

The Hague Effect: Russia to Face Charges of Terrorism in Ukraine

The UN International Court of Justice on Ukraine is unlikely to stop the conflict. But it could force Russia to justify its actions.

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Journalists take images at the World Court in The Hague, the Netherlands. **Peter Dejong / AP**

The United Nations International Court of Justice began hearings for Ukraine's lawsuit against Russia yesterday. This process could further damage Russia's reputation.

The hearings, held March 6–9, concern preliminary measures in which Ukraine (as the plaintiff) requests that the court demand Russia exert greater control over the border to prevent “money, weapons, vehicles, instructors or armed groups” from entering Ukrainian territory.

Ukraine also requests that the court demand Russia stop discriminating against Crimean Tatars and ethnic Ukrainians in Crimea.

The court could issue a ruling on preliminary measures in one or two months. Afterward, the court will decide whether the parties have complied with the requirements on the admissibility of the lawsuit, particularly the requirement concerning preliminary negotiations between the parties.

Georgia's lawsuit against Russia in 2008 was thrown out precisely because of its failure to comply with this condition. This time, however, preliminary negotiations did take place.

Two parts of the lawsuit concern the Terrorism Financing Convention of 1999 and the Convention to Eliminate Discrimination (CERD) of 1965 — documents that both countries have signed.

The lawsuit states that Russia's violation of the first convention resulted in the shooting down of Malaysian Airlines flight MH17, the shelling and the killing of civilians in Mariupol, Kramatorsk, and near Volnovakha, as well as a series of terrorist attacks in Ukrainian cities. Violation of the second convention led to discrimination against the ethnic communities of Crimea.

The main result could be establishing the discrepancy between Russia's actions and international law, and the violation of international agreements to which Russia is a signatory, says Kirill Koroteyev of the Memorial human rights watchdog.

If that happens, Russia will be obligated to correct its violations. Even if a country refuses to comply with a decision of the court — as the U.S. did in a lawsuit against its support for the contras in Nicaragua and Israel did in a lawsuit over its construction of a wall on Palestinian territory — the process weakens its position and is forced to justify its actions.

Russia's defense tactic is obvious. First, Moscow declares that Kiev is engaged in a PR stunt instead of working to resolve differences between the two countries. (The Russian Foreign Ministry said as much in January.)

Second, Moscow maintains its position that it is not a party to the conflict and has no direct way to influence pro-Russian militants in southern and eastern Ukraine.

Russia cannot be forced to execute a decision of the court because it can block the ruling at the UN Security Council. But a long public discussion of the Ukrainian lawsuit in the International Court of Justice might prove a very effective PR campaign in the promotion of Kiev's political interests.

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