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European Court of Human Rights: Russia responsible for the downing of flight MH17

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On 9 July, the European Court of Human Rights (ECHR) found Russia responsible for the downing of the Malaysian passenger aircraft MH17 in 2014, as well as for numerous violations of the European Convention on Human Rights in territories of Ukraine occupied since 2014. Initially, these were separate cases brought by Ukraine and the Netherlands, but the court decided to merge them into a single case. The ECHR identified a systemic nature to the violations, which included attacks on non-military targets, mass executions (of both Ukrainian soldiers and civilians), torture, the use of rape as a weapon of war, inhuman treatment, forced labour, unlawful detentions and deportations. The court also condemned Russia's operation of filtration camps in the occupied territories. The court attributed all violations from 11 May 2014 – the date of the so-called independence referendums in Donetsk and Luhansk regions, which the ECHR recognised as the beginning of armed conflict – to Russia, as the state exercising effective control over parts of Ukrainian territory.

Russia was ordered to release all unlawfully imprisoned individuals, identify the children deported from Ukraine and return them to their parents or legal guardians. However, the court refrained from awarding compensation, noting that this matter would be addressed by the Register of Damage operating under the Council of Europe.

In response to the ruling, Kremlin spokesman Dmitry Peskov described it as 'pathetic' and stated that Russia would not comply with it.

Until now, the ECHR had refrained from ruling on human rights violations occurring during wartime. The content of the judgement reflects the effectiveness of Kyiv's efforts across various international platforms, and how these efforts complement one another. It also paves the way for the consideration of around 9,500 individual complaints against Russia that have been submitted to the court. However, the practical enforcement of this and other rulings against Russia remains severely limited.

Commentary

- **The ruling is considered a landmark decision.** In its 2021 judgement in the case of Georgia v Russia, the ECHR concluded that, due to the chaos prevailing during active military operations, it was impossible to determine who exercised effective control over specific territories and, therefore, who bore responsibility for human rights violations. However, in its ruling of 9 July 2025, the court stated that, because Russia had undertaken actions to seize Ukrainian territories, it is accountable for the harm suffered

by the residents of those areas. The court further ruled that the forces of the so-called Donetsk and Luhansk People's Republics were so closely connected to Russia – through military, economic, and political support – that they could effectively be regarded as government bodies of the Russian Federation. This means that Moscow is held responsible for crimes committed by the so-called separatist forces.

- **The ruling paves the way for the ECHR to consider further cases.** Since 2014, the court has received 9,500 individual complaints as well as four inter-state cases submitted by Ukraine. Had the court ruled differently, it would have been unable to address most of these cases, due to its previously stated position of not adjudicating human rights violations committed during wartime. The recent judgement, however, enables proceedings in which further instances of crimes and human rights violations committed by Russia are likely to be revealed.
- **In line with its established policy, Russia has rejected the ruling and refused to comply with it**, having ceased to recognise the jurisdiction of the court since June 2022. Nevertheless, ECHR judgements will provide a basis for Ukraine and private entities to seek compensation, which Kyiv may use as an additional argument for the confiscation of frozen Russian assets. However, the likelihood of this being implemented remains low due to concerns among key Western states about the legal and financial consequences of such a step. There is also the possibility of seizing the foreign assets of Russian state-owned companies as compensation, based on decisions by national courts. This has already occurred in Norway, where in April 2025 properties belonging to the company Arktikugol on the Svalbard archipelago were seized. Such actions, however, remain rare, as many states fear reciprocal measures by Moscow against their entities holding assets in Russia.

- **The content of the ruling demonstrates the effectiveness and complementarity of Kyiv's efforts on the legal front.** The court drew on materials collected by the so-called JIT – the international investigative team established in 2022 to coordinate the prosecution of crimes related to Russia's invasion of Ukraine. The ECHR left the issue of compensation to the Register of Damage, created for this purpose. This body has operated under the Council of Europe since 2023. Its mandate includes gathering evidence and information on claims concerning damage, losses, or harm caused by Russia's invasion of Ukraine. Both the JIT and the Register of Damage were established during the ongoing full-scale conflict.