



INTERNATIONAL COURT OF JUSTICE

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Press Release

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Ukraine institutes proceedings against the Russian Federation and requests the Court to indicate provisional measures

THE HAGUE, 17 January 2017. In the late afternoon of 16 January 2017, Ukraine instituted proceedings against the Russian Federation with regard to alleged violations of the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999 and the International Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965. Both States are parties to these two instruments.

In particular, Ukraine contends that, following the Orange Revolution of 2004, it has been subjected to increasing degrees of Russian pressure and intimidation. According to Ukraine, since 2014 the Russian Federation has escalated its interference in Ukrainian affairs to dangerous new levels, “intervening militarily in Ukraine, financing acts of terrorism, and violating the human rights of millions of Ukraine’s citizens, including, for all too many, their right to life”. It states that in eastern Ukraine, the Russian Federation has instigated and sustained an armed insurrection against the authority of the Ukrainian State. Ukraine considers that, by its actions, the Russian Federation is in violation of fundamental principles of international law, including those enshrined in the International Convention for the Suppression of the Financing of Terrorism (“Terrorism Financing Convention”).

Furthermore, in its Application, Ukraine contends that, in the Autonomous Republic of Crimea and City of Sevastopol, the Russian Federation has “brazenly defied the U.N. Charter, seizing a part of Ukraine’s sovereign territory by military force”. Ukraine states that, “in an attempt to legitimize its act of aggression, the Russian Federation engineered an illegal ‘referendum’ which it rushed to implement amid a climate of violence and intimidation against non-Russian ethnic groups”. According to Ukraine, this “deliberate campaign of cultural erasure, beginning with the invasion and referendum and continuing to this day”, violates the International Convention on the Elimination of All Forms of Racial Discrimination (“CERD”).

With regard to the Terrorism Financing Convention, in paragraphs 134 to 136 of its Application,

“[134.] Ukraine respectfully requests the Court to adjudge and declare that the Russian Federation, through its State organs, State agents, and other persons and entities exercising governmental authority, and through other agents acting on its instructions or under its direction and control, has violated its obligations under the Terrorism Financing Convention by:

- (a) Supplying funds, including in-kind contributions of weapons and training, to illegal armed groups that engage in acts of terrorism in Ukraine, including the DPR, the LPR, the Kharkiv Partisans, and associated groups and individuals, in violation of Article 18;

- (b) Failing to take appropriate measures to detect, freeze, and seize funds used to assist illegal armed groups that engage in acts of terrorism in Ukraine, including the DPR, the LPR, the Kharkiv Partisans, and associated groups and individuals, in violation of Articles 8 and 18;
- (c) Failing to investigate, prosecute, or extradite perpetrators of the financing of terrorism found within its territory, in violation of Articles 9, 10, 11, and 18;
- (d) Failing to provide Ukraine with the greatest measure of assistance in connection with criminal investigations of the financing of terrorism, in violation of Articles 12 and 18; and
- (e) Failing to take all practicable measures to prevent and counter acts of financing of terrorism committed by Russian public and private actors, in violation of Article 18.

[135.] Ukraine respectfully requests the Court to adjudge and declare that the Russian Federation bears international responsibility, by virtue of its sponsorship of terrorism and failure to prevent the financing of terrorism under the Convention, for the acts of terrorism committed by its proxies in Ukraine, including:

- (a) The shoot-down of Malaysian Airlines Flight MH17;
- (b) The shelling of civilians, including in Volnovakha, Mariupol, and Kramatorsk; and
- (c) The bombing of civilians, including in Kharkiv.

[136.] Ukraine respectfully requests the Court to order the Russian Federation to comply with its obligations under the Terrorism Financing Convention, including that the Russian Federation:

- (a) Immediately and unconditionally cease and desist from all support, including the provision of money, weapons, and training, to illegal armed groups that engage in acts of terrorism in Ukraine, including the DPR, the LPR, the Kharkiv Partisans, and associated groups and individuals;
- (b) Immediately make all efforts to ensure that all weaponry provided to such armed groups is withdrawn from Ukraine;
- (c) Immediately exercise appropriate control over its border to prevent further acts of financing of terrorism, including the supply of weapons, from the territory of the Russian Federation to the territory of Ukraine;
- (d) Immediately stop the movement of money, weapons, and all other assets from the territory of the Russian Federation and occupied Crimea to illegal armed groups that engage in acts of terrorism in Ukraine, including the DPR, the LPR, the Kharkiv Partisans, and associated groups and individuals, including by freezing all bank accounts used to support such groups;
- (e) Immediately prevent all Russian officials from financing terrorism in Ukraine, including Sergei Shoigu, Minister of Defense of the Russian Federation; Vladimir Zhirinovskiy, Vice-Chairman of the State Duma; Sergei Mironov, member of the State Duma; and Gennadiy Zyuganov, member of the State Duma, and initiate prosecution against these and other actors responsible for financing terrorism;

- (f) Immediately provide full cooperation to Ukraine in all pending and future requests for assistance in the investigation and interdiction of the financing of terrorism relating to illegal armed groups that engage in acts of terrorism in Ukraine, including the DPR, the LPR, the Kharkiv Partisans, and associated groups and individuals;
- (g) Make full reparation for the shoot-down of Malaysian Airlines Flight MH17;
- (h) Make full reparation for the shelling of civilians in Volnovakha;
- (i) Make full reparation for the shelling of civilians in Mariupol;
- (j) Make full reparation for the shelling of civilians in Kramatorsk;
- (k) Make full reparation for the bombing of civilians in Kharkiv; and
- (l) Make full reparation for all other acts of terrorism the Russian Federation has caused, facilitated, or supported through its financing of terrorism, and failure to prevent and investigate the financing of terrorism.”

With regard to CERD, in paragraphs 137 to 138 of its Application,

“[137.] Ukraine respectfully requests the Court to adjudge and declare that the Russian Federation, through its State organs, State agents, and other persons and entities exercising governmental authority, including the de facto authorities administering the illegal Russian occupation of Crimea, and through other agents acting on its instructions or under its direction and control, has violated its obligations under the CERD by:

- (a) Systematically discriminating against and mistreating the Crimean Tatar and ethnic Ukrainian communities in Crimea, in furtherance of a state policy of cultural erasure of disfavored groups perceived to be opponents of the occupation regime;
- (b) Holding an illegal referendum in an atmosphere of violence and intimidation against non-Russian ethnic groups, without any effort to seek a consensual and inclusive solution protecting those groups, and as an initial step toward depriving these communities of the protection of Ukrainian law and subjecting them to a regime of Russian dominance;
- (c) Suppressing the political and cultural expression of Crimean Tatar identity, including through the persecution of Crimean Tatar leaders and the ban on the Mejlis of the Crimean Tatar People;
- (d) Preventing Crimean Tatars from gathering to celebrate and commemorate important cultural events;
- (e) Perpetrating and tolerating a campaign of disappearances and murders of Crimean Tatars;
- (f) Harassing the Crimean Tatar community with an arbitrary regime of searches and detention;
- (g) Silencing Crimean Tatar media;

- (h) Suppressing Crimean Tatar language education and the community's educational institutions;
- (i) Suppressing Ukrainian language education relied on by ethnic Ukrainians;
- (j) Preventing ethnic Ukrainians from gathering to celebrate and commemorate important cultural events; and
- (k) Silencing ethnic Ukrainian media.

[138.] Ukraine respectfully requests the Court to order the Russian Federation to comply with its obligations under the CERD, including:

- (a) Immediately cease and desist from the policy of cultural erasure and take all necessary and appropriate measures to guarantee the full and equal protection of the law to all groups in Russian-occupied Crimea, including Crimean Tatars and ethnic Ukrainians;
- (b) Immediately restore the rights of the Mejlis of the Crimean Tatar People and of Crimean Tatar leaders in Russian-occupied Crimea;
- (c) Immediately restore the rights of the Crimean Tatar people in Russian-occupied Crimea to engage in cultural gatherings, including the annual commemoration of the Sürgün;
- (d) Immediately take all necessary and appropriate measures to end the disappearance and murder of Crimean Tatars in Russian-occupied Crimea, and to fully and adequately investigate the disappearances of Reshat Ametov, Timur Shaimardanov, Ervin Ibragimov, and all other victims;
- (e) Immediately take all necessary and appropriate measures to end unjustified and disproportionate searches and detentions of Crimean Tatars in Russian-occupied Crimea;
- (f) Immediately restore licenses and take all other necessary and appropriate measures to permit Crimean Tatar media outlets to resume operations in Russian-occupied Crimea;
- (g) Immediately cease interference with Crimean Tatar education and take all necessary and appropriate measures to restore education in the Crimean Tatar language in Russian-occupied Crimea;
- (h) Immediately cease interference with ethnic Ukrainian education and take all necessary and appropriate measures to restore education in the Ukrainian language in Russian-occupied Crimea;
- (i) Immediately restore the rights of ethnic Ukrainians to engage in cultural gatherings in Russian-occupied Crimea;
- (j) Immediately take all necessary and appropriate measures to permit the free operation of ethnic Ukrainian media in Russian-occupied Crimea; and
- (k) Make full reparation for all victims of the Russian Federation's policy and pattern of cultural erasure through discrimination in Russian-occupied Crimea."

Ukraine also filed on 16 January 2017 a Request for the indication of provisional measures. It states that the purpose of the Request is to protect its rights, pending the determination of the case on the merits.

With regard to the Terrorism Financing Convention, in paragraph 23 of its Request, Ukraine requests that the Court indicate the following provisional measures:

- “(a) The Russian Federation shall refrain from any action which might aggravate or extend the dispute under the Terrorism Financing Convention before the Court or make this dispute more difficult to resolve.
- (b) The Russian Federation shall exercise appropriate control over its border to prevent further acts of terrorism financing, including the supply of weapons from the territory of the Russian Federation to the territory of Ukraine.
- (c) The Russian Federation shall halt and prevent all transfers from the territory of the Russian Federation of money, weapons, vehicles, equipment, training, or personnel to groups that have engaged in acts of terrorism against civilians in Ukraine, or that the Russian Federation knows may in the future engage in acts of terrorism against civilians in Ukraine, including but not limited to the “Donetsk People’s Republic,” the “Luhansk People’s Republic,” the “Kharkiv Partisans,” and associated groups and individuals.
- (d) The Russian Federation shall take all measures at its disposal to ensure that any groups operating in Ukraine that have previously received transfers from the territory of the Russian Federation of money, weapons, vehicles, equipment, training, or personnel will refrain from carrying out acts of terrorism against civilians in Ukraine.”

With regard to CERD, in paragraph 24 of its Request, Ukraine requests that the Court indicate the following provisional measures:

- “(a) The Russian Federation shall refrain from any action which might aggravate or extend the dispute under CERD before the Court or make it more difficult to resolve.
- (b) The Russian Federation shall refrain from any act of racial discrimination against persons, groups of persons, or institutions in the territory under its effective control, including the Crimean peninsula.
- (c) The Russian Federation shall cease and desist from acts of political and cultural suppression against the Crimean Tatar people, including suspending the decree banning the Mejlis of the Crimean Tatar People and refraining from enforcement of this decree and any similar measures, while this case is pending.
- (d) The Russian Federation shall take all necessary steps to halt the disappearance of Crimean Tatar individuals and to promptly investigate those disappearances that have already occurred.

(e) The Russian Federation shall cease and desist from acts of political and cultural suppression against the ethnic Ukrainian people in Crimea, including suspending restrictions on Ukrainian-language education and respecting ethnic Ukrainian language and educational rights, while this case is pending.”

The full text of Ukraine’s Application of 16 January 2017 will be available shortly on the Court’s website.

The International Court of Justice (ICJ) is the principal judicial organ of the United Nations. It was established by the United Nations Charter in June 1945 and began its activities in April 1946. The seat of the Court is at the Peace Palace in The Hague (Netherlands). Of the six principal organs of the United Nations, it is the only one not located in New York. The Court has a twofold role: first, to settle, in accordance with international law, legal disputes submitted to it by States (its judgments have binding force and are without appeal for the parties concerned); and, second, to give advisory opinions on legal questions referred to it by duly authorized United Nations organs and agencies of the system. The Court is composed of 15 judges elected for a nine-year term by the General Assembly and the Security Council of the United Nations. Independent of the United Nations Secretariat, it is assisted by a Registry, its own international secretariat, whose activities are both judicial and diplomatic, as well as administrative. The official languages of the Court are French and English. Also known as the “World Court”, it is the only court of a universal character with general jurisdiction.

The ICJ, a court open only to States for contentious proceedings, and to certain organs and institutions of the United Nations system for advisory proceedings, should not be confused with the other — mostly criminal — judicial institutions based in The Hague and adjacent areas, such as the International Criminal Tribunal for the former Yugoslavia (ICTY, an ad hoc court created by the Security Council), the International Criminal Court (ICC, the first permanent international criminal court, established by treaty, which does not belong to the United Nations system), the Special Tribunal for Lebanon (STL, an international judicial body with an independent legal personality, established by the United Nations Security Council upon the request of the Lebanese Government and composed of Lebanese and international judges), or the Permanent Court of Arbitration (PCA, an independent institution which assists in the establishment of arbitral tribunals and facilitates their work, in accordance with the Hague Convention of 1899).

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