

# Australia launches legal action against Russia over MH17 downing

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15 March 2022

In an action clearly designed to ramp up the US-NATO confrontation against Russia, the Australian government announced this week it was joining the Netherlands in initiating legal proceedings against the Russian Federation in the International Civil Aviation Organisation (ICAO) for the downing of Malaysia Airlines Flight MH17 in 2014.

Despite consistent Russian denials of any responsibility for the tragedy and the lack of any supporting evidence, the Liberal-National government, backed by the Labor Party opposition, has maintained since 2018 that Russia is liable under international law for the downing of MH17.

The crash of MH17 over eastern Ukraine on July 17, 2014, resulted in the deaths of 298 people, 38 of whom were Australian residents. The shooting down of the plane occurred at the height of the Ukraine civil war in 2014, triggered by the US- and German-backed coup in Kiev in 2014, which was led by fascist forces and sections of the Ukrainian oligarchy working closely with Washington and Berlin.

The Ukrainian, US, EU and Australian governments, supported by the international corporate media, rushed to blame Russia for the disaster without any evidence being presented. The dubious military incident was exploited as a pretext for provocative accusations and measures against Russia, which have now been taken to a new level in the propaganda barrage over Moscow's invasion of Ukraine.

In a joint media statement, Prime Minister Scott Morrison, Foreign Minister Marise Payne and Attorney-General Michaelia Cash directly linked the timing of the legal proceedings to Russia's "unprovoked and unjustified invasion of Ukraine." They said the Russian "aggression" underscored "the need to continue our enduring efforts to hold Russia to account for its blatant

violation of international law and the UN Charter."

Like the mounting US and NATO confrontation with Russia over Ukraine, the MH17 allegations cannot be understood outside the 2014 coup, which overthrew the previous elected Ukraine government, and the relentless expansion of NATO toward Russia's borders since the dissolution of the Soviet Union in 1991. Washington deliberately goaded Moscow into a disastrous invasion calculating that it would bog Russia down in a debilitating war inside Ukraine.

Morrison and his ministers asserted that Australia and the Netherlands had "overwhelming evidence" that MH17 was shot down by a "Russian Buk-TELAR surface-to-air missile system" in an area "under the control of Russian-backed separatists." They declared that "the missile could only have been fired by the trained Russian crew of the Buk-TELAR, or at least by someone acting under their instruction, direction or control."

On the basis of these unclear and disputed allegations, the Morrison government declared its intent to hit Russia with a legal case that would add to the escalating economic and diplomatic sanctions being imposed on Russia by the US and its allies.

"At the international level we are asking ICAO to suspend Russia's voting rights," Attorney-General Cash told Sky News. "ICAO is responsible for civil aviation standards and Russia will be voiceless on the international stage if the ICAO does this."

Labor leader Anthony Albanese immediately said the opposition would back the legal proceedings, continuing its bipartisan line-up behind the US-led war drive against Russia. "The illegal and immoral invasion of Ukraine has shown us the contempt Russia holds for international law," he declared. "It must be held to account for its shameful actions."

Media outlets rushed to uncritically hail the announcement. An *Australian* editorial said it was “a vital and overdue step,” supposedly to obtain “a measure of justice” for the families of the victims.

In reality, the legal proceedings are spurious on many levels. In the first place, according to aviation law experts, the ICAO is a UN-affiliated body responsible for setting standards for international aviation and is very rarely asked to settle disputes between nations.

The ICAO can order Russia to return to negotiations over the MH17 disaster, which Moscow allegedly withdrew from in October 2020, but it has no enforcement powers, except to suspend Russia’s voting rights in the ICAO Council and ICAO Assembly.

Secondly, the ICAO litigation prejudices, and potentially prejudices, the increasingly troubled Dutch national prosecution of four suspects for their alleged individual criminal responsibility in the downing of Flight MH17.

On March 7, Dutch lawyers representing one of the accused men told the Dutch court no witnesses existed who could implicate their client in the incident. “Not a single witness can testify to our client’s role, position or alleged involvement in the charges,” Boudewijn van Eijck told the judges.

“Nonetheless, the public prosecution thought that even with so little evidence of his involvement he had to be prosecuted and they demanded the highest penalty against him,” Van Eijck said.

Four suspects on trial in a case being conducted despite their absence are: Russian nationals Igor Girkin, Sergei Dubinsky and Oleg Pulatov, and Ukrainian citizen Leonid Kharchenko. Each is alleged to have some involvement in the Donbas breakaway provinces of Donetsk and Luhansk.

Prosecutors called for life sentences against the four men when they closed their case late last year. The defence opened for Pulatov on March 7, the only accused man with legal representation.

Thirdly, the “overwhelming evidence” cited by the Australian government, like the prosecution of the four men, is based on a report by the Joint Investigation Team (JIT) set up in 2014 to investigate the crash.

The JIT was never an independent body. It included representatives of the Dutch, Belgian, Malaysian and Ukrainian government and secret services. The Russian government was barred from participating in the

inquiry.

In almost five years of this “investigation,” no proof of Russian state involvement was presented, and significant evidence pointing to potential Ukrainian involvement was deliberately suppressed.

A 2016 investigative report by journalist Robert Parry pointed to numerous gaps and contradictions in the JIT’s “finding” that a Russian missile system was brought by the Russian army to the Donbas separatists.

One key piece of “evidence” was barely audible phone conversations, allegedly tapped from Russian military sources, suggesting that the missile system was deliberately delivered to the separatists. However, these phone conversations did not explicitly refer to the missile system, nor to transport across the Russian-Ukrainian border.

Not only Russian but also US and Dutch intelligence found evidence suggesting Ukrainian involvement, but that fact has always been omitted from the media coverage. In October 2015, for example, the Dutch intelligence service MIVD determined that the only high-powered anti-aircraft missile systems in eastern Ukraine that could have shot down the MH-17 at 33,000 feet belonged to the Ukrainian military.

The JIT operated under an agreement allowing the Ukrainian government to veto the release of information—a glaring conflict of interest. The Ukrainian secret service (SBU), which was heavily involved in the imperialist-backed 2014 coup and subsequent operation of far-right forces in the civil war, was Ukraine’s official representative on the JIT, heavily influencing its activities.

The Dutch-Australian ICAO case, undoubtedly launched in close consultation with the Biden administration, further demonstrates the lengths to which the US and its allies are prepared to go in their reckless campaign against Russia, which could trigger a nuclear war.



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