

National Public Prosecutor's Office
P.O. Box 395 3000 AJ Rotterdam

SUMMONS OF A DEFENDANT

[...]

[...]

Rotterdam, 2 October 2019,
the public prosecutor,

The abovementioned summoned person is charged with the following:

1. (Downing of an aircraft)

Primarily (functional (co)perpetration)

That he, on or around 17 July 2014 in Ukraine (in the Donetsk Oblast),
together and in association with one or more others, or alone,
as functional (co)perpetrator,
deliberately and unlawfully downed an aircraft (i.e. Flight MH17),
by firing a BUK missile with a BUK TELAR (near Pervomaiskyi),
while danger to the life of the passengers of that aircraft (of whom the
298 names are included in the appendix to this indictment) was to be
feared,

which resulted in the death of those passengers;

(Articles 168 and 47 of the Dutch Criminal Code)

Alternatively (co-perpetration)

That he, on or around 17 July 2014 in Ukraine (in the Donetsk Oblast),
together and in association with one or more others,
deliberately and unlawfully downed an aircraft (i.e. Flight MH17),
by firing a BUK missile with a BUK TELAR (near Pervomaiskyi),

while danger to the life of the passengers of that aircraft (of whom the 298 names are included in the appendix to this indictment) was to be feared,

which resulted in the death of those passengers;

(Articles 168 and 47 of the Dutch Criminal Code)

More alternatively (co-perpetration of instigation)

That one or more others, on or around 17 July 2014 in Ukraine (in the Donetsk Oblast),

together and in association, or alone,

deliberately and unlawfully downed an aircraft (i.e. Flight MH17),

by firing a BUK missile with a BUK TELAR (near Pervomaiskyi),

while danger to the life of the passengers of that aircraft (of whom the 298 names are included in the appendix to this indictment) was to be feared,

which resulted in the death of those passengers;

being an offence which was intentionally instigated by the defendant, together and in association with one or more others, at least alone,

in or around the period from 8 June 2014 up to and including 17 July 2014, in Ukraine (and the Russian Federation),

by abuse of authority and/or the provision of opportunity, means and/or information,

by (using their/his authoritative position):

- requesting and/or ordering (or letting another request and/or order) the provision of a (Russian) air defence system (with crew),
 - announcing (or letting another announce) the need for air defence for the armed struggle of the so called Donetsk People's Republic (around Stepanivka and Marynivka) to the commander(s) and/or crew of that BUK TELAR,
 - announcing (or letting another announce) a suitable (firing) location to the crew and/or supervisor(s) and/or transporter(s) of that BUK TELAR,
 - providing (or letting another provide) the crew and/or supervisor(s) and/or transporter(s) of that BUK TELAR with a telephone with a Ukrainian telephone number in order to be able to communicate effectively with other persons involved,
 - transporting and/or escorting (or letting another transport and/or escort) that BUK TELAR and/or the crew of that vehicle (for part of the trajectory) to the firing location near the city of Pervomaiskyi,
- and/or
- guarding and/or hiding (or letting another guard and/or hide) that BUK TELAR;

(Articles 168 and 47 of the Dutch Criminal Code)

Most alternatively (complicity)

That one or more others, on or around 17 July 2014 in Ukraine (in the Donetsk Oblast),

together and in association, at least alone,

deliberately and unlawfully downed an aircraft (i.e. Flight MH17),

by firing a BUK missile with a BUK TELAR (near Pervomaiskyi),

while danger to the life of the passengers of that aircraft (of whom the 298 names are included in the appendix to this indictment) was to be feared,

which resulted in the death of those passengers,

while the defendant, for the purpose of and/or during the commission of that offence,

together and in association with one or more others, or alone,

in or around the period from 8 June 2014 up to and including 17 July 2014, in Ukraine (in the Donetsk Oblast),

intentionally provided the opportunity and/or means and/or information and/or intentionally aided and abetted

by:

- announcing (or letting another announce) the need for air defence for the armed struggle of the so called Donetsk People's Republic (around Stepanivka and Marynivka) to the commander(s) and/or crew of that BUK TELAR,
- announcing (or letting another announce) a suitable (firing) location to the crew and/or supervisor(s) and/or transporter(s) of that BUK TELAR,
- providing (or letting another provide) the crew and/or supervisor(s) and/or transporter(s) of that BUK TELAR with a telephone with a Ukrainian telephone number in order to be able to communicate effectively with other persons involved,
- transporting and/or escorting (or letting another transport and/or escort) that BUK TELAR and/or the crew of that vehicle (for part of the trajectory) to the firing location near the city of Pervomaiskyi,
and/or
- guarding and/or hiding (or letting another guard and/or hide) that BUK TELAR;

(Articles 168, 47 and 48 of the Dutch Criminal Code)

2. (Murder/manslaughter)

Primarily (functional (co-)perpetration)

That he, on or around 17 July 2014, in Ukraine (in the Donetsk Oblast) together and in association with one or more others, at least alone, as a functional (co-)perpetrator intentionally (and with premeditation)

took the lives of the passengers of an aircraft (i.e. Flight MH17) (of whom the 298 names are included in the appendix to this indictment)

by firing a BUK missile at that aircraft with a BUK TELAR (near Pervomaiskyi)

as a result of which that aircraft crashed and those passengers died;

(Articles 289, 287 and 47 of the Dutch Criminal Code)

Alternatively (co-perpetration)

That he, on or around 17 July 2014, in Ukraine (in the Donetsk Oblast) together and in association with one or more others, intentionally (and with premeditation)

took the lives of the passengers of an aircraft (i.e. Flight MH17) (of whom the 298 names are included in the appendix to this indictment)

by firing a BUK missile at that aircraft with a BUK TELAR (near Pervomaiskyi)

as a result of which that aircraft crashed and those passengers died;

(Articles 289, 287 and 47 of the Dutch Criminal Code)

More alternatively (co-perpetration of instigation)

That one or more others, on or around 17 July 2014, in Ukraine (in the Donetsk Oblast)

together and in association, or alone,

intentionally (and with premeditation)

took the lives of the passengers of an aircraft (i.e. Flight MH17) (of whom the 298 names are included in the appendix to this indictment)

by firing a BUK missile at that aircraft with a BUK TELAR (near Pervomaiskyi)

as a result of which that aircraft crashed and those passengers died;

which offence was intentionally instigated by the defendant, together and in association with one or more others, at least alone,

in or around the period from 8 June 2014 up to and including 17 July 2014, in Ukraine (and the Russian Federation),

by abuse of authority and/or the provision of the opportunity, means and/or information,

by (using their/his authoritative position):

- requesting and/or ordering (or letting another request and/or order) the provision of a (Russian) air defence system (with crew),
- announcing (or letting another announce) the need for air defence for the armed struggle of the so called Donetsk People's Republic (around Stepanivka and Marynivka) to the commander(s) and/or crew of that BUK TELAR,
- announcing (or letting another announce) a suitable (firing) location to the crew and/or supervisor(s) and/or transporter(s) of that BUK TELAR,
- providing (or letting another provide) the crew and/or supervisor(s) and/or transporter(s) of that BUK TELAR with a telephone with a Ukrainian telephone number in order to be able to communicate effectively with other persons involved,
- transporting and/or escorting (or letting another transport and/or escort) that BUK TELAR and/or the crew of that vehicle (for part of the trajectory) to the firing location near the city of Pervomaiskyi, and/or
- guarding and/or hiding (or letting another guard and/or hide) that BUK TELAR;

(Articles 289, 287 and 47 of the Dutch Criminal Code)

Most alternatively (co-perpetration of complicity)

That one or more others, on or around 17 July 2014 in Ukraine (in the Donetsk Oblast),

together and in association, at least alone,

intentionally (and y with premeditation)

took the lives of the passengers of an aircraft (i.e. flight MH17) (of whom the 298 names are included in the appendix to this indictment)

by firing a BUK missile at that aircraft with a BUK TELAR (near Pervomaiskyi)

as a result of which that aircraft crashed and those passengers died,

while the defendant, for the purpose of and/or during the commission of that offence,

together and in association with one or more others, at least alone,

in or around the period from 8 June 2014 up to and including 17 July 2014, in Ukraine (in the Donetsk Oblast),

intentionally provided the opportunity and/or means and/or information and/or intentionally aided and abetted

by:

- announcing (or letting another announce) the need for air defence for the armed struggle of the so called Donetsk People's Republic (around Stepanivka and Marynivka) to the commander(s) and/or crew of that BUK TELAR,
- announcing (or letting another announce) a suitable (firing) location to the crew and/or supervisor(s) and/or transporter(s) of that BUK TELAR,
- providing (or letting another provide) the crew and/or supervisor(s) and/or transporter(s) of that BUK TELAR with a telephone with a Ukrainian telephone number in order to be able to communicate effectively with other persons involved,
- transporting and/or escorting (or letting another transport and/or escort) that BUK TELAR and/or the crew of that vehicle (for part of the trajectory) to the firing location near the city of Pervomaiskyi, and/or
- guarding and/or hiding (or letting another guard and/or hide) that BUK TELAR;

(Articles 289, 287, 47 and 48 of the Dutch Criminal Code)

Explanation of the Legal Proceedings

1. Attendance at the hearing

You have the right to be present at the hearing of your case, but you are not obliged to appear. If the court finds it necessary for you to be present at the hearing, it may oblige you to do so. If you fail to appear, the court may ultimately have you forcibly collected by the police (Article 278 of the Code of Criminal Procedure).

If you do not appear, you can be defended by a Dutch lawyer during the trial (Article 279 of the Code of Criminal Procedure). A verbal authorisation is sufficient. If your authorised attorney appears at the hearing and you do not, it will be assumed that you were present in person during the further hearing of the case. If you do not appear and do not have yourself represented by a lawyer during the hearing, the court can also hear your case without you being present (Article 280 of the Code of Criminal Procedure).

If you want to be present at the hearing of your case, but are unable to appear for any reason, you can contact the public prosecutor via the channels listed below (under 13).

2. Representation by a lawyer

You have the right to be represented by a Dutch lawyer. If you do not have a lawyer yet, you can request the Legal Aid Board for the assignment of a lawyer. For this purpose you can contact the *Juridisch Loket* (Legal Counter) at telephone number + 31-900-8020. If you are detained, a lawyer will be assigned to you.

If you need practical support in obtaining legal aid, you can contact the public prosecutor via the channels listed below (under 13).

3. Interpreter

Translation by an interpreter in your own language will be provided for the hearing of your case.

4. Objection

If you wish to submit a notice of objection against the writ of summons, you must do so within eight days after the service of this writ of summons and prior to the start of the hearing (Article 262 of the Code of Criminal Procedure) at the court registry. In your notice of objection you must state why you do not agree with this summons.

5. Request for postponement of the hearing

You can ask the court to postpone the hearing of your case because, for example, you cannot adequately prepare yourself or because it is impossible for you to be present at the date and time stated in the summons. You must request the postponement of the hearing of your case as soon as possible after you have received the summons. You are required to do this in writing and state why you want the postponement. Send your request to the court registry. The court is not obliged to postpone the hearing.

6. Subsequent hearing dates

The public prosecutor will ask the court to hear your criminal case during different session days. If you cannot attend on the first day mentioned in the summons, you are requested to provide your contact details (email address and postal address) to the public prosecutor via the channels listed below (under 13). That way, the public prosecutor can inform you of the following hearing dates. These hearing dates will also be announced on the website www.jitmh17.com.

7. Taking note of the procedural documents

You have the right to take note of the procedural documents or request copies thereof (Articles 30 and 32 of the Code of Criminal Procedure). You can address your request to the public prosecutor via the channels listed below (under 13).

8. Witnesses and experts

The public prosecutor may call witnesses and experts to appear at the hearing. You have the right to bring witnesses and experts to the hearing yourself. It is appreciated that you inform the public prosecutor about this in advance. The costs related to this will be at your own expense. You may also request the public prosecutor to call witnesses and experts. You need to do this in a letter to the public prosecutor, at least 10 days prior to the date of the hearing. In case the writ of summons is served later than 14 days before the hearing, you will have to request the public prosecutor to call up witnesses and experts within 4 days after the service, but at the latest 3 days before the hearing. You need to describe these witnesses and/or experts by mentioning their name, profession and address. The public prosecutor is not obliged to call up any witnesses and experts requested by you. If you do not agree with the decision of the public prosecutor, you may mention this to the court during the hearing (Article 263 Code of Criminal Procedure).

9. Persons entitled to speak and injured parties

In your criminal case, the next of kin of the victims mentioned in the indictment are allowed to use their right to speak. They can also join as an injured party and submit a claim for compensation. The next of kin who wish to make use of these rights will be called to attend the hearing.

10. The judgment

If this writ of summons was delivered to you in person, or if you or your authorised lawyer were present at the hearing or a subsequent session, the judgment is irrevocable after 14 days. This will also apply when a situation has arisen by which you knew on beforehand what the date of the hearing or subsequent session would be (Article 408 Code of Criminal Procedure).

11. Options for appeal

If you disagree with the court's decision, you can lodge an appeal within fourteen days (Article 404 of the Code of Criminal Procedure).

You can do so:

- by going to the court registry yourself and filling in a form that you sign yourself; or
- by authorising your lawyer orally or in writing;
- by authorising a representative in writing;
- by sending a letter to the court registrar. Please note: that letter must clearly state that you authorise the registrar to lodge an appeal on your behalf and that you authorise the registrar to accept the summons for the hearing on appeal on your behalf. The registrar will then send the summons to the address specified by you.

12. Registration of personal details

Your personal details will be included in a computerised system.

13. Contact

If you have questions about your criminal case, you can contact the public prosecutor via:

- postal address of the National Public Prosecutor's Office, P.O. Box 395, 3000 AJ Rotterdam;
- website www.jitmh17.com;
- email address contact@jitmh17.com;
- telephone number +31 88 662 4600;
- WhatsApp +31 6 8355 9290.

Via these channels you can contact us regarding:

- your wish to be present at the hearing of your case;
- obtaining legal representation by a Dutch lawyer;
- the possibility to make a statement prior to the hearing, so that it can be included in the assessment of your case;
- and all your other questions.

The court registry can be reached at the following postal address: P.O. Box 20302, 2500 EH The Hague.