

Corrigé
Corrected

CR 2017/2

International Court
of Justice

THE HAGUE

Cour internationale
de Justice

LA HAYE

YEAR 2017

Public sitting

held on Tuesday 7 March 2017, at 10 a.m., at the Peace Palace,

President Abraham presiding,

*in the case concerning Application of the International Convention for the Suppression
of the Financing of Terrorism and of the International Convention
on the Elimination of All Forms of Racial Discrimination
(Ukraine v. Russian Federation)*

VERBATIM RECORD

ANNÉE 2017

Audience publique

tenue le mardi 7 mars 2017, à 10 heures, au Palais de la Paix,

sous la présidence de M. Abraham, président,

*dans l'affaire relative à l'Application de la convention internationale pour la répression
du financement du terrorisme et de la convention internationale sur l'élimination
de toutes les formes de discrimination raciale
(Ukraine c. Fédération de Russie)*

COMPTE RENDU

16. In April 2014, the Acting President launched the so-called “Anti-Terrorist Operation” (ATO) in Donbass. That led to the tragic civil war in the east of Ukraine. In addition to Ukraine’s regular armed forces, the ATO involves the use of irregular “volunteer battalions” whose atrocities feature constantly in the reports of international organizations concerned, including the Office of the United Nations High Commissioner for Human Rights (OHCHR)¹⁰.

17. Mr. President, Members of the Court, a brief word on Crimea. Ukraine has elected to devote an important part of its Application to the issue of sovereignty over Crimea. We disagree with what it has said and see it as inapposite given the confines of its case.

18. After being a part of Russia for 170 years, Crimea was transferred to Ukraine in 1954, when both Russia and Ukraine were part of the USSR. The people of Crimea were not consulted. When Ukraine proclaimed independence in 1991, the people of Crimea were not consulted, again. In 1995, Ukraine purported to abrogate the Crimean Constitution and the post of the President of Crimea, again without the consent of the Crimean people.

19. The horrific images of the so-called “peaceful protest” in the governmental quarters of Kiev, violence that escalated throughout Ukraine in the aftermath of the coup d’état, had a massive impact among Crimeans, leading to a general fear of an armed assault. Right-wing radicals were threatening to come to Crimea. Against this background and taking into account that the great majority of Crimeans wished to be part of Russia again, a referendum on the future of Crimea became the obvious choice for them.

20. Mr. President, I move back to the specific matters before you. The Russian Federation complies fully with its obligations under both treaties that are now relied upon by Ukraine. That does not mean, however, that, as was suggested by Ukraine yesterday, we should somehow accept the prescription of provisional measures. We see neither legal nor factual basis for such measures, which, in the case of ICSFT, would moreover cut across implementation of the Minsk Agreements, of which you heard nothing yesterday, but to which our counsel will return. Russia endorses the Minsk package of measures, as does the United Nations Security Council, and if Ukraine truly seeks peace, it must work towards the full implementation of that package of measures.

¹⁰See e.g., OHCHR, “Report on the situation of human rights in Ukraine”, UN doc. A/HRC/2775, 19 Sep. 2014, para. 23. OHCHR, “Report on the situation of human rights in Ukraine 16 Feb. 2016-15 May 2016”, paras. 50, 56, and 150, tab 8 of the judges’ folder.