end customers primarily in Ukraine. The Group's coal mines, power generation plants and distribution facilities are located in the Donetsk, Dnipropetrovsk, Lugansk, Lviv, Ivano-Frankivsk, Vinnitsya, Zaporizhzhya and Kyiv regions, and the City of Kyiv in Ukraine, and Rostov region of Russian Federation. The Group sells all, with the exception of the non-controlled territory (see Note 2), electricity generated to Energorynok SE, the state-owned electricity metering and distribution pool, at prices determined based on the competitive pool model adopted by the National Commission for State Regulation of Energy and Public Utilities in Ukraine. The Group's distribution entities then repurchase electricity for supply to final customers. The principal subsidiaries are presented below:

| Name/Segment                            | % interest held as at 31 December |        | Country of incorporation |
|-----------------------------------------|-----------------------------------|--------|--------------------------|
|                                         | 2015                              | 2014   |                          |
| <b>Coal mining and power generation</b> |                                   |        |                          |
| DTEK Pavlogradugol PJSC                 | 99.92                             | 99.92  | Ukraine                  |
| DTEK Mine Komsomolets Donbassa PJSC     | 95.31                             | 95.31  | Ukraine                  |
| DTEK Dobropolskaya CEP PJSC             | 60.06                             | 60.06  | Ukraine                  |
| DTEK Oktyabrskaya CEP PJSC              | 60.85                             | 60.85  | Ukraine                  |
| Bilozerska Mine ALC                     | 95.44                             | 95.44  | Ukraine                  |
| Mospino CPE LLC                         | 99.00                             | 99.00  | Ukraine                  |
| Pershotravensky RMZ LLC                 | 99.00                             | 99.00  | Ukraine                  |
| Tehrempostavka LLC                      | 100.00                            | 100.00 | Ukraine                  |
| CCM Kurahovskaya LLC                    | 99.00                             | 99.00  | Ukraine                  |
| CCM Pavlogradskaya LLC                  | 99.00                             | 99.00  | Ukraine                  |
| DTEK Dobropolyeugol LLC                 | 100.00                            | 100.00 | Ukraine                  |
| DTEK Rovenkiantracyte LLC               | 100.00                            | 100.00 | Ukraine                  |
| DTEK Sverdlovantracyte LLC              | 100.00                            | 100.00 | Ukraine                  |
| Public company Don-Anthracite           | 100.00                            | 100.00 | Russian Federation       |
| Public Mining Corporation Obukhovskaya  | 100.00                            | 100.00 | Russian Federation       |
| Sulinanthracite LLC                     | 100.00                            | 100.00 | Russian Federation       |
| DTEK Dniproenergo PJSC                  | 73.54                             | 73.54  | Ukraine                  |
| DTEK Zakhidenergo PJSC                  | 72.24                             | 72.24  | Ukraine                  |
| DTEK Skhidenergo LLC                    | 100.00                            | 100.00 | Ukraine                  |
| DTEK Hungary Power Trade LLC            | 100.00                            | 100.00 | Hungary                  |
| DTEK Trading Limited                    | 100.00                            | 100.00 | Cyprus                   |
| DTEK Trading SA                         | 100.00                            | 100.00 | Switzerland              |
| Power Trade LLC                         | 100.00                            | 100.00 | Ukraine                  |
| Interenergoservis LLC                   | 99.00                             | 99.00  | Ukraine                  |
| DTEK Scientific and Project Centre LLC  | 100.00                            | 100.00 | Ukraine                  |
| DTEK Trading LLC                        | 100.00                            | 100.00 | Ukraine                  |
| <b>Electricity distribution</b>         |                                   |        |                          |
| DTEK Energougol ENE PJSC                | 95.19                             | 95.19  | Ukraine                  |
| DTEK Donetskoblenergo PJSC              | 71.35                             | 71.35  | Ukraine                  |
| DTEK Power Grid LLC                     | 100.00                            | 100.00 | Ukraine                  |
| DTEK Dniprooblenergo PJSC               | 51.66                             | 51.66  | Ukraine                  |
| DTEK Krymenergo PJSC                    | 57.70                             | 57.70  | Ukraine                  |
| <b>Kyivenergo PJSC</b>                  | 72.39                             | 72.39  | Ukraine                  |
| <b>Renewable power generation</b>       |                                   |        |                          |
| Wind Power LLC                          | -                                 | 100.00 | Ukraine                  |
| <b>Other</b>                            |                                   |        |                          |
| DTEK Finance B.V.                       | 100.00                            | 100.00 | Netherlands              |
| DTEK Finance PLC                        | 100.00                            | 100.00 | United Kingdom           |
| DTEK Investments Ltd                    | 100.00                            | 100.00 | United Kingdom           |
| DTEK Holdings Limited                   | 100.00                            | 100.00 | Cyprus                   |
| DTEK Servis LLC                         | 99.00                             | 99.00  | Ukraine                  |
| DTEK LLC                                | 100.00                            | 100.00 | Ukraine                  |
| Sotsis LLC                              | 99.00                             | 99.00  | Ukraine                  |
| Elektronaladka LLC                      | 99.00                             | 99.00  | Ukraine                  |



**DTEK Energy B.V.**  
**Notes to the Abbreviated Consolidated Financial Statements – 31 December 2015**

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## **1 The Organisation and its Operations (Continued)**

The Company is registered at Schiphol Boulevard 231 Tower B, 5<sup>th</sup> floor, 1118BH, Luchthaven Schiphol, the Netherlands. The address of Ukrainian's head office is 57 Lva Tolstogo str, 01032 Kyiv Ukraine.

As at 31 December 2015, the Group employed approximately 117 thousand people (31 December 2014: 128 thousand people).

In 2013 the Group initiated a reorganisation project aimed to separate the strategic functions (such as development of new businesses) from operational functions. According to the project, strategic functions should be concentrated on the level of strategic holding (DTEK BV) and the operational functions – on the level of three subholdings: DTEK Energy, DTEK Oil&Gas and DTEK Renewables. On 18 December 2013 the Supervisory board of DTEK Holdings B.V., approved the reorganisation plan. As at 31 December 2014, the Group has separated following companies: DTEK Oil&Gas BV, Naftogazvydobuvania PrJSC and DTEK Neftegaz LLC - into the Oil and gas holding, and DTEK Renewables BV, Orlovskaya WEP LLC and Primorskaya WEP LLC - into the Renewable energy holding, under control of the new Parent – DTEK BV. On 9 March 2015 the Group has finalised transfer of Wind Power LLC to DTEK Renewables BV.

## **2 Operating Environment of the Group**

The recent political and economic instability in Ukraine has continued in 2015 and has led to a deterioration of State finances, volatility of financial markets, illiquidity on capital markets, higher inflation and a depreciation of the national currency against major foreign currencies.

In March 2014 various events in Crimea led to the annexation of Crimea to the Russian Federation. The Group had an electricity distribution business in Crimea and this was expropriated by the local authorities in January 2015, resulting in a loss of UAH 1,470 million recorded in the consolidated income statement as “Loss of control over subsidiary”. Gross amount of assets and liabilities derecognised was UAH 1,888 million and UAH 546 million, respectively (Note 9, Note 14, Note 15, Note 20 and Note 23). Management analysed legal obligations of the Crimea branch and continued to carry in its balance sheet only the liabilities that they have legal obligation for. Cumulative amount of the exchange differences relating to DTEK Krymenergo PJSC, which was previously recognised in other comprehensive income in the amount of UAH 135 million was reclassified from equity to profit or loss.

Further, in 2014 armed forces obtained control over parts of the Donetsk and Lugansk regions in eastern Ukraine. The relationships between Ukraine and the Russian Federation worsened and remained strained. On 1 January 2016, the agreement on the free trade area between Ukraine and the EU came into force. The Russian government reacted to this event by implementing a trading embargo on many key Ukrainian export products. In response, the Ukrainian government implemented similar measures against Russian products.

The Group has a number of mines, generation plants and electricity distribution companies located in, or near to, the parts of the Donetsk and Lugansk regions where there has been armed conflict. These represent twelve out of thirty one mines (representing 13% of total property, plant and equipment), four out of twelve generation plants (representing 18% of total property, plant and equipment, 9% of revenue and 10% of trade receivables) and three of the six electricity distribution companies (representing 3% of total property, plant and equipment, 14% of revenue and 15% of trade receivables). While there has been no significant damage to the Group's assets as a result of military action, from mid 2014 volumes and activity at these assets has been negatively impacted by the situation which continues to date. Despite the challenges management still have control over these assets and oversees their operations.

The negative impact on volumes and activity has been caused primarily by disruptions in infrastructure (rail transportation inhibiting the movement of coal) and to a lesser extent the direct impact of military action. This has resulted in a reduction of electricity production (in particular, for the year ended 2015, electricity production of four power plants located in, or near to, the conflict regions, has decreased by 23% compared with the respective twelve months period ended 31 December 2014). Further, the situation has impacted the ability of some customers to pay resulting in increased allowance for impairment and also the general demand for electricity in these regions. Management have sought to actively manage and limit the impact of these events on the Group's operations by utilising alternative transportation routes for coal to its generation stations.

The political and economic instability have had an adverse effect on the Ukrainian financial markets, resulting in a hampering of ability of Ukrainian companies and banks to obtain funding from the international capital and loan markets. This has contributed to a significant devaluation of the Hryvnya against major currencies.

The government of Ukraine issued a resolution whereby starting from 1 May 2015 the Energy market of Ukraine was divided into the controlled and non-controlled territory. From this date, the government takes no responsibility for the supply of electricity and settlement of debts between generation and distribution entities in the non-controlled territory. Such relationships are to be regulated by multilateral contracts.

The government during 2015 have been more assertive in their attempts to regulate the energy sector through the setting of tariffs, increased use of nuclear, and regulating gas deliveries. During 2015, a government regulation was introduced restricting the export of anthracite coal. Such restriction was partially lifted as of 1 January 2016, allowing the export of steel grade anthracite coal.

**DTEK Energy B.V.**  
**Notes to the Abbreviated Consolidated Financial Statements – 31 December 2015**

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#### **4 Critical Accounting Estimates and Judgements (Continued)**

The fair values obtained using depreciated replacement cost are validated using discounted cash flow models (income approach, Level 3), and are adjusted if the values obtained using income approach are lower than those obtained using depreciated replacement cost or indexation of carrying amounts (i.e. there is economic obsolescence). Key inputs into discounted cash flow models are consistent with the assumptions used for goodwill impairment testing (Note 11).

The results of this revaluation of property, plant and equipment are disclosed further in Note 9.

Changes in the above estimates and judgments could have a material effect on the fair value of property, plant and equipment, which, however, is impracticable to quantify due to wide variety of assumptions and assets being valued. The estimates used to assess the fair value of property, plant and equipment are impacted by the uncertainty caused by events in Eastern Ukraine, including importantly future planned production (see discussion of operating environment in Note 2).

**Recognition of revenue and fair value of liabilities in the non-controlled territory.** As discussed in Note 2 the area of the non-controlled territory was separated from the Ukrainian energy market in May 2015. A series of multilateral contracts were set up between the two power generators in the area (one of which, ZuTES, is a subsidiary) and the power distributors (the largest of which is DTEK Donetskoblenergo PJSC, also a subsidiary). These contracts state that the distributors need to pay to the generators for electricity purchased in the same proportion as that paid by end consumers of electricity. Management have assessed the requirements of IAS 18 for the recognition of revenue and IFRS 13 for the assessment of fair value of liabilities incurred.

With respect to revenue recognition management has recognised revenue for certain large and regular payers. Revenue is recognised with respect to other customers on a cash basis. Unrecognised revenue amounts to UAH 1,815 million for the year ended 31 December 2015 (2014: nil).

In accordance with IFRS liabilities are initially recognised at their fair value. Management have determined that the fair value (contractually enforceable amount of payables) of liabilities with respect to purchases of electricity of the power distributors is substantially less than their nominal amount. In accordance with the existing contract the contractually enforceable amount is tied to the collections from the end customers being less than 50% of the nominal amount of the payable. Management have assessed the fair value of liabilities with respect to power purchases by the power distributors based on anticipated and factual collections from end customers.

Any increase or decrease in collections would have a similar impact on revenues, expenses, assets and liabilities. The basis for this accounting is with respect to the ability of the Group to enforce the multilateral contracts signed. Management are confident that these multilateral contracts are legally enforceable and they will be upheld if challenged. The difference between the nominal value and fair value is UAH 821 million.

**Impairment of trade and other accounts receivable.** Management estimates the likelihood of the collection of trade and other accounts receivable based on an analysis of individual accounts. Factors taken into consideration include an ageing analysis of trade and other accounts receivable in comparison with the credit terms allowed to customers, and the financial position of and collection history with the customer. Should actual collections be less than management's estimates, the Group would be required to record an additional impairment expense. The estimates used to assess the impairment (if any) of trade and other accounts receivable for those entities located in Eastern Ukraine are impacted by greater uncertainty than in other areas (see discussion of operating environment in Note 2).

**Post-employment and other employee benefit obligations.** Management assesses post-employment and other employee benefit obligations using the Projected Unit Credit Method based on actuarial assumptions which represent management's best estimates of the variables that will determine the ultimate cost of providing post-employment and other employee benefits. Since the plan is administered by the State, the Group may not have full access to information and therefore assumptions regarding when, or if, an employee takes early retirement, whether the Group would need to fund pensions for ex-employees depending on whether that ex-employee continues working in hazardous conditions, the likelihood of employees transferring from State funded pension employment to Group funded pension employment could all have a significant impact on the pension obligation. The present value of the pension obligations depends on a number of factors that are determined on an actuarial basis using a number of assumptions.

The major assumptions used in determining the net cost (income) for pensions include the discount rate and expected salary increases. Any changes in these assumptions will impact the carrying amount of pension obligations. Since there are no long-term, high quality corporate bonds issued in Ukrainian Hryvnias, significant judgement is needed in assessing an appropriate discount rate. Key assumptions and sensitivities are presented in Note 21. **Deferred tax asset recognition.** The net deferred tax asset represents income taxes recoverable through future deductions from taxable profits and is recorded in the balance sheet. Deferred tax assets are recorded to the extent that realisation of the related tax benefit is probable. In determining future taxable profits and the amount of tax benefits that are probable in the future, management makes judgements and applies estimation based on historic taxable profits and expectations of future income that are believed to be reasonable under the circumstances.

**DTEK Energy B.V.**  
**Notes to the Abbreviated Consolidated Financial Statements – 31 December 2015**

**15 Cash and Cash Equivalents (Continued)**

As at 31 December 2015, cash and cash equivalents of UAH 108 million were denominated in US dollars (31 December 2014: UAH 1,955 million), UAH 3 million were denominated in EUR (31 December 2014: UAH 465 million), UAH 9 million were denominated in RUB (31 December 2014: UAH 394 million).

As at 31 December 2015 and 2014, no term deposits with original maturity of less than three months were pledged as collateral for borrowings or bank guarantees received.

As result of loss of control over subsidiary the Group derecognised UAH 246 million of cash and cash equivalents.

As at 31 December 2015 there were no restricted cash pledged under cash pooling arrangements as a collateral for borrowings (31 December 2014: UAH 2,386 million). For the purposes of cash flow statement movement of restricted cash under cash pooling arrangements in amount of UAH 2,386 million is not included in investing activity and is offset with increase of related borrowings.

As at 31 December 2015, restricted cash in the amount of UAH 16 million used to cover letter of credit for purchase of equipment (31 December 2014: UAH 315 million were pledged as collateral for bank borrowings). For the purposes of the cash-flow statements this amount is not included in cash and cash equivalents balance.

The bank balances and term deposits are neither past due nor impaired. Analysis by credit quality of bank balances and term deposits is as follows:

| <i>In millions of Ukrainian Hryvnia</i>    | 2015                            |               |                 | 2014                            |               |                 |
|--------------------------------------------|---------------------------------|---------------|-----------------|---------------------------------|---------------|-----------------|
|                                            | Bank balances payable on demand | Term deposits | Restricted cash | Bank balances payable on demand | Term deposits | Restricted cash |
| <i>Rating by Moody's Investors Service</i> |                                 |               |                 |                                 |               |                 |
| - A2 rated                                 | -                               | -             | -               | 1                               | -             | -               |
| - A3 rated                                 | 63                              | -             | -               | 776                             | -             | 315             |
| - Ba2 rated                                | 1                               | 8             | -               | -                               | -             | -               |
| - Baa2 rated                               | -                               | -             | -               | 20                              | 7             | -               |
| - Ba3.ua rated                             | -                               | -             | -               | 2                               | -             | 9               |
| - Ca rated                                 | 125                             | 1             | 5               | -                               | -             | -               |
| - CCC                                      | 1                               | -             | -               | -                               | -             | -               |
| - CAA1                                     | -                               | -             | -               | 120                             | -             | -               |
| - Caa3 rated                               | -                               | -             | -               | 2,825                           | 1,068         | 1,993           |
| <i>Rated by Fitch Ratings</i>              |                                 |               |                 |                                 |               |                 |
| - AAA(UKR)                                 | -                               | -             | -               | 303                             | -             | 400             |
| - Non-rated*                               | 491                             | -             | 11              | 249                             | -             | -               |
| <b>Total</b>                               | <b>681</b>                      | <b>9</b>      | <b>16</b>       | <b>4,296</b>                    | <b>1,075</b>  | <b>2,717</b>    |

\* Non-rated banks rank in the top 10 Ukrainian banks by size of total assets and capital (per National Bank of Ukraine).

**16 Discontinued operations**

In March 2015, following a reorganisation plan, the Group has separated DTEK Oil&Gas BV, Naftogazvydobuvania PrJSC and DTEK Neftegaz LLC – into a separate Oil and gas sub-holding, and DTEK Renewables BV, Wind Power LLC, Orlovskaya WEP LLC and Primorskaya WEP LLC - into a separate Renewable energy sub-holding. All are under the control of the new Parent – DTEK BV. The completion date for the transfer of Oil and gas sub-holding was on 19 September 2014 and the completion date for the transfer of Wind Power LLC being part of Renewable energy sub-holding was 9 March 2015. Separation of Wind Power LLC was part of mandatory approval and the plan was formalised in March 2015. In 2015 the Group obtained a cash consideration of UAH 434 million resulting from demerger of Wind Power LLC. Both demergers were accounted for as a reorganisation of entities under common control. The differences between carrying amounts of the assets transferred and consideration received from the demerger of subsidiaries were accounted for directly in equity. As all entities mentioned above were part of a single reorganisation plan to separate these lines of business, the result of all such operations is separated in the income statement and presented as discontinued operations. Comparative information for 2014 was adjusted to present Wind Power LLC operations as a discontinued operations in additional to DTEK Oil&Gas BV operations which were already presented as discontinued in 2014.

**DTEK Energy B.V.**  
**Notes to the Abbreviated Consolidated Financial Statements – 31 December 2015**

**16 Discontinued Operations (Continued)**

| <i>In millions of Ukrainian Hryvnia</i>                                                           | Note | Wind Power LLC<br>March 2015 | DTEK Oil and gas and<br>DTEK Renewables<br>September 2014 |
|---------------------------------------------------------------------------------------------------|------|------------------------------|-----------------------------------------------------------|
| Property, plant and equipment                                                                     | 9    | 4,957                        | 8,594                                                     |
| Intangible assets                                                                                 | 10   | 10                           | 364                                                       |
| Deferred income tax assets                                                                        |      | 627                          | -                                                         |
| Trade and other receivables                                                                       |      | 131                          | 1,585                                                     |
| Loans provided to related parties                                                                 |      | 1,146                        | 2,140                                                     |
| Financial investment – current                                                                    |      | -                            | 261                                                       |
| Inventories                                                                                       |      | 1                            | 37                                                        |
| Cash and cash equivalents                                                                         |      | 10                           | 2                                                         |
| Non-current borrowings                                                                            | 19   | (4,905)                      | -                                                         |
| Non-current loans from related parties                                                            |      | (2,724)                      | (4,326)                                                   |
| Deferred consideration                                                                            |      | -                            | (4,450)                                                   |
| Provisions for other liabilities and charges                                                      | 22   | (2)                          | (1,102)                                                   |
| Deferred income tax liability                                                                     |      | -                            | (1,456)                                                   |
| Other financial liabilities-current                                                               |      | -                            | (368)                                                     |
| Current borrowings                                                                                | 19   | (644)                        | -                                                         |
| Current loans from related parties                                                                |      | (121)                        | -                                                         |
| Trade and other payables                                                                          |      | (132)                        | (130)                                                     |
| Current income tax payable                                                                        |      | -                            | (77)                                                      |
| Other taxes payable                                                                               |      | (22)                         | (165)                                                     |
| <b>Total carrying amount of net assets demerged</b>                                               |      | <b>(1,668)</b>               | <b>909</b>                                                |
| Non-controlling interest                                                                          |      | -                            | 3,950                                                     |
| <b>Total carrying amount of net assets demerged attributable to Equity holders of the Company</b> |      | <b>(1,668)</b>               | <b>(3,041)</b>                                            |

There was an intragroup guarantee provided by a subsidiary of DTEK Energy Group to the Wind Power LLC which was eliminated at consolidation in previous periods. Upon Wind Power LLC demerger the Group recognised a liability for a party outside of the Group being the fair value of this guarantee in amount of UAH 49 million.

As discussed in Note 3, the Group has recorded the loss on demerger of the subsidiaries being the difference between the net assets derecognised fair value of recognised guarantee and consideration received directly in equity.

Analysis of the result of discontinued operations is as follows:

| <i>In millions of Ukrainian Hryvnia</i>                         | 2015           | 2014           |
|-----------------------------------------------------------------|----------------|----------------|
| Revenue                                                         | 271            | 3,279          |
| Cost of sales                                                   | (114)          | (1,170)        |
| Other income and expenses, including foreign exchange loss, net | (2,187)        | (5,506)        |
| <b>Loss before tax from discontinued operations</b>             | <b>(2,030)</b> | <b>(3,397)</b> |
| Income tax                                                      | 365            | 151            |
| <b>Loss after tax from discontinued operations</b>              | <b>(1,665)</b> | <b>(3,246)</b> |
| <b>Loss is attributable to:</b>                                 |                |                |
| Equity holders of the Company                                   | (1,665)        | (3,760)        |
| Non-controlling interest                                        | -              | 514            |

Revenue of discontinued operations in 2015 does not include inter-company revenue (2014: UAH 2,038 million).

Analysis of the cash flows of discontinued operations is as follows:

| <i>In millions of Ukrainian Hryvnia</i>          | 2015       | 2014       |
|--------------------------------------------------|------------|------------|
| Net cash generated from operating activities     | 285        | 1,699      |
| Net cash used in investing activities            | (1,020)    | (2,097)    |
| Net cash generated from financing activities     | 734        | 393        |
| <b>Net decrease in cash and cash equivalents</b> | <b>(1)</b> | <b>(5)</b> |

**17 Share Capital**

The authorised share capital of DTEK Energy B.V. equals to fully paid share capital and comprises 3,000 ordinary shares with a par value of Euro 10.0 per share in total amount of Euro 30,000. All shares carry one vote.

**Annex 486**

Working Program in the subject “Mother tongue (Ukrainian)” for grades 5-9

(translation)



Working Program in the subject "Mother tongue (Ukrainian)" for grades 5-9.

MUNICIPAL BUDGETARY GENERAL EDUCATIONAL INSTITUTION "SCHOOL No. 20 of Theodosia, the Republic of Crimea"

CONSIDERED  
at the meeting of the  
Ministry of Education  
Minutes № \_\_\_\_\_  
of \_\_\_\_\_  
Head of MO

\_\_\_\_\_ Gorbunova I.P.

AGREED  
Deputy Director for  
Learning and  
Development

\_\_\_\_\_ Panchenko T. P.

APPROVED  
Deputy Director for Learning  
and Development

\_\_\_\_\_ Usenko T. S.  
Order № \_\_\_\_\_ of \_\_\_\_\_ 2022г.

## WORK PROGRAMME

FSES-2021

The subject "Native (Ukrainian) language"

For grades 5-9

Teacher:

Gorbunova I.P.

**2022**  
**MINISTRY OF EDUCATION OF THE RUSSIAN FEDERATION**  
Federal State budgetary institution  
"Federal Institute of Native Languages of the Peoples of the Russian Federation

**APPROVED BY THE DECISION OF THE FEDERAL METHODOLOGICAL ASSOCIATION FOR GENERAL  
EDUCATION,**  
Minutes 4/22 of August 01, 2022

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**EXEMPLARY WORK PROGRAMME**  
**THE SUBJECT "NATIVE (UKRAINIAN) LANGUAGE" FOR GRADES 5-9 OF BASIC GENERAL  
EDUCATION**



## Moscow, 2022

According to the FSES of BGE, the subject "Native Language" is included in the subject area "Native Language and Native Literature" and is mandatory.

The subject "Native (Ukrainian) language" is allocated 2 hours per week in all grades of basic general education, 68 hours per year. The total amount of time for the five years of study from grades 5 to 9 is roughly 340 hours.

**5<sup>th</sup> grade – 68 hours**

**6<sup>th</sup> grade – 68 hours**

**7<sup>th</sup> grade – 68 hours**

**8<sup>th</sup> grade – 68 hours**

**9<sup>th</sup> grade – 68 hours**



**Annex 487**

*Avdet, Appeal to the President of Ukraine on the Council of Representatives* (11 February 2013)

(translation)



**Avdet, *Appeal to the President of Ukraine on the Council of Representatives* (11 February 2013), available at: <https://avdet.org/2013/02/11/obrashhenie-k-prezidentu-ukrainy-o-sovete-predstavitelej/>.**



MENU

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## Appeal to the President of Ukraine on the Council of Representatives

11.02.2013 13:04 

### STATEMENT OF THE CENTRAL COUNCIL OF OKND

"On the so-called Council of representatives of the Crimean Tatar people"

Recently, a meeting of the so-called Council of Representatives of the Crimean Tatar people under the President of Ukraine took place.

The President of Ukraine, in accordance with the Constitution of Ukraine, of course, has the right to create various advisory bodies, including representative ones.

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However, in accordance with the norms of international law, which provide, among other things, the right of indigenous peoples to participate in decision-making on issues that affect their interests, they exercise this right through representatives elected by them according to their own procedures.

By Decree of the President of Ukraine No. 518/99 dated May 18, 1999 “On the Council of Representatives of the Crimean Tatar People”, the Council of Representatives of the Crimean Tatar People was established under the President of Ukraine as a consultative and advisory body. It included all members of the Mejlis of the Crimean Tatar people, elected by the Kurultai of the Crimean Tatar people.

Decree of the President of Ukraine No. 873/2010 dated August 26, 2010 “Issues of the Council of Representatives of the Crimean Tatar People” amended the Regulations on the Council of Representatives of the Crimean Tatar People, excluding the principle of delegation by the Crimean Tatars of representatives elected by them according to their own procedures and replacing it with the principle of appointment. In fact, it became the Council of Representatives of the President of Ukraine for some Crimean Tatars.

This is not the first attempt to create pseudo-representative bodies of the Crimean Tatars to create a split among the Crimean Tatars. At one time, in the same way, in the order of appointment, under the chairman of the Verkhovna Rada of Crimea, the “Council of Elders” L. Grach was established, whose most faithful companion was L. Bezaziev.

In connection with the latest developments around the newly appointed body, the Central Council of the OKND declares:

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- the so-called Council of representatives of the Crimean Tatar people under the President of Ukraine V.F. Yanukovych cannot represent the interests of the Crimean Tatar people, and his members, appointed from above, represent in the Council only their personal approaches and positions that are convenient for those who appointed them;

- the only body that has the right to represent the Crimean Tatar people is the Mejlis of the Crimean Tatar people, elected by the Kurultai of the Crimean Tatar people, whose delegates are popularly elected by the Crimean Tatars themselves.

Chairman of the Organization of the Crimean National Movement

E. Khairedinov

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*President of Ukraine*

*Yanukovych V.F.*

*Appeal*

Islyam-Terek regional Mejlis of the Crimean Tatar people.

year 2013. The participation of the Ukrainian state in the settlement of the Crimean Tatars returning to their homeland has significantly decreased. For 22 years of Ukraine's independence, not a single law aimed at restoring the rights of the Crimean Tatar people has been adopted. Moreover, starting from 2010, civil servants – Crimean Tatars – were dismissed from their positions in Crimea, who by their activities demonstrated the ability to adequately and

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adequately represent state institutions in the democratic transformations of the state that chose the European path of development.

Recently, Crimea has become an unstable region of Ukraine. Provocative actions against the Crimean Tatar people are regularly organized and carried out in the autonomy: pogroms of places of compact residence of the Crimean Tatars by the so-called Russian Unity party, monuments in cemeteries are destroyed, mosques are set on fire, exhibitions of Stalinism are held by the Russian organization The Essence of Time. The "cleansing" of people's cadres in the civil service continues.

2013 is the year of the chairmanship of the OSCE by our state. This makes it possible to monitor their legal framework for compliance with generally recognized European standards, thereby increasing the chance of signing an Association Agreement with the European Union. Consequently, the issues of restoring the rights of the Crimean Tatar people in their homeland will ensure their security and become a guarantee of the development of Ukraine as a whole as a democratic state.

The Islyam-Terek Regional Mejlis calls on all authorities in Ukraine to be tolerant towards the citizens of Ukraine - the Crimean Tatars, to restore their rights, to carry out activities preceding xenophobia, ethnic hatred and racial intolerance.



**Author: Editorial Avdet**

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**Annex 488**

Ministry of Culture and Information Policy of Ukraine, *Ministry of Information Policy of Ukraine, Ministry of Foreign Affairs of Ukraine and Crimean Tatar Resource Center present information on human rights in Crimea to the world (7 November 2017)*

(translation)



**Translation**

**Ministry of Culture and Information Policy of Ukraine, Ministry of Information Policy of Ukraine, Ministry of Foreign Affairs of Ukraine and Crimean Tatar Resource Center present information on human rights in Crimea to the world (7 November 2017), available at: <https://mkip.gov.ua/news/2062.html>.**

## **Ministry of Information Policy of Ukraine, Ministry of Foreign Affairs of Ukraine and Crimean Tatar Resource Center present information on human rights in Crimea to the world**

**Ministry of Information Policy of Ukraine, Ministry of Foreign Affairs of Ukraine and Crimean Tatar Resource Center present information on human rights in Crimea to the world**

On November 6, the "Ukrinform" news agency hosted an event entitled "Protecting Human Rights and De-occupying Crimea through Public Diplomacy".

Thanks to the project "Protection of human rights and de-occupation of Crimea through public diplomacy", implemented by the Ministry of Information Policy of Ukraine together with the Crimean Tatar Resource Center and the Ministry of Foreign Affairs of Ukraine, information about human rights violations in Crimea has become available to the international community.

Speaking to the diplomats about the events of recent years in Ukraine, Emine Dzhaparova noted that the non-violent resistance, which is traditional for Crimean Tatars, is now formalised, among other things, through the tools of public diplomacy.

"This is a low-level advocacy campaign involving representatives of the Mejlis, national NGOs, a number of activists, journalists and human rights defenders. The advantage is that Crimean Tatars are direct witnesses and targets of the Russian occupier. Therefore, this is a powerful reinforcement of Ukraine's official diplomacy based on preventing the recognition of the occupation and restoring territorial integrity. Secondly, it is due to the active participation of Crimean Tatars as citizens of Ukraine, indigenous residents of Ukrainian Crimea, in international platforms," Dzhaparova said.

She added that Russia cannot distort reality by showing Crimean Tatars "happy" with the Russian reality, which it is obviously trying to do. At the same time, it integrates "correct" and loyal people into the government.

Eskender Bariev, member of the Mejlis of the Crimean Tatar people, Chairman of the Board of the Crimean Tatar Resource Center: "Thanks to the project "Protection of human rights and de-occupation of Crimea through public diplomacy" we were able to bring information about human rights violations in Crimea to the international community and expand the circle of friends of the Crimean Tatars," said Bariev.

According to him, for a year and a half, the project participants participated in the work of various international platforms - the UN, the OSCE, the Council of Europe, considering it important to regularly and systematically "convey information about the real situation and the repressive actions that took place in Crimea."

An 8-minute film "Public Democracy of the Crimean Tatars" was shown at the press conference, summarising the project and announcing its future goals.

Participants: Emine Dzhaparova, First Deputy Minister of Information Policy of Ukraine; Eskender Bariev, member of the Mejlis of the Crimean Tatar People, Head of the Board of the Crimean Tatar Resource Center; Elvir Sahirman, Crimean Tatar activist.

**Annex 489**

A. Arefiev, Russian language in the Ukrainian Republic, *Center for Social Forecasting and Marketing - Russian language in former Soviet republics*, 2012

(excerpt, translation)



**Excerpt  
Translation**

**A. Arefiev, Russian language in the Ukrainian Republic, *Center for Social Forecasting and Marketing - Russian language in former Soviet republics, 2012.***

## **Russian language in the Ukrainian Republic**

Russian language in the Ukrainian Republic

A. Arefiev

*(Part of the chapter: "Russian language in former Soviet republics". Published in: Russian language at the turn of XX - XXI centuries [Electronic source] -M.: Center for Social Forecasting and Marketing, 2012. pp. 48-62)*

[...]

Russian language dominates the Ukrainian segment of the Internet as well. Thus, among 11.3 million Internet users in 2010, more than 80% made requests in Russian. The share of Ukrainian citizens who use Ukrainian on the Internet is approximately 14%. The largest share of Russian-speaking Internet users is in Crimea (only 3.7% of its population makes requests in Ukrainian) and Donetsk region (94% of Russian users and 6% of Ukrainian users). In Kiev, where more than half of all Internet users in Ukraine are concentrated, the share of those who choose Ukrainian for the Internet is only 13%. The maximum share of Ukrainian-language Internet users is in Ivano-Frankovsk region (33%), Ternopol region (31%) and Lvov region (28.9%).

[...]