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RUSSIA: Shooting down of MH17 flight: Three life sentences and Russia should be on trial

Shooting down of MH17 flight: Three life sentences and Russia should be on trial

Halya Coynash

KHPG (18.11.2022) – The District Court of the Hague has convicted three of four men on trial over the shooting down of Malaysian airliner MH17 over occupied Donbas on 17 July 2014. The life sentences against two Russian nationals and a

Ukrainian were passed in absentia and will almost certainly not be served. The verdict is, nonetheless, of critical importance as the court accepted that Russia had controlled militants from the so-called 'Donetsk people's republic' ['DPR'] from at least May 2014, and that it had provided the BUK missile launcher used in the murder of 298 civilians, including 40 children. Russia has constantly tried to present the military conflict in Donbas as a 'Ukrainian civil war' and to deny any responsibility for the downing of MH17.

Moscow has, in fact, pushed numerous, often conflicting, narratives about the cause of the MH17 disaster. Since the announcement by the Joint Investigation Team on 19 June 2019 that the men were to be tried in absentia, Russia has especially loudly claimed that it was prevented from taking part in the investigation. The truth is quite different. Back in July 2014, the Russian / Russian-controlled militants actively prevented international investigators from examining the scene of the disaster and Russia later used its power of veto to block a UN investigation. The countries most immediately affected: Australia; Belgium; Malaysia; the Netherlands and Ukraine were essentially left no choice but to form a Joint Investigation Team [JIT] to ensure full investigation and accountability for the crime. The Netherlands team comprised officials from the Dutch Public Prosecution Service and the Dutch Police.

It became clear in June 2019 that four men were to be tried in absentia. The three Russians were all active players in 'DPR', but had recently been officers either of Russia's GRU [military intelligence] or FSB [security service]. **Igor Girkin**, 'DPR military commander', was, until late 2013 a Russian FSB colonel. His deputy, **Sergei Dubinsky**, is a 'former' Russian GRU officer, while **Oleg Pulatov**, Dubinsky's

deputy, is a 'former' GRU spetsnaz officer. The fourth defendant and only Ukrainian national is Leonid Kharchenko, who was in charge of a militant unit and was subordinate to Dubinsky.

The trial began at the District Court of the Hague in March 2020. The only defendant who took any part (in absentia, and via Dutch lawyers) in the trial was Pulatov. One of the reasons why the trial lasted 32 months was, in fact, the applications from Pulatov's defence, such as for 'alternative versions' to be re-investigated.

None of the men was accused of directly firing the missile that downed MH17. In reading out the verdict and sentences, Presiding Judge Hendrik Steenhuis stated that the court was satisfied that the airliner had been shot down by a Russian BUK missile from a field in militant-occupied Ukraine. Girkin, Dubinsky and Kharchenko were all found guilty of having "as functional perpetrator, intentionally and unlawfully, caused an aeroplane (namely flight MH17) to crash, by firing a Buk missile by means of a Buk TELAR". This was despite the danger to the lives of all those on the plane, with the result being that they had killed all 298 people on MH17. The three men were all sentenced to life imprisonment, with the court ordering their arrest and granting 308 claims for compensation of over 16 million euros. The court concluded, however, that the evidence provided against Pulatov had not been sufficient to prove his guilt.

Very many relatives of the MH17 victims had earlier provided testimony to the court, and were present on 17 November for the verdict. A number of them have repeatedly demanded that Russia stop circulating misinformation, and even fake

'evidence' to push alternative reality versions, and that it finally acknowledge responsibility for the crime. Judging by media interviews, at least some of the family members do feel relief over the convictions, although it would be hard to view this as full and adequate accountability.

This is not only because the trial was in absentia. Girkin is reportedly taking part in Russia's invasion of Ukraine and could, in principle, be caught. Ukraine has multiple reasons to put him on trial for war crimes, but would certainly cooperate with the Dutch Prosecutor with respect to his role in MH17. However, neither the Ukrainian Constitution, nor Russian, allow for nationals of the country to be extradited and there is no reason at all to believe that the current regime in Russia would work with international prosecutors. Quite the contrary since the Russians have already resorted to seriously questionable methods to prevent one MH17 witness (or suspect) Volodymyr Tsemakh from working with the investigators.

The primary reason, however, for only partial satisfaction is that the investigation and trial proved conclusively, but without any accountability, that Moscow played a direct role in this heinous crime.

Within minutes of the downing of MH17, Russian state media wildly reported, citing jubilant militants, that the latter had downed a Ukrainian military plane. No military plane was shot down that day, and as it became clear what had, in fact, happened, Russian media began removing the incriminating video footage. An army of Internet trolls were immediately mobilized, with these posting a record-breaking 65 thousand tweets trying to blame Ukraine for the disaster.

For all Russia's efforts to block the truth, the facts did prove to be undeniable, with these backed by geo-located video and photographic evidence; hundreds of intercepted calls; witness testimony, and also 'fingerprint' level identification of parts of the wreckage. In concluding the prosecution's case on 22 December 2021, the Dutch public prosecutor had reiterated that the airliner had been downed by a Buk missile **provided by a unit of the Russian army: the 53rd Anti-Aircraft Missile Brigade from Kursk**. While the prosecutor concentrated on the charges against the defendants, asserting that they had together consciously decided to use an extremely destructive weapon in order to shoot down a plane, it is surely just as damning that such a weapon was provided. The hasty measures then taken to get the BUK missile launcher back to Russia were just as incriminating.

Russia had, after all, claiming that the conflict in Donbas was 'a Ukrainian matter, a civil war', yet it provided the most sophisticated military equipment to militants. It later ignored, and then rejected the court's request to question Sergey Muchkaev, Commander of the 53rd Anti-Aircraft Missile Brigade from Kursk.

Given that the men convicted on 17 November have taken no part in the proceedings so far, it is unlike that the sentences will be appealed. The court's verdict will, hopefully, be taken into account by the International Court of Justice and European Court of Human Rights, both of whom are currently considering claims brought by Ukraine and (in the case of the European Court) the Netherlands over Russia's role in MH17. It should also, one hopes, form part of the investigation by the International Criminal Court at the Hague.

Source: <https://khpq.org/en/1608811398>

*Photo: An armed militant by a part of the wreckage of MH17 –
Photo Maxim Zmeyev, Reuters*

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