

Syria, Press conference with French President Francois Hollande and Russian President Vladimir Putin

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N.B. As per the disclaimer, neither the ICRC nor the authors can be identified with the opinions expressed in the Cases and Documents. Some cases even come to solutions that clearly violate IHL. They are nevertheless worthy of discussion, if only to raise a challenge to display more humanity in armed conflicts. **Similarly, in some of the texts used in the case studies, the facts may not always be proven;** nevertheless, they have been selected because they highlight interesting IHL issues and are thus published for didactic purposes.

[Source: "Press statements and answers to journalists' questions following meeting with President of France Francois Hollande", published by The Kremlin, Moscow, 26 November 2015, available at: <http://en.kremlin.ru/events/president/transcripts/50792>]

[1] President of Russia Vladimir Putin: Ladies and gentlemen, good evening.

[...]

[2] The barbaric attack on Russia's airplane over the Sinai Peninsula, the horrible events in Paris and the terrorist attacks in Lebanon, Nigeria and Mali have left many people dead, including hundreds of Russian and French citizens. This is our common tragedy and we stand united in our commitment to find the perpetrators and bring them to justice.

[3] We have already intensified the Russian Armed Forces operation against terrorists in Syria. Our military actions are effective; militants from the so-called Islamic State and other radical groups are suffering heavy losses. We have disrupted the extremists' operating mechanisms, damaged their military infrastructure and significantly undermined their financial base – I am referring first and foremost to illicit trade in oil, which generates immense profits for the terrorists and their sponsors.

[...]

[4] Russia and France know what it means to act in the spirit of alliance; we have come together more than once throughout our history. Today, we agreed to step up our joint efforts on the anti-terrorist track, to improve the exchange of operational information in the fight against terrorism and establish constructive work between our military experts in order to avoid overlapping incidents and to focus our efforts on ensuring that our work in fighting terror is more effective, avoiding any strikes against territories and armed forces that are themselves fighting terrorists.

[5] Mr Hollande and I are looking at this kind of cooperation as concrete and practical input towards forming a broad anti-terrorist coalition, a broad anti-terrorist front under the auspices of the United Nations. I will note that the number of nations sharing this initiative is growing.

[...]

[6] President of France Francois Hollande (retranslated): Ladies and gentlemen, I wanted to meet with Mr Putin as part of the diplomatic and political initiative that I made the following day after the terrible terrorist attacks in Paris.

[...]

[7] I personally told Mr Putin again that he can count on my support following the attack on the Russian airliner over the Sinai that took over 220 lives.

[8] We all suffer from terrorism. Terrorism can strike in any part of the world, so it is critical to act. And this is the whole point of our meeting in Moscow. We must respond together.

[9] Last week, the UN Security Council unanimously adopted a resolution that all countries in the world should take the necessary measures to coordinate their efforts to eliminate the Islamic State, and we must pursue this process.

[10] This is the most important reality in today's world, that is, a broad coalition, to which France will also be a party, a global coalition in the fight against terror. This consensus is essential, but it is not enough. We also need to assume responsibility.

[11] This is precisely what France is doing when it attacks ISIS operations centres, when it attacks the oil wells that the terrorists use to smuggle oil and obtain financial resources.

[...]

[12] [...] Mr Putin and I have agreed on three main points.

[13] First, we intend to step up the exchange of intelligence and any other information between our respective

forces.

[14] Second, we will intensify strikes against ISIS and coordinate them so as to enhance their efficiency.

[15] Third, as Mr Putin has also pointed out, we must make sure that our air strikes concentrate on the Islamic State and terrorist groups.

[...]

[16] Question (retranslated): Good evening. A question for Mr Putin. Mr President, do you agree that Mr Assad remaining in office hinders the achievement of your common goals? Have you agreed about which groups should and should not be the targets of air strikes?

[17] Vladimir Putin: I believe that the fate of the President of Syria should be entirely in the hands of the Syrian people.

[18] Moreover, we all agree that it is impossible to successfully fight terrorism in Syria without ground operations, and no other forces exist today that can conduct ground operations in the fight against ISIS, Jabhat al-Nusra and other terrorist organisations aside from the Syrian government army.

[19] In this respect, I feel that President Assad's army and he himself are our natural allies in the fight against terrorism. There may be other forces there that talk about their readiness to fight terror. We are currently attempting to establish ties with them, have already done so with some of them, and as I have said many times, we will be prepared to support their efforts in the fight against ISIS and other terrorist organisations, as we support Assad's army.

[20] We agreed – I feel this is a very important part of our agreements with Mr President today – that just as with certain other countries in the region, we will exchange information on which territories are occupied by healthy opposition groups, rather than terrorists, and will avoid air strikes there. We will also exchange information when we – France and Russia – are absolutely certain that particular territories are occupied by terrorist organisations and we will coordinate our efforts in those areas.

[21] Question: I have a question for the President of Russia. Mr President, we are currently talking about a broad-based coalition and in this regard, I have a question about Turkey's particular place in this story. Today, for example, the Russian military reported that they intensified strikes on the Syrian quadrant where the Russian plane was downed.

[22] At the same time, the Turkish media are practically accusing Russia of bombing a humanitarian convoy. In this context, did you discuss Turkey during your talks with Francois Hollande? And what can you say about Turkey's role in this whole story and in our relations with it?

[23] Vladimir Putin: As you know, Turkey is a member of the North Atlantic Treaty Organisation; France is also a NATO member, so we understand France's position in this situation.

[...]

[24] As for the territory you mentioned, where our servicemen died, indeed, Syria's armed forces used multiple rocket launchers which we supplied recently to the Syrian army, in coordinated actions with our Air Force, and intensified strikes in this area right after we received credible information that one of our servicemen was killed and we were able to save the second one. [...]

[...]

[25] As for shelling a humanitarian convoy, as far as I know, the humanitarian organisation that the Turkish authorities are referring to has already stated that its convoys and representatives were not in that area at the time. There may have been some sort of convoy there, but it certainly wasn't peaceful. If there was some sort of convoy, then I suppose, in accordance with international law, it was necessary to determine what kind of convoy it was, where it was headed and what it was doing. And if none of this was done, then we suspect that this convoy was not carrying a purely humanitarian cargo. This serves as another piece of evidence of abetting international terrorists.

[26] Question (retranslated): Good evening, I'm addressing both presidents. Mr Putin, why have you deployed S-400 multiple launch rocket systems? Mr Hollande, is the deployment of the S-400s in keeping with the spirit of the international coalition's efforts?

[27] Vladimir Putin: S-400 is not a multiple rocket launcher system but an anti-aircraft missile system. We did not have these systems in Syria because our aviation is working at heights where the terrorists' criminal hand cannot reach. They do not have the corresponding military technology that is capable of taking down planes at a height of more than three or four thousand metres. It had never occurred to us that we could be hit by a country that we considered our ally.

[...]

[28] Francois Hollande (retranslated):

[...]

[29] Finally, what have President Putin and I agreed upon? This is a very important point: we have agreed on the need to carry out strikes against terrorists only, only against ISIS and jihadist groups. It is crucial in this respect that groups that are also combating terrorists are not targeted by air strikes. It is in this area that we intend to share information with each other, as was discussed during the meeting.

[30] We have to understand who can fight and who can't, who should or should not be targeted. Consequently, our current objective is to try to avoid any incidents of this kind between the countries that are engaged in counter-terrorist efforts in Syria. [...]

[31] Question: You spoke of the need to establish a broad coalition. Is this the kind of coalition you spoke

about at the UN conference, or will competition continue between coalitions? If competition does continue, we would have to wonder about just how effective such coalitions can be, especially after the incident with the Russian plane. Or do you envisage a new common coalition, and if so, is it possible that such a coalition could potentially act in other countries also under threat from ISIS, and not just in Syria?

[32] Coming back to the incident with the Russian plane, just a few hours ago, the Turkish President said in an interview that if the Turkish Air Force had known that the plane was Russian, they would not have acted as they did. He also said that the Turkish forces destroy all oil shipments they seize from ISIS, and that if Russia has other information and can prove otherwise, the President is ready to step down. I would like to hear your comments on these statements.

[33] Vladimir Putin: Regarding the coalition, President Hollande and I discussed this issue today. We respect the coalition the United States is heading and are ready to work with this coalition. [...]

[34] But of course, incidents such as the destruction of our plane and the death of our servicemen – the pilot, and a marine who was attempting to rescue his brothers in arms – are completely unacceptable. Our position is that this must not happen again. If this is not the case, we do not need such cooperation, with anyone, any coalition or country.

[35] I discussed all of this in detail with the President of France. We agreed to work together over this coming time, in bilateral format, and with the US-led coalition in general.

[...]

[36] [...] But there is absolutely no question that the oil is heading for Turkey. We see this from the air. We see that loaded vehicles are heading there in a constant stream and returning empty. These vehicles are loaded in Syria, in territory controlled by the terrorists, and they go to Turkey and return to Syria empty. We see this every day.

[...]

[37] Francois Hollande (retranslated): If you'll allow me, Mr Putin, I'd like to respond to the question that was addressed to you, but from the French perspective.

[38] There is a coalition. It has been around for several months. France is a member of it. The coalition's main field of activity was Iraq. Together with the Iraqi government, we've sought to provide essential support to all those fighting ISIS and terrorism, which, unfortunately, is bleeding the country dry – that is, Iraq.

[39] Then the geographical scope of the coalition's operations expanded to include Syria's territory. France is also operating in Syria in keeping with coalition policy and the decision that I made in September. At first, we conducted reconnaissance flights and now we've moved on to air strikes. This is being done under the right to self-defence. And we have this right because we know for a fact that the terrorists who acted in Paris and in the Paris suburb of Saint-Denis were trained in Syria and, unfortunately, were trained very well to carry out these heinous terrorist attacks.

[...]

[40] Regarding further action on our part, it is necessary to attack ISIS, its training centres, the centres where this terrorist army is being trained, but most importantly, attack its sources of financing, the sources of its livelihood – primarily oil.

[41] If there is some other way of improving cooperation it is difficult to think of one without effectively engaging the trucks carrying oil that goes to those who've appropriated the right to buy it, thus providing ISIS with uncountable amounts of money. We don't want to stop and will continue to attack these convoys and the oil processing plants or refineries – oil that, without a doubt, serves as the main source of financial income for ISIS.

[42] Finally, I cannot help but reiterate that we should support the groups that can reverse the situation on the ground and recover this territory. It is very important for France, as well as for the other coalition members, to support such groups in fighting ISIS. They have the same goal – to fight ISIS and destroy this terrorist group.

[...]

Discussion

I. Classification of the situation

1. How would you classify the conflict in Syria between the government, ISIS and rebel forces? What is the applicable law? (GC I- IV, Art. 2 and 3; AP I, Art. 1; AP II, Art. 1)
2. (Paras [3] and [19]) Does Russia's involvement in support of the Syrian government affect your determination of the classification?
3. (Paras [29] and [39]) Does the involvement of French aerial forces affect your determination of the classification as France is acting without the consent of the Syrian government? Even if France exclusively attacks ISIS targets? Is IHL applicable in France? Does it apply to the November 2015 attacks in Paris and the Paris suburb of Saint-Denis?
4. (Paras [2], [7], [21], [31], [32] and [34]) Did the downing of a Russian plane by Turkey trigger an international armed conflict between Russia and Turkey?
5. (Paras [4], [19], [20], [29], [30], [38] and [42]) If France and its coalition partners aim to support rebel groups that are fighting ISIS while at the same time opposing Syrian Government forces, would that result in the internationalization of the conflict? What sort of support from a foreign state could serve to internationalize an otherwise non-international armed conflict?

II. Classification of persons

6. What is the status of the "militants from the so-called Islamic State" mentioned in paragraph [3] of the text? (GC I-IV, Art 3; ICRC, Interpretive Guidance on the Notion of Direct Participation in Hostilities, May 2009, Sections II, IV and V)
7. Under IHL, can they be targeted with the sole aim of killing them? If yes, in which circumstances? Would

your answer be the same under IHRL?

8. Were the terrorists who launched the November 2015 attacks in Paris and the Paris suburb of Saint-Denis members of ISIS in the sense of IHL? Did they have a continuous fighting function for ISIS? Did they directly participate in hostilities? Were they legitimate targets of attacks? Did their attacks violate IHL? Would their attacks have violated IHL if they had exclusively attacked members of the French armed forces? Could they have been punished by France for such attacks? (CIHL, Rules 1 and 6; ICRC, Interpretive Guidance on the Notion of Direct Participation in Hostilities, May 2009, Sections II, IV and V)

III. Military objectives

9. How does IHL define “military objectives”? What are the two elements of the definition? In your opinion, are these cumulative? (PI, Art. 52 (2); CIHL, Rule 8)

10. (Paras [3], [11], [36], [40]-[41]) What specific objects are mentioned as targets by Presidents Hollande and Putin? How do you evaluate them against the twin criteria you developed to evaluate for military objectives in the previous question?

11. Is it permissible under IHL to target the enemy’s “war sustaining” infrastructure? Its economy? What do you think of oil wells? Of training camps? Of trucks carrying oil?

IV. Humanitarian assistance [para. [25]]

12. Can the bombing of humanitarian assistance convoy ever be justified? How does IHL ensure respect for and protect humanitarian assistance? Are the conditions mentioned in para. [25] based on IHL? May a convoy which does not fulfil those conditions be attacked? What sanctions does IHL foresee for not complying with those conditions? (GC IV, Art. 23; P II, Art. 18; CIHL, Rule 31, Rules 55-56)

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