

Corrigé
Corrected

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CR 2019/12

International Court
of Justice

THE HAGUE

Cour internationale
de Justice

LA HAYE

YEAR 2019

Public sitting

held on Friday 7 June 2019, at 10 a.m., at the Peace Palace,

President Yusuf presiding,

*in the case concerning 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)*

Preliminary Objections

VERBATIM RECORD

ANNÉE 2019

Audience publique

tenue le vendredi 7 juin 2019, à 10 heures, au Palais de la Paix,

sous la présidence de M. Yusuf, président,

*en l'affaire relative à l'Application de la convention internationale pour la répression
du financement du terrorisme et de la convention internationale sur
l'élimination de toutes les formes de discrimination raciale
(Ukraine c. Fédération de Russie)*

Exceptions préliminaires

COMPTE RENDU

those who have committed terrorist acts. It should suffice to look at the record in this case, which includes witness statements from the lead investigators in Ukraine's criminal investigations into the shellings of Volnovakha, Mariupol and Kramatorsk¹⁰².

42. While Russia did spend time yesterday commenting on the broader armed conflict in eastern Ukraine, with regard to the terrorist acts that are the focus of the case before you, Russia did not even attempt to rehabilitate its many unsupported factual assertions that Ukraine proved on Tuesday are contradicted by the record. Russia also chose not to engage directly with the extensive evidence Ukraine provided in the judges' folder regarding the Mariupol shelling attack.

43. Instead, Russia stated that Ukraine passed over the evidence regarding the shoot-down of MH17 and failed to engage with Russia's position. That is most certainly not the case.

A. Flight MH17

44. It is Russia, not Ukraine, that passes over the evidence related to the financiers' knowledge when providing the Buk TELAR to the DPR fighters. The evidence in the record shows the following:

45. First, the individuals who requested the Buk included Igor Girkin¹⁰³, who was already infamous for summary executions of civilians¹⁰⁴. Three months earlier, in a well-publicized attack, DPR fighters abducted, tortured, murdered and mutilated a town councillor, Volodymyr Rybak, because he raised the Ukrainian flag¹⁰⁵. This killing so obviously meets the elements of a terrorist act under Article 2 (1) (b) that Russia has never responded to. So when the Buk was supplied, it was in response to a request from men with an undisputed history of terrorist acts. How those men justified their request to their funders in Russia does not negate those facts.

¹⁰² See Witness Statement of Dmytro Volodymyrovych Zyuzia (29 May 2018), paras. 1-2, (MU, Ann. 6); Witness Statement of Igor Evhenovych Yanovskyi (31 May 2018), paras. 1-2 (MU, Ann. 5) (judges' folder, tab 10); Witness Statement of Kyrylo Ihorevych Dvorskyi (4 June 2018), paras. 1-2 (MU, Ann. 3).

¹⁰³ Intercepted Conversation between Igor Girkin, Viktor Anosov and Mykhaylo Sheremet (8 June 2014) (MU, Ann. 391); Confirmation of Authenticity, Senior Special Investigator with the Second Branch of the First Pre-Trial Investigations Department at the Main Investigations Directorate of the Security Service of Ukraine (4 June 2018) (MU, Ann. 184).

¹⁰⁴ Anna Shamanska, "Former Commander of Pro-Russian Separatists Says He Executed People Based on Stalin-Era Laws", *Radio Free Europe / Radio Liberty* (19 Jan. 2016) (MU, Ann. 587); OHCHR, Report on the Human Rights Situation in Ukraine (15 July 2014), para. 47 (MU, Ann. 296); MU, para. 46.

¹⁰⁵ MU, paras. 43-45, and accompanying annexes cited therein.