Implications of ECtHR Landmark Judgment in Ukraine / the Netherlands v. Russia

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News

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On 18 September 2026, Eurojust published a report examining the main findings and implications of the landmark judgment handed down by the Grand Chamber of the European Court of Human Rights (ECtHR) on 9 July 2025 in the inter-State case *Ukraine and the Netherlands v. Russia* (applications nos. 8019/16, 43800/14, 28525/20 and 11055/22).

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Preprint eucrim 2026, Vol. 21(2)
ISSN: 1862-6947
https://eucrim.eu

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The case originated from four inter-State applications. The first two were brought by Ukraine in 2014 and concerned alleged systematic human rights violations by Russia in connection with the conflict in eastern Ukraine involving pro-Russian separatists since spring 2014. The third application, submitted by the Netherlands in 2020, dealt with the downing of Malaysia Airlines flight 17 over eastern Ukraine on 17 July 2014. The fourth application, lodged by Ukraine in 2022, concerned alleged patterns of human rights violations committed by Russia in the course of its military operations in Ukraine since 24 February 2022.

In its judgment, the ECtHR unanimously established more than 20 violations of the European Convention on Human Rights (ECHR), an unprecedented finding. The judgment also opens the way for the examination of more than 9500 individual applications pending before the Court in connection with the conflict in Ukraine since 2014, as well as four applications brought against Russia by more than 500 relatives of the victims of Malaysia Airlines flight 17. The findings may provide guidance for other international institutions, including the International Criminal Court (ICC).

The respective Eurojust report concentrates on four aspects of particular relevance to Eurojust's mandate: (1) the assessment of evidence; (2) the interplay between the Convention and international humanitarian law; (3) Russia's investigation into the downing of Malaysia Airlines flight 17 and its cooperation with the Joint Investigation Team (JIT); and (4) the suffering inflicted on the victims' relatives through the conduct of the Russian authorities. It also deals with Russia's participation in the proceedings, the binding effect and implementation of the judgment, and the consequences for Eurojust's work. The following summarises the key findings from the Eurojust report and the main takeaways.

Russia's participation in the proceedings

Despite Russia's withdrawal from the ECHR on 16 September 2022, the Court confirmed that, pursuant to Art. 58, Russia remained accountable for alleged violations committed before that date. Russia had discontinued all correspondence with the Court in March 2022 and subsequently took no part in the proceedings on the merits of the first three applications or in the admissibility and merits proceedings concerning the fourth ap-

plication. The Court nonetheless proceeded with its examination, given that Russia had not provided sufficient reasons for its absence and that continuing the proceedings was in line with the proper administration of justice.

Assessment of evidence

The ECtHR elaborated on its assessment of different types of evidence, notably material originating from publicly available sources, international bodies, non-governmental organisations, research collectives and the media. It made clear that the weight attributed to such material depends on its origin, credibility, and the thoroughness of the procedures used to collect and verify it.

- Burden of proof and drawing of inferences: The Court deemed that Russia had not cooperated constructively in the proceedings, having submitted superficial and evasive replies and having failed to disclose relevant information. It consequently drew conclusions from this conduct that were unfavourable for Russia.
- Evidence from the Dutch public prosecution office and JIT: The Court dismissed Russia's claims that the investigation had been based on fabricated or manipulated evidence. It established that the JIT had carried out its own collection, examination, and verification of the material in compliance with the highest applicable legal and evidentiary standards. The Court thus regarded the evidence as authentic and reliable.
- Reports by international bodies: The Court rejected Russia's general objections to these reports and regarded their factual findings as carrying considerable weight, particularly as they relied mainly on identifiable and credible primary sources. At the same time, it stressed that it would make its own assessment rather than simply follow the conclusions of the bodies concerned.
- Reports by non-governmental organisations and research collectives: The Court found reports from organisations such as Bellingcat and InformNapalm to be credible and serious. Of particular relevance was the fact that the JIT had independently verified the material and that its findings corresponded with those of the research collectives. The Court pointed out that the principal evidentiary value of these reports rested on their factual accounts, not on the conclusions drawn by their authors.
- Media reports: According to the Court, media articles cannot, as such, serve as proof but may taken into consideration when assessing whether other evidence is supported or contradicted. Investigative journalism based on adequately documented first-hand research can be of particular relevance. The Court nevertheless retains responsibility for drawing its own conclusions from the facts reported.

Relationship between the ECHR and International Humanitarian Law

The ECtHR was called upon to clarify how the ECHR applies in armed conflicts, especially where no derogation under Art. 15 ECHR has been made. It confirmed that the ECHR should be construed consistently with international humanitarian law as far as possible. In international armed conflicts, the latter does not take precedence over Convention guarantees but assists in interpreting their scope.

The downing of Malaysia Airlines flight 17

The ECtHR established that the missile had been deliberately launched at the aircraft, most probably under the mistaken assumption that it was a military plane. Since the target had not been properly verified, the principles of distinction and precautions under international humanitarian law were breached. The attack was therefore indiscriminate and could not be regarded as a lawful act of war. The Court found a violation of Art. 2 ECHR, both on account of the intentional use of lethal force and Russia's failure to adopt preventive measures to protect the lives of those on board.

The Court found that the Russian authorities' lack of cooperation had substantially impeded the JIT's efforts to complete its investigation into the involvement of Russian armed forces and senior Russian politicians in the downing of Malaysia Airlines flight 17. It concluded that Russia's failure to carry out an effective investigation and to cooperate with the JIT amounted to a breach of the procedural obligations arising from Art. 2 ECHR.

Suffering of the victims' relatives

The Court held that the prolonged and profound suffering endured by the relatives of those killed in the downing of Malaysia Airlines flight 17 had attained a level of severity constituting inhuman treatment within the meaning of Art. 3 ECHR.

Binding force and implementation of the judgment

The judgment is final and was referred to the Committee of Ministers of the Council of Europe, which is responsible for supervising its execution under Arts. 44(1) and 46(2) ECHR. Although Russia's membership in the Council of Europe ended and it ceased to be a party to the ECHR, its obligations under the ECHR remain in force, including the duty to comply with the Court's judgments.

Hence, the Committee of Ministers considered the case in December 2025 and in June 2026. It condemned the fact that Russia had discontinued all communication concerning the execution of the Court's judgments and called on the Russian authorities to take the necessary general and individual measures to address the violations. As regards Malaysia Airlines flight 17, the Committee emphasised the need for Russia to issue a public apology acknowledging responsibility for the deaths of all 298 persons on board, including children. Such an apology was identified by the victims' relatives as one possible form of redress.

The Committee further reiterated Russia's continuing duty to cooperate effectively with the JIT, give a comprehensive and genuine account of its involvement in the downing of the aircraft, and disclose evidence capable of clarifying outstanding questions. It also highlighted the role of international cooperation in securing execution of the judgment.

Implications for Eurojust

The judgment is relevant to several areas of Eurojust's activities. The ECtHR's findings on evidence provided by international observers, non-governmental organisations, and the media are particularly significant for the collection, evaluation, and preservation of evidence by the International Centre for the Prosecution of the Crime of Aggression (→eucrim 2/2023, 116). Moreover, the Court's interpretation of the ECHR in conjunction with international humanitarian law highlights the importance of expertise in both fields when coordinating investigations into international crimes.

The judgment also confirms the obligation of States to cooperate effectively in cross-border investigations and thereby support Eurojust's role in facilitating judicial cooperation. With regard to Malaysia Airlines flight 17, the Court established that Russia's deliberate obstruction of the investigations had significantly hampered the JIT's work. Lastly, the findings underline the importance of taking victims' interests seriously, particularly by ensuring timely and truthful communication with their relatives.

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The project is co-financed by the Union Anti-Fraud Programme (UAFP), managed by the European Anti-Fraud Office (OLAF).



Co-funded by
the European Union