

It's Time To Designate Russia As A State Sponsor Of Terrorism

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April 8, 2022, 3:23 PM EDT

Law360 (April 8, 2022, 3:23 PM EDT) --

In recent weeks, the U.S. and its allies have issued a variety of very strong sanctions against Russia with far-reaching consequences. Yet, none have stopped Russia from continuing to destruct Ukraine and commit mass-atrocity crimes.[1] **Russia fully qualifies as a state sponsor of terrorism.**

Designating Russia as a state sponsor of terrorism would strip Russia, its military and other agencies or instrumentalities of sovereign immunity in U.S. courts for their war crimes, crimes against humanity and other severe violations of international law arising from their unlawful invasion and destruction of Ukraine.

This would pave the way for lawsuits in U.S. courts to seek civil monetary damages against Russia, its agencies and instrumentalities for the horrific damages caused in Ukraine.

Under Title 28 of the U.S. Code, Section 1605A, **U.S. nationals may sue a state sponsor of terrorism in federal court for acts of international terrorism.**[2] The term "international terrorism" encompasses a wide range of "premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents," and specifically includes terrorism involving citizens or the territory of more than one country, according to the Foreign Relations Authorization Act for fiscal years 1988 and 1989.[3]

Once a state is designated a state sponsor of terrorism, it is not immune from the jurisdiction of U.S. courts for claims arising from the harm or killing of a U.S. national, a member of the armed forces, or an employee or contractor of the U.S. through an act of international terrorism.[4]

In addition to losing immunity from the jurisdiction of U.S. courts, states that sponsor

terrorism face severe sanctions, including restrictions on U.S. foreign assistance; a ban on defense exports and sales; certain controls over exports of dual-use items; and additional financial and other restrictions.[5] Importantly, foreign states may only be held liable for these acts if they were designated as a state sponsor of terrorism at the time the act occurred.[6]

The Alien Torts Claims Act, created by the Judiciary Act of 1789, could be a further avenue for jurisdiction over Russia and its government entities. Federal courts have original jurisdiction over any civil action brought by an alien, or foreign national, for a tort in violation of international law or a U.S. treaty.[7]

Designating Russia as a state sponsor of terrorism would help foreign litigants bring claims under the Alien Torts Claims Act because the actions of the foreign nation would already be recognized as acts of terrorism.

In 2016, Congress passed the Justice for United States Victims of State Sponsored Terrorism Act, Title 34 of the U.S. Code, Section 20144.[8] This act "establishes a fund, overseen by a Special Master, to provide compensation to certain eligible individuals who were injured in acts of state sponsored terrorism." [9]

Eligibility for compensation under the act arises if: (1) the claimant is a U.S. person; (2) a U.S. district court awarded the claimant a final judgment against a foreign nation designated a state sponsor of terrorism; and (3) the claimant was the victim of one or more acts of international terrorism specified in Title 28 of the U.S. Code, Section 1605(a).[10]

If a claim meets these requirements, the special master may provide compensation from the fund to the injured person or to the personal representative of the deceased.[11] Currently, there are four countries designated as state sponsors of terrorism: Cuba, the Democratic People's Republic of Korea, Iran and Syria.[12]

Given Russia's recent actions directed by President Vladimir Putin, who was recently described by President Joe Biden as a "butcher," Russia easily fits the mold of other state sponsors of terrorism ruled by brutal dictators.[13]

Russia has long qualified as a state sponsor of terrorism under U.S. law for a plethora of atrocities spanning the last decade.[14] Although the U.S. so far has refrained from doing so, Putin's latest involvement and support for the Wagner Group — mercenaries allegedly hired by Putin to assassinate Ukraine's President Volodymyr Zelenskyy — is a further shocking development amid the already brutal invasion of Ukraine.[15]

Putin's engagement and support for the Wagner Group, known as Putin's private army, alone fully justifies designating Russia as a state sponsor of terrorism. The Wagner Group's main base is located in Russia's Krasnodar district and shares the base with the 10th Separate Special-Purpose Brigade of Russia's foreign military intelligence agency.[16]

John F. Kirby, the chief Pentagon spokesman, described the Wagner Group on March 22 as "a private military contractor for Russia." [17] Most notably, the U.K. sanctioned the Wagner Group after uncovering Putin hired it to assassinate Zelenskyy.[18] Putin has repeatedly supported the mercenaries' efforts in Ukraine and is now funding further deplorable acts.[19]

As the war in Ukraine rages on, these most recent developments weigh in favor of the U.S. designating Russia a state sponsor of terrorism. Such designation would further harm Russia's economy and subject Russia and its government to crushing lawsuits in the U.S., which could be brought by Ukraine and its people, as well as all others injured by Russia's murderous invasion of a democratic Ukraine.