Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 2246 (2018)[1]

The crash of Polish Air Force Tu-154M transporting the Polish State delegation, on 10 April 2010 on the Russian Federation's territory

Parliamentary Assembly

1. On 10 April 2010, a Tupolev Tu-154M aircraft was carrying the Polish State delegation, led by President Lech Kaczyński, from Warsaw to Smolensk, in the Russian Federation, to attend a ceremony marking the 70th anniversary of the Katyń massacre. The plane crashed at Smolensk Severny Airport, killing all 96 persons on board (eight crew members and 88 passengers). The victims included President Lech Kaczyński, his wife Maria and many dignitaries and high-ranking Polish officials, including military chiefs of staff (army, air force and navy) and the president of the National Bank of Poland.

2. The Parliamentary Assembly notes that investigations were commenced immediately after the crash in order to determine the factors that led to this tragic event. Although Poland would have been entitled to lead the investigation, the Polish Government agreed with its Russian counterpart that the air safety investigation into the causes of the crash would be carried out by the Russian Interstate Aviation Committee (as the competent authority in the State where the crash took place), with the participation of Polish experts. Both States agreed that the main technical investigation would be conducted according to the international standards and recommended practices specified in Annex 13 of the Convention on International Civil Aviation (Chicago Convention), which normally apply to civil aviation, despite the fact that the Polish Air Force Tu-154M was registered as a State aircraft and the fateful flight served State purposes.

3. The report of the investigation team of the Russian Interstate Aviation Committee published on 12 January 2011 concluded that "[t]he immediate cause of the accident was the failure of the crew to take a timely decision to proceed to an alternate aerodrome although they were [numerous times] timely informed on the actual weather conditions at Smolensk 'Severny' Airdrome that were significantly lower than the established airdrome minima; descent without visual contact with ground references to an altitude much lower than minimum descent altitude for go-around (100 m) in order to establish visual flight as well as no reaction to the numerous TAWS warnings [Terrain Awareness and Warning System] which led to controlled flight into terrain, aircraft destruction and death of the crew and passengers".

4. The Polish authorities' comments on the draft of the Russian Interstate Aviation Committee report were not taken into account in the final version of the report. The Polish Committee for Investigation of National Aviation Accidents subsequently issued its own report, on 29 July 2011. This report stipulates that "[t]he immediate cause of the accident was the descent below the minimum descent altitude at an excessive rate of descent in weather conditions which prevented visual contact with the ground, as well as a delayed execution of the go-around procedure. Those circumstances led to an impact on a terrain obstacle resulting in separation of a part of the left wing with aileron and consequently to the loss of aircraft control and eventual ground impact".

1. *Assembly debate* on 12 October 2018 (36th Sitting) (see Doc. 14607, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Pieter Omtzigt). *Text adopted by the Assembly* on 12 October 2018 (36th Sitting).

5. While both reports agree on the basic nature of the tragedy as an accident, the Russian report places all responsibility on the aircraft's crew members; the Polish investigators concluded that Russian air traffic control also played a part in the accident by transmitting incorrect information to the crew regarding the aircraft's position, and that deficiencies of Smolensk Airport contributed to the crash. The Polish side has also put into doubt the independence and neutrality of the Russian Interstate Aviation Committee.

6. On 11 April 2018, the Committee for Re-Investigation of the Crash of Tu-154M in Smolensk, Russia, appointed by the Polish Government, published a new preliminary report in which it concluded that the aircraft was "destroyed in the air as a result of several explosions".

7. Now, over eight years after the accident, the Russian Federation still maintains possession of the plane wreckage, the black boxes with original flight data recordings and other evidentiary material. Although copies of flight data recordings and some material evidence have been transmitted to the Polish authorities, Poland has strongly insisted for years that the wreckage and all original materials be returned. In both countries, criminal investigations relating to the crash are still open.

8. The Assembly recalls that under Annex 13 of the Chicago Convention, the State of occurrence is required to return the wreckage and other evidentiary material to the State of registration of the aircraft as soon as the technical air safety investigation is completed, which was the case in January 2011. The continuing refusal of the Russian authorities to return the wreckage and other evidence constitutes an abuse of rights and has fuelled speculation on the Polish side that Russia has something to hide.

9. The Assembly therefore calls on the governments of the Russian Federation and the Republic of Poland to engage in international mediation on how to implement the conclusions in paragraph 10.1, and to report back to the Assembly on the results within twelve months of the adoption of this resolution.

10. Given that the technical air safety investigation by the Russian Interstate Aviation Committee was completed and its final report published in 2011, the Assembly further calls on the Russian Federation to:

10.1. hand over the wreckage of the Polish Air Force Tu-154M to the competent Polish authorities without further delay, in close co-operation with the Polish experts, and in a manner that avoids any further deterioration of potential evidence;

10.2. meanwhile, adequately protect the wreckage in a manner agreed with Polish experts;

10.3. refrain from carrying out any more activities at the site of the crash that could be seen as desecrating this location, which has a powerful emotional significance for many Poles.

11. The Assembly further calls on the law-enforcement authorities of both States to fully co-operate in establishing any possible criminal responsibilities related to the crash, including by swiftly making any evidence available on the request of the other State.

12. Finally, the Assembly solemnly recalls the purpose of the fateful flight: transporting the most senior representatives of the Polish State to a memorial ceremony at Katyń, the site of the massacre of thousands of Polish patriots by Stalin's secret police in the spring of 1940. The Soviet Union had long refused to accept its responsibility for this crime, but it finally recognised the facts in 1990. The process of reconciliation between Poles and Russians, which must continue on the basis of historical truth, should not be put at risk by any abusive or provocative behaviour relating to the tragic events in Smolensk.