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The Russian-Ukraine War and the Uses of Naval Mines in the Black Sea: The Legal Consequences in Turkey



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Abstract


Stray mines in the Black Sea (BS) have sparked substantial debates. Despite the various areas of concern, this matter also warrants a legal perspective. Given that Russia, Turkey, and Ukraine are the primary countries significantly involved, each has developed a distinct legal personality under international law. Therefore, it is important to refer to international law to elucidate this complex issue. This study examines the legal intricacies of the stray mine situation in the BS region by focusing on legal aspects. It also considers other relevant factors, particularly the potential legal implications for Turkey. In the context of this study, we argue that Turkey's geopolitical position, along with its international commitments, places it in a significant role and brings it into close engagement with other nations, especially amid the Russian-Ukrainian conflict. In this study, I will discuss the general framework of international law governing the use of naval mines in international conflicts, particularly in the event of war between Russia and Ukraine. Despite the existence of international customs, several international agreements, including the International Montreux Convention concerning the Strait of Istanbul, play a substantial role in this issue.

Keywords

Black Sea • Naval Mines • Russia • Turkey • Ukraine • War



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The main concern of international law is the regulation of intertwined relations arising within the international community. In fact, the differing interests of states imposed great pressure on the international community to determine the consensual nature of many concepts, principles, and rights to control the process of these states. The outbreak of the Russian-Ukraine war is one of the most significant factors that affected the political, security, and geopolitical map of the BS. Turkey attempted to hold the stick in the middle, taking into account the interests binding it with both sides. Indeed, the major factor that increases the paramount position of Turkey is Turkey's strategic position in the region. Additionally, Turkish control over the most important straits adjacent to the region makes it a mandatory passage for different ships. Despite Turkey's categorical refusal since 2014 to accept Russia's annexation of Crimea, it insisted on the necessity to respect the territorial integrity of Ukraine. However, Turkey did not implement economic sanctions against Russia due to the secession of Lugansk and Donetsk.

Nonetheless, the conflict has witnessed a turning point after some reports indicated that naval mines were deployed by Ukraine off the coast to counter any possible landing of Russian troops. While the Ukrainians denied these rumors and accused Russia, the Turkish forces announced the neutralization of an old naval mine found in the Istanbul Strait, which led to the temporary suspension of ship passage in the strait for several days. Likewise, Romania detected a sea mine washed away from its coasts on the BS. Regardless of the difficulty of identifying the responsible party from the belligerent countries, the fact proves that the BS region has been exposed to naval mines of unknown origin. Although the use of naval mines is an old tradition, the contemporary context makes the scene different, especially when the use of these mines exceeds the scope of the belligerent parties to neutral countries. This study examines the use of stray naval mines in the context of the Russian-Ukrainian war considering international maritime law. In particular, this study shed light on the legal consequences of the use of these mines in the BS region in Turkey.

The General Framework

The world's civilization history has experienced magnificent exertions to impose restrictions on violence, and many institutional forms have been crystallized to reduce conflict, which is the essence of a peaceful human civilization. The fathers of international law contributed decisively to the adoption of rules, stemming the effects of war by anchoring strict rules in positive law (Bugnion, 2002: 525). Therefore, They were convinced that the law of nature contained principles suitable for the process of ruling nations, referring to the famous expression of Paret: "Nations ought to do to one another in peace, the best, and in war, the least possible evil" (Cavaleri, 2005: 9). While the 20th century witnessed the emergence of international legal rules to restrict wars, the 21st century heralds the need to develop new rules to end the horrors of recurrent wars.

The Russian-Ukraine war is undoubtedly categorized as an international war not only due to the direct involvement of the armed forces of the two states in the hostilities but also due to its potential and magnitude international repercussions. Consequently, it dictates the implementation of international law rules related to international war. The purpose here may not be to put a finger on the violator of international law rules so much as to focus on the laws of war when they interfere with international maritime law. More

precisely, the legality of the use or potential use of naval mines in the region from both sides—Russia and Ukraine—on the other hand, its impact on a neutral party, which is Turkey. As expected in the logic of wars, geographical and geostrategic nature has a direct impact on military choices; accordingly, the geographical interdependence of Russia and Ukraine formed a key factor in the scope of this war. This clearly indicates the secret of the conflict and the sharp rivalry between Russia and Ukraine, as well as the significant real effect due to the strategic position of Turkey.

Strategic Position of the Black Sea

The BS region is the largest inland sea in the world, and it occupies the far southeast of Europe. Six countries of Eurasia; surround the BS: Turkey, Russia, Bulgaria, Georgia, Romania, and Ukraine. It constitutes one of the most geopolitically significant sites in broader Eurasia (Shahi, 2022: 5). It has sunk through many ups and downs. One of the most prominent stations was the end of the six-year war of 1774, in which Russia guaranteed access to the BS (Agoston & Masters, 2009: 6). The geographical location near the “new gray areas” places the BS at a high level on a strategic scale because of the new protagonists and the critical “military balance”. More than 30 regional initiatives were launched after the fall of the USSR. These organizations are variable in geometry and overlap with other international structures such as the EU and NATO (Snegur, 2014: 320). Many subsequent radical changes have characterized the complexity of the region, especially after the accession of the coastal countries—Bulgaria and Romania—to the EU and NATO. On the other hand, the Russian war on Ukraine in 2007, besides the annexation of Crimea in 2014, culminated by the current conflict, constituted a core element in the political and security of the BS. Russia’s aspirations to annex Istanbul and Canakkale straits have persisted ever since, through the Crimean War at the end of the 19th century, and a repeat attempt in WW I. However, the West’s support for Turkey halted Russian ambitions, which faded significantly after the Treaty of Lausanne in 1923 and the addition of a later amendment to the Montreux Convention of 1936, which organized Turkey’s control of the Istanbul and Canakkale straits.

Triangular Interaction

The sharp conflict between the Ottoman Empire and the Russian Empire in the mid-seventeenth century is a witness to the first harbingers of the influence struggle that would flare up in the BS. The recent successive conflicts in the BS clearly demonstrate the geostrategic and historical influence of many regional powers. Russia launched a huge naval fleet in the region, and Ukrainian armed forces are also remarkably involved on its regional coasts. Meanwhile, Turkey recently announced a huge gas reserve in the region, in addition to the US armed maneuvers over the BS. As a result, the current context of the region indicates an important interaction symbolized in the triangular Russian, Turkish, and Ukrainian triangular.

Russian expansionism

The coastline retained by Russia in the BS in 1991, located between the Taman peninsula and the Georgian border, represents approximately 400 km of the shoreline. Based on the eternal Russian doctrine of protecting the Slavic Orthodoxy, the Russian obsession to expand its influence in the BS did not stop (Atland & Kabanenko, 2020: 290). Following the Russo-Georgian conflict of August 2008, Moscow de facto extended its Pontic Sea interface by creating a military protectorate over Abkhazia. Thus, Russia gains less than 200 km of additional coastline at the BS (Delanoë, 2014: 2). The Ukrainian independence posed a great geopolitical dilemma for Russia, according to Brzezinski (1997: 46) “It has deprived Russia of its dominant position on the Black Sea”. Meanwhile, Russia seeks to impose its international and regional standing by

ensuring the achievement of its geostrategic goals by maintaining a geopolitical influence not only over the BS but also in the sensitive areas adjacent to the BS. Besides, the Mariupol port occupies an important strategic position for Russia with respect to its proximity to the Sea of Azov distributed between the Russian and Ukrainian shores and the Kerch Strait separating the Russian mainland and the Crimean Peninsula. Russia has paid attention to the military institution to maintain its position by taking a set of measures that included ameliorating personnel and equipment. The new army and fleet structure was ratified from 2008 to 2020, which includes fundamental changes in the armed forces' structure.

On the other hand, the Kremlin's neo-imperial policy vis-à-vis what it calls the "near abroad" theory causes additional geo-economic interest with Russia's gas pipeline projects. The Blue Stream, South Stream, and then Turkstream projects linking Russia to Europe are vivid examples of the enormous Russian interest. Accordingly, Snegur (2014) argued that Russia would therefore always have had a particular eye on Sevastopol, but its attitude was to be transformed into a real strategic watch of NATO maneuvers in the BS – Partnership for Peace, annual Sea Breeze maneuvers since 1997, and the frequent visits of the USS Vella Gulf (CG-72) equipped with the US Navy Egis combat system in Odesa, Batumi. In 2010, the Russian State Armaments Program 2020 expected substantial upgrades to the BS Fleet. Remarkably in 2015-2016, the Russian BS Fleet delivered the first of six planned conventional submarines and the first of six planned Admiral Grigorovich-class frigates (Adzinbaia, 2017: 5). As a result, Ukraine, Romania, and Georgia feel deeply insecure simply because of their proximity to Russia, with whom they have historical and territorial disputes. Notably, only Turkey and, to a lesser extent, Bulgaria maintain a steadily sufficient peaceful relationship with all parties in the region.

Turkish Preoccupation

BS security and stability are significant priorities for Turkish national security. Turkey's attentiveness is to bond a group of ethnically and ideologically contradictory countries in the BS, squeezing the 2001 project launched by the BS countries. The initiative has an economic and political aspect and seeks to promote peaceful multilateral coexistence in the region. The Turkish approach relies upon a "zero problem strategy," which is the key to slightly pursuing its national interests. In addition, it will revive what it considers a palatable justification for joining the EU. Based on these developments, Turkey launched the "BLACKSEAFOR" initiative with the participation of the most influential countries in the region. Since October 2001, it has activated the most important functions undertaken by "BLACKSEAFOR" in addition to organizing humanitarian missions, providing relief to disaster victims, locating mines, and combating terrorism (Vasiliev, 2010: 6).

However, Turkey has never been enthusiastic about any attempts to disrupt the Montreux Straits Convention, despite the insistence of the United States and NATO for many years. In contrast, Turkey adopted an independent BS policy that would protect the status quo by maintaining a mutual balance with Moscow and other key powers. The Soviet status suddenly changed radically after Russian intervention in Georgia and then its recent invasion of Crimea. Moscow modernized its BS navy and armed the region heavily, taking advantage of Crimea's strategic position. During the multiplicity of actors and contradictory interests in the region, the significant Turkish role is likely confirmed in response to the necessity of geographical and political interdependence with the rest of the countries in the region. In this regard, Turkey undertakes to play a balanced role in preserving its vital interests and fulfilling its international legal obligations. According to the Montreux Convention of 1936, Turkey is responsible for ensuring the maritime safety of its naval ships and for deciding appropriately on potential legal cases relating to warships. As a member of NATO, Turkish

policy emphasizes the necessity of Russia's involvement – albeit relatively—besides the neighboring non-NATO countries in the responsibility of maintaining maritime security in the BS region (Neset, et. al., 2021: 31).

Ukrainian Duality

Ukrainian geolocation has sparked different perspectives. Brzezinski (1994) defines Ukraine as a "pivotal state" in Europe and insists on the imminence of its integration into the Western camp to prevent a re-emergence of the Russian empire, claiming that it cannot be stressed strongly enough that “without Ukraine, Russia ceases to be an empire, but with Ukraine subordinated, Russia automatically becomes an empire” (Masters, 2022: 10). Another side of geopoliticians like Huntington adopts the idea of weighting the perspective of geocultural analysis, which places Ukraine, as a secondary regional state at the fourth level of a uni-multipolar system governed by the clash of civilizations dominated at the first level by the United States (Corduban, 2004: 38). The dual position and geopolitical characteristics of Ukraine affected its relationship with the active states in the BS.

The Ukrainian zone in the BS occupies one-quarter of the whole sea and most of its northern part. The shallow-water area includes most of the wide North-Western Odesa Shelf located to the west of the Crimea Peninsula as well as the Pre-Crimea Shelf and PreKerch Shelf, which occupy the relatively narrow offshore zone to the south of the Crimea Mountains and the Kerch Peninsula, which is a part of the Crimea Peninsula (Stovba, et. al, 2020: 54). As noted by Atland & Kabanenko, (2020), a large part of Ukrainian politics relied on the priority of building national cohesion and regional coexistence by linking the Tatar minority in Crimea with Turkey as a response to Russian expansionist policies. Over the past decade, before Russia annexed Crimea, Ukraine has largely succeeded in crystallizing this policy. Indeed, Ukraine has moved beyond the idea of regional leadership to establish broad economic cooperation with vital states in the region (Shelest, et al. 2020: 38). Basically, this situation makes Crimea in the strategic depth of Ukraine, but the turmoil and the interaction of forces in the region have certainly made Crimea in the midst of a long-term competitive area. The Ottoman dominion lasted for a long time, followed by Russian control until the middle of the 18th century in 1917, and then re-attachment in 2014 (Sarıkaya, 2017: 39). To Anticipate all possibilities, the Russian side intensified its military maneuver in the region, especially in recent years, by deploying three warships equipped with highly advanced missiles and loaded with anti-aircraft and anti-ship missiles. The Russian plan was to increase the number of warships to 30 by 2020 for various missions and purposes (Çelikpala & Erşen, 2018: 80). Undoubtedly, this constitutes the direct curtailment of any significant influence of Ukraine in the region.

Russia's Pre-emptive Strike to the Annex of Crimea

Russia still relies deeply on military force as an indispensable tool to ensure the success of specific foreign policy achievements. As a result, the Soviet Union reinforced its military build-up in Ukraine in the spring of 2021 (Gressel, 2021: 4). From the perspective of realists, confirming that no institution can protect states from one another. Accordingly, most states have become anxious about the possibility of being subjected to a serious threat or attack. Some realists argue that if an act can be defended through either reason or in terms of pragmatic state interests, then it has some validity (Shane, 2011: 79). The Russian glorious strategy, implemented by Vladimir Putin, is fundamentally about restoring Moscow's power and influence in the international arena. This is what makes the Putinist view in harmony with the view of neoclassical realism.

Of the naval bases and approximately twenty-six seaports that the Soviet Union had in the BS at the time of its disappearance, 19 were in Ukraine, 4 were still in Russia, and 3 were in Georgia. The loss of Crimea, the main installation of the Soviet Black Sea Fleet, was seen by Russia as a major strategic challenge (Delanoë, 2014: 3). In terms of size, the Crimean Peninsula covers approximately 27,000 km²; therefore, the Russian annexation of it makes it gain a maritime zone bigger three times than the Crimean landmass (Wojtowicz, 2015: 91). This strategic location is weightily estimated by Russia. For instance, in a potential military escalation event, the distribution of missile systems in the area may block a large part of the BS. Given Crimea's strategic position—in the case of limited war or other types of escalation—it has a high probability of being the main theater for military operations and the projection of forces to control the region and the Istanbul Straits (Adzinbaia, 2017: 5). Furthermore, given the essence of peremptory norms in international law, acts of aggression are categorically prohibited to all states regardless of any contradictory treaty, obligation or eventual limitations not complying with international law norms. Apart from the basic norms of the *Jus cogens*, it is noteworthy that both Russia and Ukraine are bound by the UN Charter. In particular, Ukraine and Russia are signatories of specific legal instruments in which Russia has expressed its express recognition of Ukrainian territorial integrity. The urgent steps taken by Russia from 2014 until the outbreak of the war are sufficient to recognize present and upcoming Russian trends in the region as a whole.

After annexing Crimea, Russia regained extensive sovereignty over the coast and the Sevastopol port. Through the absorption of the peninsula, Russia recovered almost 1,000 kilometers of additional coastline with ports like Feodosia and Kerch, which were estimated to be larger than the Russian Pontic ports (Delanoë, 2014: 3). Additionally, the reintegration of Crimea into Russia, the possibility of deploying S-300 and S-400 surface-to-air defense systems and, in the future, S-500, would guarantee Moscow's capability to prevent, a hypothetical extension of the deployment of the American shield in Eastern Europe (Hazemann, 2017: 45). Russia's strategic interest in remilitarizing the peninsula goes beyond a mere troop buildup. In addition, the Russian army sought to achieve goals in Crimea that could not only be considered a staging ground for the invasion of Ukraine. Russia has also tried pre-empting its rival powers in the region, such as NATO.

The Black Sea Region and the Use of Naval Mines

A naval mine is a sophisticated weapon used to destroy the military equipment of the opposing side. It is advantageous to complicate or interrupt operations or transport in destructive effects when implemented for offensive purposes. Some historians have traced the history of the use of naval fleets to BC, particularly during the era of the Cretans and ancient Egyptians. They recorded a sea battle in 1210 BC when the fleet of the Hittite king Sublioma II burned the Cretan fleet ships (Vego, 2010: 73). During the American Civil War, the Confederates used water mines extensively to repress the Union (Sthanapati & Chattopadhyay, 2021: 20). However, the most common use of sea mines was observed during the Russia-Japan war of 1905, during which many sea mines were poured into the open sea for the first time. In this war, hydrostatic mines were used for the first time, and a minesweeping operation was carried out for the first time (Sprance, 2004: 6). In recent incidents in the region during World War I, as a result of the mine lines placed in the Canakkale Strait, the allied forces could not pass the strait and suffered many casualties (Ariker, 2019: 490).

The fast evolution of war technology and the uncontrolled use of open seas have caused the widespread practice of sea mines, consequently creating enormous international concerns in terms of ensuring the innocent passage of ships regardless of their various status and nature. Vego (2010) asserted that laying mines on the sea has always posed a serious threat to the survival of large surface warships. Today we

witnessed that naval forces do not consist only of battleships and cruisers, but large parts of them also consist of large numbers of destroyers, torpedo boats, gunboats, and mines capable of targeting logistics centers, command and control centers, air defenses, and vital infrastructure (Bowen, 2022: 3).

Legal framework of using naval mines

International humanitarian law constitutes a set of principles that guarantee the fundamental rules of war. Some principles, including methods of warfare used in armed conflicts, have been expressly set out in many conventions and protocols. These rules establish the concept of the necessity of adhering to the limit of proportionality during wartime. This principle is of paramount importance when it concerns the law of the sea. In the second half of the 20th century, the principle of sea freedom was regulated by limited international conventions. After the first sea conference held in Geneva, to draw up an appropriate Convention, the UNCLOS III signed in 1982 became mandatory for 154 States and considered the “Basic legal framework of the maritime law”. This is the fruit of significant efforts that lead to the codification and progressive development of international law. With over 400 articles it is the most comprehensive and detailed convention that the international community has attempted and successfully achieved within the framework of the UN (Treves, 2008: 1). Article 87 of UNCLOS III regulates the legal regime of high seas and ensures that all states, whether they have a coast or not the followings:

- a) Freedom of navigation on high seas
- b) Freedom to fly over high seas
- c) The freedom to fish,
- d) The right to construct artificial islands and other facilities permitted by international law under Part VI of the 1982 UN Convention;
- e) The right to lay underwater cables and pipelines under section VI of the 1982 UN Convention
- f) Scientific research freedoms under sections VI and XIII.

The Ukraine and the Russian Federation are the parties to UNCLOS. Their legal status constitutes the legal basis for Ukraine’s allegation that various unauthorized activities of Russia have subsequently violated Ukraine’s rights under the UNCLOS (Jia, 2021: 684). Whereas the provisions relating to sea mines were directly addressed in the Hague Conference in 1907, which requested that the sea mines must be adjusted to be ineffective within an hour if the chain was broken and dragged for any reason. At the conference of Geneva, it was also proposed that the straits connecting the open seas should be free for the passage of commercial ships during wartime and not be closed with mines.

It is noteworthy that the regime that regulated the use of mines during armed conflict was the 1907 Hague Convention VIII. The VIII Protocol of the Hague Convention of 1907 limited the use of mines and prohibited their planting off coasts and ports. As a result, mine development imposes great legal responsibility on the country. In addition, customary rules related to the rules of neutrality and the sea are at the forefront of international law that concern the regulation of the issue of mines laid by belligerent countries. Russia and Ukraine are parties to the 1907 (XIII) Convention on the Rights and Duties of Neutral Powers in Naval Warfare (Hague 13) and UNCLOS III (Pedrozo, 2022).

Hague VIII Convention of 1907

The Hague VIII Convention, relevant to the laying of automatic submarine mines signed in 1907, was an attempt to reconcile various humanitarian and military interests and to protect innocent shipping during and after conflict by reducing the indiscriminate potential effects of sea mines. Moreover, it aimed to recon-

cile commercial interests and naval priorities. Undoubtedly, it is the only treaty in international law that directly and explicitly treats sea mines. The fact that Russia and Ukraine are not parties to this agreement does not affect much since the agreement is an internationally recognized customary international law designed to regulate the use of naval mines. Haines, (2014) argued that the rules in the 1907 Convention cover all forms of naval mines, as soon as the mine consists of explosive devices placed in the water, at the seabed or the subsoil of the sea, with the intent of damaging or sinking ships or preventing ships from entering the area, the provisions of the Convention shall immediately be applied.

Article 2 of the treaty explicitly prohibits the laying of spontaneous contact mines off the coasts and ports of the enemy to intercept merchant ships. If this article restricted the ban on merchant ships only, Article 1 did not include this restriction. In addition, the agreement obligated the belligerent states to take all necessary measures to ensure the safety of ship navigation. Furthermore, the rules of international maritime law have regulated the relationship and rights of belligerent and neutral parties. These rules granted rights to the neutral state, including the inviolability of exposure to the territorial waters of a neutral state (Pedrozo, 2022). Hence, the State must, before undertaking an activity that may have a detrimental impact on the environment of another State, ascertain whether there is a risk of significant transboundary harm, which would trigger the obligation to carry out an impact assessment on the environment (Dubois & Kerbrat 2018: 3).

Corfu Strait Case

In the Judgment of April 9, 1949, in the Corfu Strait case, the Court declared the Republic of Albania responsible, under international law, for the naval mine explosions that took place on October 22, 1946, in Albanian waters, and the resulting damage and loss of life to the prejudice of the United Kingdom of Great Britain and Northern Ireland (I.C.J., 1949: 245). The incident of the Strait of Corfu and the decision of the International Court of Justice related to this case set an important precedent in the international judiciary. The resolution established general principles on which international norms regarding naval mines were based. The court's decision upheld the following principles:

a) State responsibility: The court held Albania responsible for its failure to inform Britain of the dangers of mines in its territorial waters.

b) Right of innocent passage: In this case, the court has admitted the responsibility of States for an internationally wrongful act by omission and thereby established a precedent for the award of damages for material injury.

c) Limits of sovereignty over territorial waters: The Court established international standards for defining the strait and addressed the illegality of restricting the passage of ships in times of peace unless the treaty provided otherwise. By enshrining the principle of freedom of maritime navigation, the court clearly emphasized the necessity of respecting the obligation of every state's right and not being a source of threat to this principle. Indeed, the State is required to implement all the means at its disposal to prevent activities that take place on its territory or in any area under its jurisdiction from causing significant damage to another state. Therefore, due diligence, from which the Court deduced the principle of prohibition as a "customary rule", the principle has recently taken root and has led to the establishment of the principle of prohibition on a state to allow its territory to be used for purposes of acts contrary to the rights of other states as stipulated in the Strait of Corfu.

Legal Consequences

The Straits of Istanbul and Canakkale, which facilitate access to the BS and open seas, are subject to Turkish sovereignty. Only the Istanbul Strait is classified as the second busiest strait after the Malacca Strait, and it is four times more crowded than the Panama Canal and three times more crowded than the Suez Canal (Kodak & Istikba, 2021: 296). Turkey also has full control of the longest coastline and the largest maritime sovereignty area in the BS region. The geographical interdependence of the region impels the Turkish state to debate stray naval mines, including those in Russia and Ukraine. Turkish involvement is strengthened due to Turkey's control of the straits, which are considered a bridge between European and Asian continents. This status entails international legal responsibility and requires Turkey to fulfill its obligation to guarantee maritime navigation safety in its territorial waters. Turkish commitments would be achieved given that Turkey respects all international obligations stipulated in international treaties to which Turkey is a party or provided by international customary law.

Stray mines in the Black Sea

According to the reports of the Russian Hydrological Institute, the mines laid by Ukraine in the ports of Odesa, Ochakov, Chernomorsk, and Yuzhny were disposed of their moorings affected by the storm and moved uncontrollably. The number of these mines, estimated at 420, has been classified as one of the YM and YRM categories, while other reports revealed that the stray mines were one of the R-421-75 categories (Reuters, 2022). Russia issued an official "coastal warning" declaration through the international system (NAVAREA) to confront the danger of stray mines in the BS (International Maritime Organization, 2022: 3). The Ukrainian has firmly denied Russia's allegations in an official statement published by the Ukrainian Foreign Ministry, emphasizing that these mines were not registered in its navy (MFA, 2022). Turkey took the issue seriously and urged to close the Istanbul Strait for hours and stop maritime traffic, taking into account the danger of the presence of naval mines and the potential maritime disaster or obstructing maritime traffic in the strait for a longer period. These so-called stray, displaced, or intentionally displaced mines have posed a great danger in the BS and in the Istanbul Strait because the general influx in the BS is heading toward the Istanbul Strait under the influence of the Danube River, which means the existence of a high probability of drifting stray mines—if any—to the Istanbul Strait. According to Yaycı (2022), these types of mines, YRMs, were used to prevent landings from the sea. He argued that these mines, produced in the Soviet period, weighed about 30 kilograms and contained 3 kilograms of active explosives. The weapon explodes upon partial contact and is intended to destroy the live forces of the enemy. Although the YM has been successfully applied to sonar systems, the YRM is more difficult to locate due to its small size. Destroying a mine or finding and removing it can take months or even years.

Turkey's Legal Responsibility

Free and safe transportation of goods is crucial for uninterrupted maritime trade and development of the world economy. This would be roughly achieved after ensuring the "freedom of navigation," which is a worthy emanation from the "freedom of the high seas" principle. Any obstruction of this principle would be considered an undermining of the rules of international maritime law due to the dire consequences that may be experienced between states. The general principle of international law considers inland waters as a part of the territory of the coastal state. Consequently, the sea area that constitutes inland waters, such as ports, bays, gulfs, and closed seas, is an extension of the land country. Based on these legal principles, Turkey is

legally responsible for ensuring the safety of maritime navigation in its territorial waters. This responsibility requires guaranteeing the innocent passage of ships within the framework of international law.

Turkey's international commitment

The international customary law has basically endorsed in times of peace for all states the right to send their warship through the straits used for international navigation to link two different parts of high seas, without prior permission from the state bordering the strait, provided that the passage is innocent unless another international agreement stipulates otherwise (I.C.J., 1949: 4). In this aspect, stature or the size of the strait is unconsidered, but rather the geographical factor, which is the fact that it is a link between two parts of the high seas and the fact that it is used for international navigation (Oral & Öztürk, 2006: 17). As a result of legal evolutions and increased interest relying on the codification of the law of the sea, UNCLOS I has clarified the meaning of the international strait and stipulated the freedom of innocent passage of foreign ships in the international strait. According to the Montreux Convention, Turkey has the power to regulate the transit of naval warships through the Istanbul and Canakkale Straits. This agreement also gave Turkey legal competency to close the strait to military warships during wartime.

Turkey's international commitment to innocent passage

The right to an innocent passage is fundamental in international maritime law. According to Article 17 of the UN Convention, the right to innocent passage through territorial waters for ships of all states existed. This includes two elements: the "passage" and its "innocence" through the territorial sea to coastal and non-marine states (Hakapää, 2015: 3). In addition, Goresius acknowledged the recognition of the authority of the state even over the coastal waters closest to its shores (Rusli, 2012: 105). Therefore, the coastal state is responsible for abstaining from all types of dangers related to transportation in its territorial waters using all appropriate means. Both UNCLOS I and III treaties also laid down in international judicial decisions. Although Turkey is not a party to these two conventions, most of the principles contained therein have become binding rules for nonparty states. In addition, the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation of 1988 gives full jurisdiction to coastal states to take all necessary measures against anyone who has caused damage to a ship while passing through its territorial waters.

Turkey's Commitment vis à vis Montreux Convention

Under the Montreux Convention signed in 1936, Turkey extended its control over the straits leading to the BS. Indeed, the Convention has regulated the transit of naval warship laws in peace and wartime. It also guarantees the free passage of civilian ships in times of peace and limits the passage of ships not belonging to the BS countries. The Agreement enhances Turkey's full sovereignty and control over its straits (Delanoe, 2014: 369), after being restricted by the provisions of the previous Treaty of Lausanne. Meanwhile, it constitutes the main framework related to international passage in the Istanbul Strait, but the regulation of safe passage in the Istanbul Strait has been left to Turkey, as can be understood from the text of the Convention. As stated in the Montreux Convention, the main purpose of the treaty was to ensure the security of Turkey and the riparian countries and to create safe passage conditions. To create the necessary conditions for safe passage, Turkey can make arrangements without violating international law. Consequently, the transition must in any case be innocuous and devoid of offensive character (Rusli, 2012: 13). According to Article 4, Turkey is obligated to guarantee "freedom of transit and navigation in the Straits" if it is not belligerent. The freedom of transit provided for in the Montreux Convention has corresponded to the innocent passage

provided for in the Law of the Sea conventions UNCLOS I and III, which has legally entailed Turkey's obligation to ensure the security of its straits.

Conclusion

The Russian-Ukraine war is one of the biggest crises that the European continent has experienced since World War II. This will inevitably have multifaceted repercussions on the entire global system as a result of the dimensions of the war and the subsequent tensions and the nature of the active forces in shaping its economic, military, and political features. Given its political geography, Turkey is one of the most important regional powers that may be targeted by the consequences of this war.

Regarding the use of naval mines in the BS region as a result of the war between Ukraine and Russia, double legal responsibility has implicated Turkey as a state. Certainly, Turkey has assumed the status of a non-belligerent state in this war; consequently, it is Turkey's obligation to take into consideration the rules of international law related to its legal status, especially the Montreux Convention, in which Turkey has appeared to be one of the major parties. In addition, because the naval mines discovered by Turkey were sourced from a third-party, the situation became more complicated. In fact, determining the legal consequences of Turkish responsibility entails a focus on the general principles of relevant international law rules, particularly international conventions, customary rules, and international jurisprudence related to this context.

The laying of naval mines constitutes a clear violation of international law. International responsibility is directly related to the warring countries of Russia and Ukraine. The nature of this legal breach included the obstruction of the safety of innocent passage, which is a peremptory rule endorsed by international customary law. In addition, the violation constitutes an assault on the territorial waters of a neutral country. Turkey's legal responsibility for the stray mine has been implicated in terms of Turkey's full obligation to ensure a necessary safe passage in the straits and waters under its sovereignty.



Peer Review	Externally peer-reviewed.
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