



Doc. 15543 – Compendium of written amendments
22/06/2022

(Final version)

Ensuring accountability for the downing of flight MH17

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A. Draft Resolution

1. The Parliamentary Assembly recalls the downing over eastern Ukraine, on 17 July 2014, of Malaysia Airlines flight MH17, which was en route from Amsterdam to Kuala Lumpur. All 298 people on board the plane, among them 198 Dutch nationals died.
2. On 21 July 2014, the United Nations Security Council unanimously adopted Resolution S/RES/2166 (2014) demanding that those responsible be held to account and urging all States to co-operate in establishing accountability.
3. The air safety investigation under Annex 13 of the Convention on International Civil Aviation (Chicago Convention) was delegated to the Dutch Safety Board (OVV). The OVV concluded that the crash of flight MH17 was caused by the detonation of a model 9N314M warhead of a 9M38-series missile fired from a Buk surface-to air missile system.
4. The criminal investigation carried out in parallel with the air safety investigation by a Joint Investigation Team (JIT) composed of investigators from Australia, Belgium, Malaysia, the Netherlands and Ukraine is still ongoing. Its results so far have prompted the Dutch public prosecution service to indict four suspects, three Russians and one Ukrainian, requesting life sentences for all of them. Their trial before the Hague District Court started in March 2020 and is expected to be concluded by the end of 2022. The suspects, who belong to pro-Russian militias, are accused of being responsible for obtaining the missile described by the OVV from the Russian Federation and firing it at flight MH17.
5. Interstate cases lodged by the Netherlands and Ukraine and individual applications by 380 family members of the crash victims against the Russian Federation are pending before the European Court of Human Rights. Ukraine also launched applications pertaining to the downing of flight MH17 before the International Civil Aviation Organisation (ICAO) and the International Court of Justice (ICJ).
6. The Assembly has no doubts that the Dutch criminal courts, the European Court of Human Rights, the ICAO and the ICJ will decide in due course and in total independence on the possible criminal responsibility of the accused and on the possible State responsibility of the Russian Federation under the European Convention on

Amendment 1

(If adopted, amendment 3 falls)

Tabled by Ms Mariia MEZENTSEVA-FEDORENKO, Ms Maryna BARDINA, Mr Serhii KALCHENKO, Ms Yevheniia KRAVCHUK, Ms Lesia VASYLENKO, Ms Larysa BILOZIR

In the draft resolution, paragraph 4, fourth sentence, replace the words "who belong to pro-Russian militias" with the following words:

"Russian agents"

Amendment 3

(Falls if amendment 1 is adopted)

Tabled by Mr Sergiy VLASENKO, Mr Boriss CILEVIČS, Mr Oleksii GONCHARENKO, Ms Inese LĪBIŅA-EGNERE, Mr Davor Ivo STIER

In the draft resolution, paragraph 4, fourth sentence, replace the words "pro-Russian militias" with the following words:

"military units controlled by the Russian Federation".

Human Rights (ETS No. 5) and other international conventions.

7. Based on the evidence made available to the rapporteur by the Ukrainian and Dutch authorities, the Assembly considers as the most convincing scenario by far that flight MH17 was shot down by a Buk missile made available to the pro-Russian militias by the Russian military.

Amendment 2

(If adopted, amendment 4 falls)

Tabled by Ms Mariia MEZENTSEVA-FEDORENKO, Ms Maryna BARDINA, Mr Serhii KALCHENKO, Ms Yevheniia KRAVCHUK, Ms Lesia VASYLENKO, Ms Larysa BILOZIR

In the draft resolution, paragraph 7, replace the words "pro-Russian militias" with the following words:

"Russian agents".

Amendment 4

(Falls if amendment 2 is adopted)

Tabled by Mr Sergiy VLASENKO, Mr Boriss CILEVIČS, Mr Oleksii GONCHARENKO, Ms Inese LĪBIŅA-EGNERE, Mr Davor Ivo STIER

In the draft resolution, paragraph 7, replace the words "pro-Russian militias" with the following words:

"military units controlled by the Russian Federation".

8. The Assembly is appalled by the failure of the Russian authorities to co-operate in good faith with the air safety investigation by the OVV and the criminal investigation by the JIT. Instead of providing reliable information to the competent investigative bodies, the Russian authorities spread disinformation, including successive contradictory versions of the events designed to create confusion. As demonstrated by open-source intelligence published in numerous reports, the Russian authorities even went so far as to submit manipulated radar, satellite and other data in order to obfuscate the truth. In particular, the versions according to which a Ukrainian SU25 or MiG29 fighter jet had shot down flight MH17 have been thoroughly disproved, as has been the version that a Ukrainian Buk missile fired from the government-controlled territory was to be blamed. The Assembly calls on the Russian Federation to provide all satellite and radar data to the OVV and the JIT.

9. Disinformation by the Russian authorities and State-controlled media and the disrespectful treatment of the bodily remains of the crash victims by the pro-Russian separatists who were in control of the crash site have strongly aggravated and prolonged the suffering of the crash victims' relatives and friends. They desperately need to know the truth of what happened to their loved ones, and how and why, and they need a measure of accountability of the perpetrators in order to find closure.

Amendment 5

Tabled by Mr Sergiy VLASENKO, Mr Boriss CILEVIČS, Mr Oleksii GONCHARENKO, Ms Inese LĪBIŅA-EGNERE, Mr Davor Ivo STIER

In the draft resolution, paragraph 9, first sentence, replace the words "pro-Russian separatists" with the following words:

"military units controlled by Russian Federation".

10. The Assembly therefore calls on the Russian Federation to co-operate henceforth in good faith with the JIT by providing it with all the information requested and rectifying the falsified or otherwise misleading data

already provided, and to formally apologise to the crash victims' relatives and friends for the pain and suffering caused by earlier disinformation.

11. It commends the Dutch authorities for their important contribution to the international investigations and for their manifold support for the victims' families and friends, providing them with as much information as possible without endangering the ongoing investigations and making psychological, legal and financial assistance available to them.
12. The Assembly also commends Australia, Belgium, Malaysia and, in particular, Ukraine for their strong support of the international air safety and criminal investigations led by the Netherlands; it thanks the Dutch and Ukrainian authorities for their excellent co-operation with its own inquiry.
13. It calls on the United States of America and the North Atlantic Treaty Organization (NATO) to provide the JIT with any additional radar and satellite imagery, communication intercepts and any other data that may assist the JIT with holding to account all those responsible for the downing of flight MH17, including those who fired the missile in question, those who ordered the firing and those responsible for bringing it to Ukraine.
14. The Assembly encourages all relevant national and international authorities to provide an update of their procedures on overflight of conflict zones, in response to the OVV's recommendations.
15. The Assembly finally expresses its deep-felt condolences to the victims' relatives and friends and its admiration for the constructive and dignified role they and their associations have played in national and international public opinion, pushing for no more than the recognition of the whole truth and a measure of accountability of those responsible for this tragedy. In view of the intense and continuing suffering of the crash victims' next of kin, it invites the European Court of Human Rights to consider granting priority to their applications.