



BACKGROUND

“Ukraine - Russia’s Actions Under State-Sponsored Terrorism on the Crimean Peninsula Established on Suppression of Minority Rights”



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FOREWORD

Greetings delegate, welcome to the International Court of Justice of Model United Nations Instituto Cultural Tampico 2021.

The Chair thanks you for choosing this committee and expressing an interest in the topic of debate, the Chair members' hope that you enjoy your experience as a judge or advocate and find reasonable ways to resolve problems and defend your party.

The topic chosen this year is a lawsuit from Ukraine to the Russian Federation for taking control of Ukraine's Crimean region and for the breaching of the International Convention for the Suppression of the Financing of Terrorism. Even though this trial is yet to be proceeded, we will carry it out as if it had happened, situating it in 2020.

Sincerely,
The Chair

President: Rodrigo González Alvizo
Secretary: Alejandro Carrión Rivera

Moderator: Elías Manzur Castro

HISTORY OF THE COMMITTEE.

The International Court of Justice (ICJ) is the principal judicial organ of the United Nations (UN). It was established in June 1945 by the Charter of the United Nations and began work in April 1946.

The seat of the Court is at the Peace Palace in The Hague (Netherlands). Within the six principal organs of the United Nations, it is the only one not located in New York (United States of America).

The Court is composed of 15 judges, who are elected for terms of office of nine years by the United Nations General Assembly and the Security Council. It is assisted by a Registry, its administrative organ. Its official languages are English and French.

The creation of the Court represents the culmination of a long process of developing methods for the pacific settlement of international disputes, the origins of which can be traced back to classical times.

Article 33 of the United Nations Charter lists the following methods for the pacific settlement of disputes between States: negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, which should also be added to good offices. Some of these methods involve the services of third parties. For example, mediation places the parties to a dispute in a position in which they can themselves resolve their dispute thanks to the intervention of a third party. Arbitration goes further, in the sense that the dispute is submitted to the decision or award of an impartial third party, so that a binding settlement can be achieved. The same is true of judicial settlement (the method applied by the International Court of Justice), except that a court is subject to stricter rules than an arbitral tribunal, particularly in procedural matters.

INTRODUCTION

Terrorism is the unlawful use of force or violence against persons or property to intimidate or coerce a government or its citizens to further certain political or social objectives. There are at least eight primary factors that bear on terrorism: the factor of violence; the required intention; the nature of the victims; the connection of the offender to the state; the justice and motive of their cause; the level of organization; the element of theatre; and the absence of guilt. However, one cannot draw from these variables a simple (or indeed even a complex) definition of terrorism. Not all the factors apply all the time.

The International Convention for the Suppression of the Financing of Terrorism, Adopted by the General Assembly of the United Nations in resolution 54/109 of 9 December 1999 states: “...Recalling General

Assembly resolution 51/210 of 17 December 1996, paragraph 3, subparagraph (f), in which the Assembly called upon all States to take steps to prevent and counteract, through appropriate domestic measures, the financing of terrorists and terrorist organizations, whether such financing is direct or indirect through organizations which also have or claim to have charitable, social or cultural goals or which are also engaged in unlawful activities such as illicit arms trafficking, drug dealing and racketeering, including the exploitation of persons for purposes of funding terrorist activities, and in particular to consider, where appropriate, adopting regulatory measures to prevent and counteract movements of funds suspected to be intended for terrorist purposes without impeding in any way the freedom of legitimate capital movements and to intensify the exchange of information concerning international movements of such funds...“

Annexation, a formal act whereby a state proclaims its sovereignty over territory hitherto outside its domain. Unlike cession, whereby territory is given or sold through treaty, annexation is a unilateral act made effective by actual possession and legitimized by general recognition.

The ICJ generally has jurisdiction where states: (i) accept compulsory jurisdiction in relation to other states that also accept it; (ii) accept jurisdiction by special agreement; (iii) accept jurisdiction after one state's unilateral application; and (iv) jurisdiction arises for matters specially provided for in the Charter of the UN or in treaties or conventions in force.

HISTORICAL BACKGROUND

- The Ukraine Crisis

The Ukraine crisis is a power struggle between factions within Ukraine. One of the factions wants to align with the European Union and the other with Russia. As one of the founding states of the Soviet Union, Ukraine had been an important contributor to the Soviet Union's economy between 1920–1991. Ukraine had planned to develop Crimea's natural gas reserves in two years in a partnership with U.S. companies. If it had accomplished this, Russia would have lost one of its largest customers.

In March of 2014, the current crisis erupted when Russian special forces occupied Ukraine's Crimean peninsula. Russia claimed it was protecting its port access to the Black Sea. Between 2014–2018, a military conflict between Ukrainian soldiers and Russian-backed separatists continued in eastern Ukraine. More than 10,000 people suffered the consequences of it.

- Crimean Peninsula's History

For hundreds of years, Crimea has been the home of Tatars, a group of Turkic speakers who lived under the Ottoman Empire until Catherine the Great annexed the region. In 1944, Stalin deported about 200,000 Tatars to Siberia and Central Asia, calling the ethnic Muslims traitors to the USSR and bringing in ethnic Russians to replenish the workforce. And after Stalin's death, Soviet premier Nikita Khrushchev transferred Crimea to Ukraine in a move hailed as a “noble act on behalf of the Russian people.” The transfer was praised at the 1954 meeting of the Presidium of the USSR Soviet Supreme, the Soviet Union's highest legislative body.

For most Russians Crimea is a historic part of their country anyway. After Ukraine's independence in 1991 Russia kept control of the Sevastopol

naval base in Crimea, home of the Black Sea Fleet. Russia also agreed with the UK and US, under the 1994 Budapest Memorandum, to respect Ukraine's borders and not threaten it with force, in return for Ukraine transferring its Soviet-era nuclear arms to Russian territory.

- The Importance of the Crimean Peninsula

The importance of Crimea is disputed between Ukraine and Russia. The dispute started after the Autonomous Republic of Crimea and the city of Sevastopol, contrary to Ukrainian law, held a referendum on rejoining Russia and then, when the results showed overwhelming support for the proposal, unilaterally declared their independence from Ukraine as a single united state under the name of *Republic of Crimea*. These two entities (Crimea and Sevastopol) were then annexed by Russia, where the Crimean Autonomous Republic became the "Republic of Crimea" as a Russian republic and Sevastopol became a Russian federal city. However, Ukraine and the majority of the international community do not consider the merger, the independence, the referendum, nor the annexation legitimate and still consider both entities as parts of Ukraine. Despite international opinion however, the currency, tax and legal system are all operational under *de facto* Russian control. Ukraine has applied for multiple litigation through international crime, water resources, European Union and other courts.

- The Conflict

Putin's attack responded to the February 23, 2014, overthrow of his ally Viktor Yanukovich. The pro-West faction of Ukraine's Parliament took over the government.

The crisis occurred because Yanukovych mismanaged the budget and forced Ukraine to ask for financial help. It appealed to the EU, then Russia, causing political unrest. Those who wanted to be closer to the EU objected when that solution was abandoned.

In March 2014, Russian troops took control of Ukraine's Crimean region, before formally annexing the peninsula after Crimeans voted to join the Russian Federation in a disputed local referendum. Russia's military strike supported Yanukovych's return to Kiev and closer ties to Russia.

In April 2014, Russia supported local rebels who took over city halls and police stations throughout eastern Ukraine. Those Russians were moved there by Joseph Stalin, who intended to strengthen the Soviet Republic's hold on the area. Earlier that month, NATO revealed satellite photos showing Russia's invasion of Ukraine's eastern border. An EU emergency meeting added further sanctions on Russia's oil and banking sectors. That occurred shortly after Russia sent a convoy of trucks over the border. They were bearing aid to Ukraine's eastern cities, held by pro-Russian rebels. Several of those trucks entered without approval. Ukraine had also destroyed a convoy of Russian military vehicles that were bringing arms to the rebels. It was the first time that Ukraine attacked Russian forces directly. A few days later, Ukraine reported that several military vehicles were near the Russian border at the Crimean port of Azov. It claimed that Russia was creating a second front for the rebels and wanted land access through southern Ukraine—a shorter route to Crimea. In July 2014, Russia built up its military force on the border. Since 2014, Russia has added an airborne battalion to the naval infantry brigade and doubled the number of troops to 30,000. It was a battle-ready force that could launch an attack into eastern Ukraine at a moment's notice. Russia had already launched rockets across the border in support of Ukrainian rebels.

On July 29, 2014, the United States and the EU extended economic sanctions against Russia. They wanted to convince Putin to stop

supporting those in eastern Ukraine who want to break up the country. The United States had proof that Russia supplied separatists that shot down a Malaysia Airlines commercial jet over eastern Ukraine on July 17.

The sanctions severely limit five major Russian banks' ability to obtain medium and long-term financing from Europe. The United States also restricted technology exports to Russia's deep-water Arctic offshore or shale oil production.⁹ Russia had already been ousted from the Group of Eight.

- Ukraine: From a civil war to a terrorist attack

February 20, 2014: violence that has been simmering for weeks bubbles over when a gunfight erupts between protesters and police in Maidan Square in central Kiev, leaving dozens of people injured. Protesters say government snipers opened fire on them; Yanukovich's government blames opposition leaders for provoking the violence.

March 1, 2014: Russia's parliament signs off on President Vladimir Putin's request to send military forces into Crimea, an autonomous region of southern Ukraine with strong Russian loyalties. Thousands of Russian-speaking troops wearing unmarked uniforms pour into the peninsula. Two weeks later, Russia completes its annexation of Crimea in a referendum that is slammed by Ukraine and most of the world as illegitimate.

On April 15th 2014, Kiev's government launched its first formal military action against the pro-Russian rebels who have seized government buildings in towns and cities across eastern Ukraine. Putin warns that Ukraine is on the "brink of civil war." Less than a month later, separatists in the eastern regions of Donetsk and Luhansk declared independence after unrecognized referendums.

June 27, 2014: Poroshenko signs the EU Association Agreement -- the same deal that former President Yanukovich backed out of in 2013 -- and warns Russia that Ukraine's determination to pursue its European dreams will not be denied.

July 17, 2014: Malaysia Airlines flight MH17, en route from Amsterdam to Kuala Lumpur, was travelling over conflict-hit Ukraine when it disappeared from radar. A total of 298 passengers, including 80 children, and 15 crew members were on board. The plane crashed after being hit by a Russian-made Buk missile over eastern Ukraine, according to a 15-month investigation by the Dutch Safety Board (DSB) in October 2015. In September 2016, an international team of criminal investigators said evidence showed the Buk missile had been brought in from Russian territory and was fired from a field controlled by Russian-backed separatists.

The DSB said a missile exploded just above and to the left of the cockpit, causing the plane to break up in mid-air. It said the crash was caused by the detonation of a Russian-made 9N314M-type warhead carried on the 9M38M1 missile, launched from the eastern part of Ukraine using a Buk missile system.

However, Russian officials and Russian-backed rebels reject accusations of involvement, with the Russian foreign ministry saying the investigation is "biased and politically motivated". The Russian firm that manufactures Buk missiles has insisted that the device was a model no longer used by Russian forces and said its own investigation showed it had been fired from Ukrainian-controlled territory. And in addition Russia also produced radar images which, it argued, showed the missile could not have come from rebel-held areas.

CONCLUSIONS

We would like that our judges, advocates and witnesses make a profound research about the theme, because we think that terrorism is a serious problem that affects a large portion of the world's population nowadays. This particular conflict has one of the most violent cases. Also the economic and political problems that result because of the terrorist attacks have implications worldwide.

As we have experienced, being an advocate or a judge is not an easy task. Advocates need to be full of concrete arguments that will finally lead to convincing the judges to make the most important decision: the verdict, which will be the most convenient for every country involved.

We encourage you to express your ideas in the most respectful way, always aiming to find the best solution.

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