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The Montreux Convention and its Importance for International Peace and Security

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Abstract

Since its conclusion, the Montreux Convention regarding the regime of the Straits (1936) constitutes an important pillar of the international order. This may be proven by many historical events from the 20th century until today: From the application of the Convention in WWII to its recent invocation in the ongoing Ukrainian conflict. The Convention's significance derives from its subject-matter, the freedom of transit through the Dardanelles/Turkish Straits in regard to the warships and aircraft in time of peace and in time of war. This is a legal analysis of the Montreux Convention under the scope of International Law providing a brief look at the historical background of events that have led to the signature of the Convention, an extensive presentation of the legal framework of its provisions regarding passage of warships and overflight of aircraft, as well as, some thoughts on its importance for the international peace and security.

A. Introduction: What Are the Straits?

The Montreux Convention constitutes an international binding instrument "regarding the regime of the Straits"[1]. Before our analysis of its provisions on the maintenance of international peace and security, we need to answer a rather simple but crucial question: what are the Straits in the title of the Convention? This term refers to the geographic area that includes the Dardanelles and Bosporus straits as well as the Sea of Marmara. Their total length is estimated around 330 km. and they are the waterway giving access to the Black Sea from eastern Mediterranean Sea and vice versa. And thus, as it can be easily understood, their geographic, strategic and economic importance cannot be understated. Thus, the Straits have been the constant object of legal regulation by a number of international treaties in modern history, beginning with the Treaty of Küçük Kaynarca in July 1774.

Due to the strategic geographic location of the Straits, these treaties' context has been shaped by three different poles of interest: the Western Powers' ambitions which have consisted of their aim to restrict Russia's naval military power inside the Black Sea; the riparian States' interests regarding their national security and their right of free transit and navigation in and through the Straits; and last but not least, the involvement of the Ottoman Empire -present day, Türkiye- in Near East affairs, which was always seeking to project its influence in eastern Mediterranean and to become a significant regional power by regulating the use of the Straits. Without a doubt the two most outstanding international agreements on this subject were the Peace Treaty of Lausanne[2] and the Montreux Convention.[3] The former treaty was replaced by the latter as regards the above-mentioned subject-matter.

International Law is not static; it constantly evolves and changes. It is not simply a set of different rules of law, but a flexible, resilient and dynamic legal system capable of maintaining the international world order by way of the peaceful settlement of international disputes. This dynamic nature of International Law has to be attributed especially to customary international law, to the conclusion of international agreements or treaties and to the case-law of international courts and tribunals, which all constitute sources of International Law. For this reason, it is extremely uncommon for a subject related to International Law to be solely,

1 *Convention regarding the regime of the straits singed at Montreux*, 20 July 1936, 173 LNTS 213, [Montreux Convention].

2 *Treaty of Peace with Türkiye and other instruments: Signed at Lausanne,* 24 July 1923, 28 LNTS 11, 115.

3 E. Roukounas, *Public International Law,* 3rd ed. (2019), 278-280 *(in Greek)*.

continuously and uninterruptedly governed by a single international treaty. Yet, that is the case with the Montreux Convention and the regime of the Straits. In my opinion, two are the main reasons that have led to the appearance of this rare phenomenon: 1) the Convention's provisions are worded in a certain way that leaves room for evolutionary interpretation; this option is in turn taken advantage of by the contracting parties, so they can promote their own agenda. 2) The application in practice of the Convention aligns with the main objective of the International Community and the UN[4] to secure international peace and international order since the end of WWII.

Therefore, the above-mentioned proposition will be illustrated through close examination of State practice. At the outset, I will present a brief historical overview of the development of the Straits' legal regime (Section B). Secondly, I shall give a short comparison with treaty regimes governing other straits highlighting any difference between their legal status and that of the Straits (Section C). Thirdly, an extensive analysis of the Montreux Convention will follow, combined with the relevant State practice (Section D). Finally, I shall deal with the significant role of the Convention in relation to international security and to the divergent approaches of Türkiye and US/NATO to Montreux (Section E).

B. A Historical Review: From Lausanne to Montreux.

Prior to the present legal regime, the status of the Straits had been regulated by the Peace Treaty of Lausanne, which was concluded between the victorious Entente Powers on the one hand and Türkiye on the other. In particular, this matter has been dealt with by article 23 of the peace treaty and more extensively by the supplementary Lausanne Convention on the Straits. This was the result of the Entente's inability to enforce the peace terms of the previously concluded Treaty of Sevres (1920), because of the fierce resistance that had been put up by the Turkish Nationalist movement and its leader and founding father of the Turkish Republic, Mustafa Kemal Atatürk. Greece was burdened with the task of enforcing the terms of the Treaty of Sevres on behalf of the Entente. The military defeat of the Hellenic army by the Turkish Nationalists in Asia Minor marked the end of all prospect of Türkiye accepting the framework of this Treaty. As a direct consequence of these events, new negotiations began between the opposing parties, which led to the signature of the Lausanne Peace

4 Charter of the United Nations, 26 June 1945, XV UNICO 335, 337, Art. 1 para. 1 .

Treaty on 24 July 1923, at the Swiss city of Lausanne, and its entry into force on 6 August 1924.

The newly established legal regime of the Straits after the end of WWI was perfectly in line with the LoN agenda at the time: the demilitarization of Europe, so as the possibility of another "Great War" could be prevented at all cost. And to that extent, the Lausanne Convention on the Straits consisted of many provisions aiming at this end. For example, Articles 3 to 9 regarding the demilitarization of the Straits and some other areas; or Articles 10 to 16 which provided the establishment of a Commission for the Straits under the League supervision, that would guarantee the non-violation of the Convention.

Unfortunately, all of the League's ambitions about the post-WWI international order had been proven futile. Nazi Germany deployed troops in the Rhineland in 1936 contrary to the Peace Treaty of Versailles; Imperial Japan invaded Manchuria in 1931 and Fascist Italy invaded Abyssinia in 1935. The Axis and the USSR were preparing for war and, thus, the League's disarmament efforts had failed. The Axis ambitions to extend its own sphere of influence politically or even militarily into Anatolia, gave Türkiye a reasonable excuse for demanding the revision of the Straits legal status as it was regulated by the Lausanne Convention.[5]

Mustafa Kemal's proclamations on the revision of the legal regime of the Straits was based on two main legal arguments. Firstly, that Türkiye had every right to demand the reset of the regulations regarding the Straits due to a fundamental change of circumstances that once supported the existence of the previous regional status quo[6]; secondly, that if the legal regime of the Straits hadn't been altered, then Turkish national security would have been weakened.[7]

In September 1935, Türkiye asked for the remilitarization of the Straits contrary to the Treaty of Lausanne, but unsuccessfully. By contrast, after repeating the same demands in the following year, Türkiye finally achieved the amendment of the legal regime of the Straits. It was able to accomplish that mainly because of the WWI victors' fear that a new World War was imminent. And so, on 20 July 1936 the Montreux Convention was signed and it entered into

5 N. Oral, 'The 1936 Montreux Convention' in H. A. Conley (ed.) *The History Lessons for the Arctic: What International Maritime Disputes Tell Us about a New Ocean* (2016), 24-37.

6 'Anadolu Agency, Bulletin, 11 July 1935' in F. Kaya, 'Ataturk's Foreign Minister Tevfik Rustu Aras', 10 *International Journal of Social and Economic Sciences* (2020), 1, ref. 4.

7 F. Kaya, 'Ataturk's Foreign Minister Tevfik Rustu Aras', 10 *International Journal of Social and Economic Sciences* (2020), 1, 34, 45.

force on 9 November 1936. The contracting parties of the Montreux Convention were the same as those of the Lausanne Convention, with the exception of Italy.[8]

After this short historical review of the events leading to the signature of the Montreux Convention, it is important to make note of article 35 (c) of the United Nations Convention on the law of the Sea (1982). According to this, "Nothing in this Part affects the legal regime in straits in which passage is regulated in whole or in part by long-standing international conventions in force specifically relating to such straits". In a few simple words, article 35 (c) suggests that, if a strait's legal regime has been regulated by a "long-standing" treaty prior to the UNCLOS, then the latter's provisions is not applicable.

Moreover, it is important to stress that article 35 (c) introduces an exemption of certain cases regarding the use of straits for international navigation under Part III of UNCLOS. Additionally, it refers to "long-standing" treaties. The ambiguity of this term is obvious; yet, what is implied might be the existence of a convention in force, constantly over a long period of time prior to the UNCLOS. Although, how much time is necessary for a treaty to be characterized as "long-standing" is not specifically provided; that is a matter of interpretation. Nonetheless, it is widely accepted that article 35 (c) has to do with 1) the Straits of Gibraltar, 2) the Magellan Straits, 3) the Danish Straits, 4) the Malacca Straits, 5) the Malaysia Straits, and, finally, 6) the Dardanelles and Bosporus Straits. Thus, the Montreux Convention constitutes the only international binding instrument regarding the regime of these straits.[9]

C. Special Regimes Governing other International Straits

Except for the Dardanelles and Bosporus Straits, Article 35 (c) is applicable in other similar situations. It is generally considered that the 1936 Montreux Convention constitutes the only special regime which excludes as a whole the general rules on international straits provided in UNCLOS. For example, the 1881 Boundary Treaty between Argentina and Chile regulating the legal status of the Straits of Magellan[10] would apply to the neutrality obligations solely, whereas the matter of free navigation will fall within the regulatory range of UNCLOS general rules. The same can be said for the 1904 France-Great Britain Declaration respecting Egypt and Morocco in regard to the legal status

8 Italy had acceded to the Montreux Convention on 2 May 1938.

9 K. Ioannou & A. Strati, *The Law of the Sea,* 4th ed. (2013), 113-114 *(in Greek).*

10 *Boundary Treaty between the Argentine Republic and Chile, signed at Buenos Aires,* 23 July 1881, 159 CTS 45.

of the Straits of Gibraltar.[1112] Moreover the 1857 Treaty for the Redemption of Sound Dues[13] would be applied to costal State enforcement jurisdiction only; the 1921 convention on the Non-Fortification and Neutrality of the Åaland Islands between Finland and Sweden[14], which limits the access of warships to the territorial seas of the islands, and the 1940 Agreement on the demilitarisation of the islands between Finland and the USSR[15] could also fall within Article 35 (c). To sum up, it is important to clarify that the previously mentioned Treats only partially exclude some of UNCLOS general rules and thus they could be considered semi-special regimes, in contrast to 1936 Montreux Convention.[16]

D. Provisions Regarding Vessels of War and Aircrafts

I. The General Framework

As it will be pointed out, the Montreux Convention's provisions regarding vessels of war and aircraft constitute a significant tool for the maintenance of international peace and security, as well as of the stability in the eastern Mediterranean and Black Sea regions. Sections II and III of the Convention establish a detailed and sophisticated regime of transit about warships, submarines and aircraft.

Articles 8 to 22 can be divided into four different categories: provisions applied 1) in time of peace; 2) in time of war with Türkiye being neutral; 3) in time of war with Türkiye being a belligerent, or 4) whenever Türkiye considers herself to be threatened by imminent danger of war. Additionally, these articles can also be categorized in three parts in regard with which they are applied to.

11 *Declaration between the United Kingdom and France Respecting Egypt and Morocco, Together with the Secret Articles Signed at the Same Time,* 8 April 1904, Avalon Project, available at https://avalon.law.yale.edu/20th_century/entecord.asp (last visited 13 November 2024).

12 That is the case because both of these treaties generally refer to *free navigation* and *free passage* without distinguishing them from the general rules of UNCLOS.

13 *Treaty for the Redemption of the Sound Dues between Austria, Belgium, France, Great Britain, Hanover, the Hansa Towns, Mecklenburg-Schwerin, the Netherlands, Oldenburg, Prussia, Russia, Sweden-Norway, and Denmark, signed at Copenhagen,* 14 March 1857, 116 CTS 357.

14 Convention relating to the Non-Fortification and Neutralisation of the Aaland Islands, signed at Geneva, 20 October 1921, 9 LNTS 255, 211.

15 *Treaty between Finland and The Union of Socialist Soviet Republics Concerning the Åaland Islands,* 11 October 1940, available at https://histdoc.net/pdf/FOFI1940-10-11.pdf (last visited 13 November 2024).

16 R. Churchill, V. Lowe & A. Sander, *The law of the sea*, 4th ed. (2022), 183-186.

Thus, there are provisions that have to do only with 1) the Black Sea riparian States, 2) the non-riparian States, 3) or both of them. In general, more autonomy of action is provided to riparian States than their non-riparian counterparts by reason of their national security.

Article 1 of the Convention refers to a general rule regarding the legal regime of the Straits: it recognizes and affirms the principle of freedom of transit and navigation by sea in them. This principle is also mentioned in article 10 paragraph 1. Although, in practice the principle of freedom of navigation is much more restricted towards warships due to limitations to its application as it is stipulated in article 1 paragraph 2.

The regulatory framework of Section's II provisions is very precise. It consists of 1) the definition of vessels of war, 2) their categorization and 3) the calculation of their tonnage as well as the caliber of their guns. This framework is described in great detail in Annex II and more briefly by article 8. Vessels of war are classified by the treaty into: a) capital ships, b) aircraft-carriers, c) light surface vessels, d) submarines, e) minor war vessels and f) auxiliary vessels. The classification of warships, which was not stated in the Turkish proposal but proposed in the British draft text, was taken completely from the Treaty on Naval Armament signed on 25 March 1936[17] [18].

From this normative framework the following may be concluded: though the contracting parties knew that war vessels bigger than 10.000 tons [19] already existed at their time, nonetheless, they deliberately chose this limit; that decision may have been made because of not only Türkiye's and other riparian State's national security, but also of the general stability in eastern Mediterranean. Moreover, this choice was in accordance with the interests of the victorious Entente Powers whose past experience with WWI was still recent and the probability of another world conflict was very high. It is safe to argue that, those provisions were politically motivated.[20] Due to rapid technological advancement in the field of arms industry, this legal framework can be modified or amended as it is provided by article 28.

17 K. Yücel, *The Legal Regime of the Turkish Straits: Regulation of the Montreux Convention and its Importance on the International Relations after the Conflict of Ukraine* (2019), 109.

18 *Ibid*, 109, fn. 341.

19 Also see, Montreux Convention Annex II B. Categories 1 (a) and 3.

20 Yücel, *supra* note 12, 109, fn. 342.

II. Vessels of War in Time of Peace.

In time of peace, according to Article 10, certain types of warships, irrespective of their flag and of whether belonging to Black Sea or non-Black Sea Powers, enjoy freedom of transit through the Straits without any taxes or charges. Yet, their transit must begin during daylight and take place under certain prescribed conditions[21]. This regulation applies to three categories of warships: 1) light surface vessels, 2) minor war vessels and 3) auxiliary vessels. And so, on the one hand article 10 provides them with the right of freedom of transit in accordance with article 1 paragraph 1; on the other hand, it establishes an individual quantity limitation about the maximum tonnage of a ship as a unit, which caps at 10,000 tons.

Furthermore, Article 14, that specifically refers to non-riparian Black Sea States, prohibits transit of their naval forces through the Straits, if their maximum tonnage exceeds 15,000 tons and if they comprise more than nine vessels. In this article, a general quantity limitation is provided regarding the whole naval force and not its vessels as separate units.

If the aforementioned quantity restrictions were combined, the following could be concluded: A) individual warships of non-riparian States have the ability to conduct full-transit through the Straits, only if 1) they don't exceed 10,000 tons separately and if 2) the calibre of their guns is less than 203mm[22]; B) other types of military naval units are excluded, such as modern capital ships, aircraft-carriers and submarines of non-Black Sea Powers; C) the total size of the naval force must not exceed 15,000 tons and must consist of nine ships maximum. There exist three exceptions to Articles 10 and 14: 1) the performance of a courtesy visit to a port in the Straits[23], 2) in cases of naval auxiliary vessels specifically designed for the carriage of fuel[24] and 3) on grounds of force majeure[25].

According to Articles 17 and 14 paragraph 3, warships of non-Black Sea States that are paying a courtesy visit of limited duration to a port in the Straits, at the invitation of the Turkish Government, are restricted neither by Article 10 individual quantity limitation nor by Article 14 general one. Thus, this kind

21 Montreux Convention Art. 13.
22 *Ibid*, Annex II B. Categories, 3.
23 *bid*, Arts 17 & 14 para. 3.
24 *bid*, Art. 9.
25 *bid*, Art. 14 para. 4.

of vessels not only can exceed 10,000 tons as single units[26], but also their total tonnage is not calculated in the 15,000 tons of a passing fleet, because they aren't part of such a naval force. But these ships do not have the ability to perform a full-transit through the Straits by reason of their obligation to leave by the same route as that by which they have entered.

Moreover, no vessels of war which have suffered damage during their passage through the Straits are included in this tonnage stipulated in Article 14 paragraph 4 and in accordance with the principle of force majeure. In addition, such vessels, while undergoing repair, are subject to any special provisions relating to security laid down by Türkiye.

Lastly, according to Article 9, naval auxiliary vessels specifically designed for the carriage of fuel, liquid or non-liquid, are not subject to the provisions of Article 13 regarding notification, nor are they counted for the purpose of calculating the tonnage which is subject to limitation under Articles 14 and 18. For this to happen, they are obliged to pass through the Straits singly and to fulfill specifically mentioned technical requirements as well[27].

As it has already been stated, the Montreux Convention provides the Black Sea States with a privileged legal status in contrast to others. Article 11 stipulates that only Black Sea Powers have the right to send capital ships of a tonnage larger than 15,000 tons through the Straits, on condition that these vessels pass through singly, escorted by not more than two destroyers. Additionally, only these States may send submarines constructed or purchased outside the Black Sea through the Straits, for the purpose of rejoining their base, provided that adequate notice of the laying down or purchase of such submarines has been given to Türkiye. Last but not least, by interpretation a contrario of Article 18 paragraph 2, it is obvious that only these riparian States can keep their fleet inside the Black Sea for more than twenty-one days.

The Montreux Convention, also, consists of provisions which set mandatory rules regarding the transit of vessels of war through the Straits. These provisions are applied to all these ships with no exception on grounds of their sovereignty. According to Article 15, vessels of war in transit through the Straits are not allowed under any circumstances to make use any aircraft which they may be carrying. Furthermore, they are prohibited to remain longer inside the Straits than is necessary for them to effect passage, except in the event of damage or peril at sea.

26 As it was mentioned above 10.000 tons is the maximum tonnage for a single naval unit to be able to conduct transit through the Straits.

27 Montreux Convention, Art. 9 para. 2.

It is important to briefly analyze Article 13 regulating the conditions for a non-Turkish vessel of war to effect legally transit through the Straits. For such action to take place, a notification given to the Turkish Government through the diplomatic channel by the warship's State is compulsory. The normal period of notice is eight days; but in the case of non-Black Sea Powers this period is increased to fifteen days. The notification specifies the destination, name, type and number of the vessels, as also the date of entry for the outward passage and, if necessary, for the return voyage. Any change of date is subject to three days' notice. The commander of the naval force, when exercising transit, has to communicate to a signal station at the entrance of the Dardanelles or the Bosporus the exact composition of the force under his orders, without being under any obligation to stop.[28] Entry into the Straits for the outward passage must take place within a period of five days from the date given in the original notification. After the expiry of this period, a new notification is given under the same conditions as the original notification.[29]

Article 13, though, is subject to some exceptions. In particular, 1) naval auxiliary vessels designed only for the carriage of fuel and 2) non-Black Sea Power naval forces not exceeding 8,000 tons sent in this area for humanitarian purposes are not subject to Article 13 regulations.

Article 18 significance for the maintenance of peace and security in the Black Sea and in the wider region is undoubtably great. And this is so, because it regulates the conditions under which non-Black Sea States naval forces may remain inside the area. It sets a combination of limitations which promote the national security of the riparian States of the Black Sea enhancing their protection against outside threats.

The total size of non-riparian States must not exceed 30,000 tons. Yet, in any case if the strongest fleet in the Black Sea increases its power by adding a naval strength that exceeds 10,000 tons[30], then the new maximum may reach 45,000 tons for the naval forces outside the region. After WWII and in comparison, with the date of signature of the Montreux Convention (1936), the USSR fleet had surpassed the 10,000 tons threshold.[31] Thus, in practice non-Black Sea Power's naval forces can remain in this area, if their total tonnage does

28 *Ibid*, Art. 13 para. 3.

29 *bid*, Art. 13 para. 2.

30 *Ibid*, Art. 18 para. 1 (b) mentions "If at any time the tonnage of the strongest fleet in the Black Sea shall exceed by at least 10,000 tons the tonnage of the strongest fleet in that sea at the date of the signature of the present Convention […]."

31 Yücel, *supra* note 12, 113.

not exceed 45,000 tons (general quantity limitation).[32] Moreover, the tonnage which any one non-Black Sea Power may have in the Black Sea is limited to two-thirds of the aggregate tonnage. Simply, the total size of each individual non-riparian State's fleet must not exceed 30,000 tons -2/3 of the 45,000 tons (individual quantity limitation). [33]

Furthermore, according to Article 18 paragraph 2, vessels of war belonging to non-Black Sea Powers shall not remain in the Black Sea more than twenty-one days, whatever be the object of their presence there. This provision did not exist in the Lausanne Convention for the Straits; it, also, constitutes a de facto limitation to the freedom of navigation of the non-riparian States in the Black Sea contrary to their riparian counterparts.

A special legal status applies to one or more non-Black Sea Powers intending to send naval forces into the Black Sea, for humanitarian purposes. These forces must be less than 8,000 tons in total and they are not subject to Article 13. Additionally, an authorization for this purpose has to be acquired from the Turkish Government, and the other Black Sea Powers shall be informed as well of this request. If they remain inert and do not raise any objection within twenty-four hours of having received this information, the Turkish Government is allowed to reply to the interested Power's request.

However, neither what a "humanitarian purpose" is nor a "Turkish Government's authorization" has been made clear. And that might have occurred on purpose, so that the scope of this provision may be wider and able to cover all possible humanitarian disasters. It is not further explained if the objections of all riparian States are required or only some are sufficient. On grounds of the principle of effectiveness and teleological interpretation it may be concluded that a sole objection of only one Black Sea state is enough to impede the transit through the Straits.[34]

Lastly, Article 22 stipulates a method of protecting the Straits' ports from infectious diseases via quarantining the infected ships. This provision had been adopted nearly verbatim from the Lausanne Convention for the Straits.[35]

32 Montreux Convention Art. 18 para. 1 (a) & (b).

33 *Ibid*, Art. 18 para. 1 (c).

34 Yücel, *supra* note 12, 114.

35 Art. 2 para. 6 of the Lausanne Convention for the Straits has content similar to Art. 22 of the Montreux Convention.

1. State Practice Regarding the Peace-Time Provisions

The Montreux Convention peace time provisions have been most frequently applied since the signature of the Convention in 1936. Their consistent application has been the result of the long period of peace starting at the end of WWII and lasting till the 21st century. Throughout this period, all States in general have universally complied with these regulations.[36] [37] Nonetheless, the provisions regarding the quantity limitations have been applied more loosely in recent State practice. For example, in November 2021, the USS Porter, a guided missile destroyer, conducted exercises and operations with the Ukrainian, Turkish, Romanian and Bulgarian navies in the Black Sea.[38]

a. The Russian War Against Georgia (2008)

During the course of the Russian war against Georgia, in 2008, the United States of America attempted to send humanitarian aid to Georgia with two hospital ships on grounds of Article 18 (d): the USNS Witney and USNS Comfort, weighing 140,000 tons in total. This humanitarian assistance mission was not conducted due to Russia's objection and strong response. Additionally, these ships' total tonnage was larger than the above-mentioned quantity limitations of 8,000 tons[39] and 45,000 tons [40]respectively.[41] In the same period, USS Mount Witney exercised transit through the Straits despite questions about its tonnage and whether it fell under a Montreux exception. Russia saw this action as a direct violation of the Convention and as an unnecessary provocation; and

36 LCDR Norm Going, 'Black Sea OPS: in and out of the Black Sea', 10 *Surface Warfare Magazine*, 6 (November/December 1985), 14.

37 B. Bir, 'Türkiye to abide by Montreux Convention with no double standard: Foreign Minister of Türkiye finds Russian president's call for military takeover in Ukraine strange, unacceptable, says Turkish top diplomat', Anadolu Agency (25 February 2022), available at https://www.aa.com.tr/en/politics/turkiye-to-abide-by-montreux-convention-with-no-double-standard-foreign-minister/2515283 (last visited 3 November 2024).

38 B. Hefron, 'USS Porter Departs Black Sea, Arrives in Istanbul', United States Navy, News Stories (16 November 2021), available at https://www.navy.mil/Press-Office/News-Stories/Article/2844377/uss-porter-departs-black-sea-arrives-in-istanbul/ (last visited 3 November 2024).

39 Montreux Convention Art. 18 para. 1 (d).

40 *Ibid*, Art. 18 para. 1 (a) & (b).

41 Yücel, *supra* note 12, 210.

yet, Türkiye has allowed this transit since at that time U.S. destroyers routinely transited the Straits, thus confirming US practice.[42]

b. The Syrian War (2011-)

During the ongoing Syrian war (2011-), Russia has actively been involved at the request of the Syrian Government. In return for its support, Russia obtained a naval base on the Syrian coast by an agreement which was signed with Syria on 19 January 2017. According to this agreement, Russia leased the Port of Tartus for 49 years. That event contributed to the gradual traffic augmentation in the Straits. According to passage statistics of warships, while 168 warships passed through the Straits in 2006, this number increased to 200 due to the occupation of South Ossetia in 2008. After the beginning of the Syrian civil war, the total number of warships that passed through the Straits increased to 237 in 2014 and to 318 in 2015. Additionally, in 2016, 347 warships passed through the Straits[43] and 254 of these were Russian warships[44].[45] On 4 of December 2015, Turkish-Russian relations were soured, when a Russian navy serviceman had held a rocket launcher pointed towards the city of Istanbul as his ship passed through the Bosporus straits.[46] This event started a debate whether this action affected the inoffensive character of the passage and whether Türkiye had the right to ban the above-mentioned warship's passage.[47]

42 M. Nevitt, 'The Russia-Ukraine Conflict, the Black Sea, and the Montreux Convention', *Justsecurity* (28 February 2022), available at https://www.justsecurity.org/80384/the-russia-ukraine-conflict-the-black-sea-and-the-montreux-convention/ (last visited 3 November 2024).

43 'The Statistics Summary of Vessels passed through the Turkish Straits in 2016 [General Directorate of Maritime Trade of Türkiye]', in Yücel, *supra* note 12, 213 fn. 677.

44 'Foreign warships on Bosphorus in 2016' (2016), available at https://devrimyaylali.com/foreign-warship-on-bosphorus/foreign-warship-on-bosphorus-in-2016/ (last visited 3 November 2024).

45 Yücel, *supra* note 12, 213.

46 Reuters, 'Türkiye angered by serviceman brandishing rocket launcher on Russian ship passing through Istanbul', The Telegraph (7 December 2015), available at https://www.telegraph.co.uk/news/worldnews/12036531/Turkey-angered-by-serviceman-brandishing-rocket-on-Russian-ship-passing-through-Istanbul.html (last visited 3 November 2024).

47 Yücel, *supra* note 12, 214.

c. The Russian Annexation of Crimea (2014)

During the Russian annexation of Crimea (2014), there has been -yet again- a flexible application of Article 14 quantity limitation by reason of Türkiye's compliance to USS Mount Witney's request for passage through the Straits, regardless the fact that its total tonnage exceeded 15,000 tons. The U.S. responded that USS Mount Witney's weight was 13,957 tons. But, in my opinion, this justification was not sufficient, because this warship's total tonnage exceeded Article 10 and Annex II quality limitation of 10,000 tons, as well. Finally, Article 18 paragraph 2 had also been applied rather creatively; USS Taylor had remained for more than 21 days in the Black Sea due to technical malfunctions, unable to exit on its previously notified date. In both of the above-mentioned instances, Russia's response was very strong.[48]

2. General Thoughts on the Peace-Time Provisions

Articles 10 to 18 and 22 have been by far the most frequently invoked in practice. It is not an overstatement to say that the peace-time provisions of the 1936 Montreux Convention have surpassed the expectations of its drafters. As I previously mentioned, on many different occasions Türkiye managed to successfully regulate the passage of warships in time of peace in accordance to the "spirit" of the Convention. Nonetheless, if someone carefully and scholastically read the fore-mentioned provisions, it would have detected two major and fundamental "flaws" in the Convention.

Even though, Articles 10, 14 and 18 clearly set specific quantity restrictions to the warships of Non-Riparian States that they are allowed to conduct full-passage through the Straits and Section II categorizes the war vessels according to detailed metrics, Türkiye tends to have a more flexible approach to their application. The USS Mount Witney's case is the most characteristic, as Türkiye had essentially tampered -twice- with the warship's tonnage, so it would not fall within the Conventions limitation and pass through and out to the Black Sea. These actions could be explained, if we evaluate Türkiye's position on the international society; the geostrategic location of the Straits transforms it into a high-value component for anyone how wants to maintain international security. Since its signature in 1936, Montreux was an important piece in the Türkiye foreign affairs strategy, because it reinforces and legally establishes its special position in the post-WWII era. And so, to reassure that its greatest jewel will

48 *Ibid*, 214.

stay in its crown, Türkiye not only implements the Convention properly and impartially for more than seven decades[49], but also aligns its application to the interests of NATO and the US, proving to them that it is an invaluable and trustworthy ally.

Furthermore, the quantity limitations of Articles 10, 14 and 18 were put in place in reference to the capabilities of the States conducting maritime warfare back in the first half of the 20th century, when the Convention was signed; Section II is completely out of date. Due to the recent and ever evolving technological advancements on the field of naval military industry, these restrictions have to either be replaced by new ones through an amendment of the Convention or be interpreted in accordance to the current state of affairs. Türkiye, it seems, has adopted a different stance towards this issue; because it is really difficult to persuade all the contracting parties to agree to an amendment of the quantity limitations and moreover a more liberal interpretation of these provision could lead to great complaints from other States in the Black Sea area, primarily Russia, Türkiye has chosen to keep them as they are and then it adapts the real tonnage of the ships to the restrictions.

Apart from these interpretations advanced by Türkiye, it is fair to say that the 1936 Montreux Convention does a pretty good job at balancing colliding interests in the Aegean and Black Sea regions. On the one hand, it provides through Türkiye NATO and the US with a legal tool to contain the Russian naval forces inside the Black Sea, and on the other hand it establishes a privileged status for all littoral States of the Black Sea, including Russia. The Convention, also, by its strict regulations, limits access to Non-Black Sea naval forces inside the area, and thus it promotes international peace and security by making a large-scale naval engagement in this region nearly impossible.

III. Vessels of War in Time of War with Türkiye not Being Belligerent.

In time of war with Türkiye being neutral, vessels of war belonging only to non-belligerent States possess the right of freedom of transit through the Straits, which is regulated by the provisions applied in time of peace.[50] On the contrary, warships of the belligerent Powers are prohibited from exercising transit. There are, though, three exceptions: A) the return of warships to their naval bases in

49 Y. Acer, 'Russia's Attack on Ukraine: The Montreux Convention and Turkiye', 100 *International Law Studies* (2023), 15.

50 Montreux Convention Art. 19 para. 1

or out the Black Sea, B) the enforcement of UN military sanctions towards the aggressor, C) the military assistance towards a state victim of aggression in virtue of a treaty of mutual assistance binding Türkiye.

According to Article 19 paragraphs 4 and 5, when, as a result of an ongoing armed conflict, vessels of war belonging to a belligerent party were separated from their bases, wherever those may be, they have the right to return thereto. This may occur under the condition that these fleets will behave in accordance with the Law of the Use of Force, the Humanitarian Law and the Jus ad Bellum; additionally, they shall not make any capture, exercise the right of visit and search, or carry out any hostile act in the Straits.

According to Article 19 paragraph 2, naval forces which are operating under UN Security Council's authorization for the purpose of enforcing military sanctions towards a hostile state, are allowed to pass through the Straits. This is based on Article 25 of the Convention[51] and Article 103 of the UN Charter.[52] Moreover, the belligerent parties that are providing with military support a victim of an ongoing armed conflict, may exercise transit through the Straits in virtue of a treaty of mutual assistance binding Türkiye. On these occasions, all quantity restrictions are not applied.[53]

Article 19 exceptions reflect the political motives of the USSR and France at the time of the Convention's signature. These States had managed to introduce them, so they could have sent large naval forces in the Black Sea, if that had been necessary in virtue of a treaty of mutual assistance singed between them. On the same matter, Japan protested against Article 19, because paragraph 2 was not able to be applied to it as an ex-member of League of Nations.[54] It is important to mention further that Article 19 paragraph 4 gives a strategic advantage to the riparian Black Sea States, due to the fact that they dispose many naval bases in the Black Sea. Furthermore, Paragraph 2 still remains significant today regardless its reference to the League of Nations; this can be analogously applied in the case of the UN. In modern history, Article 19 had been in use only twice: 1) in WWII (1939-1945) and 2) in the ongoing Ukrainian conflict (2022-present).

51 "Nothing in the present Convention shall prejudice the rights and obligations of Türkiye, or of any of the other High Contracting Parties members of the League of Nations, arising out of the Covenant of the League of Nations."

52 "In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail."

53 Montreux Convention Art. 19 para. 3.

54 Yücel, *supra* note 12, 115 fn. 352.

1. State Practice Regarding the War-Time Provisions with Türkiye not Being Belligerent

a. WWII (1939-1945)

From the spring of 1939, when Nazi Germany occupied Czechoslovakia, until 23 February 1945, when Türkiye became a belligerent, Article 19 had been applicable by reason of Türkiye's neutrality. To remain non-belligerent, Türkiye had signed a non-aggression and friendship treaty with Nazi Germany on 18 June 1941. Furthermore, on 9 October 1941 they had, also, concluded a trade agreement by virtue of which Türkiye agreed to sell chrome to Germany, a strategic resource used as raw material in the arms industry at the time. These actions greatly displeased the Allies; Great Britain and the USSR protested and argued that the Nazi shipping through the Straits had been illegal. On many occasions, they accused Türkiye that it provided access to German cargo ships through the Straits, whereas they were suspected to be vessels of war. In most of those instances, these arguments proved to be false allegations.

But, in the end of May 1944, when a number of German ships (the Ems/Manheim Class of Krieg Transportschiff) were granted passage permission after assurances were given by von Papen, the German Ambassador to Türkiye, that these ships were not war vessels, it was revealed that the opposite was true. After the Allies had protested against this incident, Turkish officials conducted a search during their passage through the Straits. What was discovered proved the Allies' suspicions true: these ships were fully mounted with radar equipment, weapons and naval equipment; and so, Türkiye denied their passage. During closer investigation of the German vessel "Kassel" it was revealed that it was an auxiliary naval vessel with armor, a dismantled ship's guns and a camouflaged thirty-ton derrick. Türkiye protested against Germany for violating the terms of the Montreux Convention and informed them that henceforth all German vessels would be inspected and that the vessels of Ems and Manheim Classes would be denied passage without any inspection. Finally, on 2 August 1944, Türkiye severed its relations with Germany, at the request of Great Britain and the U.S.A.[55]

55 Yücel, *supra* note 12, 131.

b. The Russian Invasion of Ukraine (2022-)

Article 19 became relevant again because of the ongoing Ukraine War (2022-present). On 24 February 2022 the Russian President, Vladimir Putin, announced the start of a full-scale invasion of Ukraine, which is an act of aggression in violation of Article 2 Paragraph 4 of the UN Charter regarding the prohibition of use of force in international relations. On the same day, Ukraine's President, Vladimir Zelensky, asked the Turkish Government to activate Article 19 par.1, in order to deny Russian Navy's entry in the Black Sea. At first, Türkiye did not accept this proposal suggesting that Black Sea naval forces had the right to return to their bases without any restrictions.[56]

Three days later, on 27 February 2022, the Turkish Minister of Foreign Affairs announced the closure of the Straits for Russia -and for Ukraine as well- on grounds of Article 19. In reality, though, Article 19 par.4 in combination with Article 18 par.2 made this measure largely inefficient due to the fact that the Russian Black Sea fleet can conduct military operations in the area without any restrictions. The only practical gain for the NATO Allies and Ukraine from this act is that Russia is unable to send naval reinforcements in the Black Sea from other naval bases outside this area.[57] [58]

2. General Thoughts on the War-Time Provisions with Türkiye Not Being Belligerent

Article 19 is associated with the Law of Neutrality when it refers to "Türkiye not being belligerent". There exist two main types of neutrality; traditional and qualified neutrality. In accordance with traditional neutrality, neutral States have two basic obligations: abstention from participating in the armed conflict and impartiality of conduct towards all belligerent parties. In contrast, they also enjoy two important rights: inviolability of their territory and the freedom to continue peaceful trade relations among themselves and with

56 M. E. Hayyar, 'Can Türkiye Close the Turkish Straits to Russian Warships?', *European Journal of International Law: Talk!*, (28 February 2022), available at https://www.ejiltalk.org/can-turkey-close-the-turkish-straits-to-russian-warships/ (last visited 25 February 2024).

57 N. Oral, 'To Close or Not to Close the Turkish Straits under Article 19 of the 1936 Montreux Convention Regarding the Regime of the Straits', *Centre for International Law – National University of Singapore* (2022), available at https://cil.nus.edu.sg/to-close-or-not-to-close-the-turkish-straits-under-article-19-of-the-1936-montreux-convention-regarding-the-regime-of-the-straits/ (last visited 3 November 2024).

58 Nevitt, *supra* note 37.

each belligerent.[59] On the other hand qualified neutrality provides a "neutral" State with the right to aid the victim of aggression as a countermeasure or on the basis of self-defense while simultaneously enjoying the rights prescribed under the law of neutrality by simply not participating in the hostilities.[60] Basically, the core difference between qualified and traditional neutrality is that the former demands only the abstention from taking part in the armed conflict for a state to be considered as neutral and the latter sets as dual conditions for bestowing the status of neutrality both the abstention and the impartiality towards all belligerents.

Therefore, in my opinion whenever the Convention refers to the "non-belligerency of Tuckey", this terminology should be interpreted under the principle of good faith as "Türkiye's traditional neutrality", because there is not enough evidence to support that the Convention implies the need for the "qualified neutrality of Türkiye".

IV. Vessels of War in Time of War with Türkiye Being Belligerent.

In time of war with Türkiye being belligerent, the passage of warships shall be left entirely to the discretion of the Turkish Government.[61] Thus, in this case Türkiye is bestowed with absolute authority over the Straits; it is in a position which enables it to decide which States naval forces are permitted to exercise transit and which are not. This is the case, because the provisions of Articles 10 to 18 are not applicable. From 1936, Article 20 hadn't been activated, and thus, there exists no state practice.

V. Vessels of War whenever Türkiye Considers herself to be Threatened with Imminent Danger of War.

Whenever Türkiye considers herself to be threatened with imminent danger of war, it has the right to apply Article 21.[62] In this case, though, Türkiye does not possess absolute authority over the Straits. Vessels which have passed through the Straits before Türkiye has invoked Article 21, and which thus find themselves separated from their bases, may return thereto. However, Türkiye may deny this right to vessels of war belonging to the State whose conduct has

59 C. Antonopoulos, *Non-Participation in Armed Conflict-Continuity and Modern Challenges to the Law of Neutrality* (2022), 225 (3)(a).

60 *Ibid,* 15.

61 Montreux Convention Art. 20.

62 *Ibid*, Art. 21 para. 1.

given rise to the application of the present Article. [63]Additionally, the Turkish Government has to notify the contracting parties to the Convention and the General-Secretary of UN[64], after the invocation of Article 21.[65] If the General Assemble decides by a majority of two-thirds that the measures taken by Türkiye are not justified, and if such should also be the opinion of the majority of the contracting parties signatories to the Convention, the Turkish Government undertakes to discontinue the measures in question as also any measures which may have been taken under Article 6 of the Convention regarding merchant vessels.[66]

This legal framework was introduced for the first time in the Montreux Convention, whereas to the Lausanne Convention on the Straits nothing parallel to it existed. More specifically, a "threat of imminent danger of war" is no different than a threat of force for International Law. And that is the case because both of those actions are acts of aggression in violation of Article 2 paragraph 4 of the UN Charter regarding the prohibition of use of force in international relationships. The words "war" and "force" do not differ from each other; they have the same negative essence in law. And so, the term "threat of imminent danger of war" may be interpreted in a broader way. For this reason, Article 21 constitutes a huge diplomatic success for Türkiye; this provides it with a great margin of authority over the Straits prior to the beginning of an armed conflict against it, such as an imminent attack or in the case of a threat of force. Thus, Türkiye not only upgrades itself geopolitically, but also reenforces its national security. Historically, Article 21 hadn't been activated, and so, there exists no state practice.

However, there have been different points of view on this matter. In particular, it is suggested by some authors [67]that on 28 February 2022 the Turkish Minister of Foreign Affairs, Mevlüt Çavuşoğlu, had stated that all vessels of war belonging either to non-riparian or to riparian Black Sea States shall not transit through the Straits. According to this opinion, Article 21 had been invoked tacitly. Yet, it is submitted that this viewpoint is contrary to the ratio of Montreux Convention's provisions and the principle of good faith; the Turkish Minister of Foreign Affairs stated the application of Article 19 and not 21. Moreover,

63 *Ibid*, Art. 21 para. 2.
64 *Ibid* in place of 'the League of Nations'.
65 *bid*, Art. 21 para. 3.
66 *Ibid*, Art. 21 para. 4.
67 R. P. Pedrozo, 'Closing the Turkish Straits in Times of War'*, Lieber Institute West Point* (3 March 2022), available at https://lieber.westpoint.edu/closing-turkish-straits-war/ (last visited 3 November 2024).

if a wide interpretation and application of Article 21 was accepted, this might limit the effect of Article 19, thus, destabilizing the regulatory framework of the Convention.

Furthermore, it was, also, suggested that Türkiye could invoke Article 21 on grounds of Russian mines washing ashore in Turkish territory.[68] But, does this incident constitute a "threat of imminent danger of war"? I believe this argument is not valid. Firstly, it can be made clear that this event is neither a "threat of force", and thus, nor a "threat of imminent danger of war". Threat of force, which is forbidden by Article 2(4) of UN Charter, constitutes a State's expression to use force against another State in the future, unless the target State does or not commit an act or omission as demanded by the threatening State and the threat is not premised on an exception to the prohibition of use of force, a fundamental rule of International Law.[69] Furthermore, for state conduct to be considered a threat of force, it is necessary to assess the seriousness of the dispute between the States in combination with the context of the threat, as well as the probability of this to become a real event.[70]In the above-mentioned situation, this seems to be not the case; claims of compensation on grounds of state responsibility may not be overlooked.

Secondly, the Russian sea mines incident does not constitute a form of "imminent attack" either. According to some authors,[71] a state may use force under the justification of the right of anticipatory self-defense, if there exists enough evidence that a series of interconnected events has been set in motion, which will eventually result to an armed conflict; yet, it is not clear if anticipatory self-defense without a doubt may be a rule of customary law[72] [73] and, thus, Article 21 is not applicable in this instance.

68 A. Aliano & R. Spivak, 'Ukraine Symposium – The Montreux Convention and Türkiye's Impact on Black Sea Operations' *Lieber Institute West Point*, (25 April 2022), available at https://lieber.westpoint.edu/montreux-convention-turkeys-impact-black-sea-operations/ (last visited 3 November 2024).

69 *Legality of the Treat or Use of Nuclear Weapons*, Advisory Opinion, ICJ Reports 1996, 226, 246-247, paras 47-48; I. Brownlie, *International Law and the Use of Force by States* (1963), 364.

70 C. Antonopoulos, 'The Law of Use of Force' in C. Antonopoulos & C. Magliveras (eds.) *The Law of the International Society,* 4th ed. (2022), 753, para. 1491 (*in Greek*).

71 R. Buchan & N. Tsagourias, '*Regulating the use of Force in International Law: Stability and Change'* (2021), 59-65.

72 T. Ruys, "*'Armed Attack' and Article 51 of the UN Charter. Evolutions in Customary Law and Practice"* (2010), 255 fn. 20, 341-342.

73 C. Henderson, '*The Use of Force and International Law'* (2018), 274.

Nonetheless, it may be concluded that Article 21 is a creative or constructively ambiguous stipulation:; "To be threatened with imminent danger of war" constitutes a phrase that can be applied in many different situations, without the need for a complex legal argument. This potential for a flexible interpretation of Article 21 puts Türkiye in an advantageous position, because it offers a great amount of control over the Straits.

VI. Aircraft

In contrast to freedom of transit, the legal framework of the Montreux Convention regarding the freedom of overflight is specific. By virtue of the Convention this freedom is recognized only for civil aircraft; as for the military aircraft the general rules of International Law apply.[74] Additionally, Article 23 does not introduce different regulations in time of peace or war. Thus, there is uncertainty with respect to the level of authority that the Turkish Government may exercise over the flying lanes in time of war.

Even though, the regulatory framework regarding the freedom of overflight for civil aircraft is not as sophisticated as the one previously presented about the freedom of transit of vessels,[75] it is significant for international transport and carriage of goods. Istanbul is a global transit hub and the application of Article 23 contributes to this fact. Istanbul Airport (IST/LTFM), the biggest airport in Türkiye and one of the greatest in the world, between 29.10.2018 and 18.02.2024 welcomed approximately 262.927.646 from 1.792.960 flights in total; it has 315 flights, from which 100 are for cargo transportation only.[76]

74 L. Doswald-Beck, '*San Remo Manual on International Law Applicable to Armed Conflict at Sea*', (1995), 12-13, Sec. II, Arts 23-33.

75 According to Art. 23 of the Montreux Convention "In order to assure the passage of civil aircraft between the Mediterranean and the Black Sea, the Turkish Government will indicate the air routes available for this purpose, outside the forbidden zones which may be established in the Straits. Civil aircraft may use these routes provided that they give the Turkish Government, as regards occasional flights, a notification of three days, and as regards flights on regular services, a general notification of the dates of passage."
"The Turkish Government moreover undertake, notwithstanding any remilitarization of the Straits, to furnish the necessary facilities for the safe passage of civil aircraft authorized under the air regulations in force in Türkiye to fly across Turkish territory between Europe and Asia. The route which is to be followed in the Straits zone by aircraft which have obtained an authorization shall be indicated from time to time."

76 *iGA Istanbul Airport in Numbers*, available at https://www.istairport.com/en/corporate/about-us/?locale=en (last visited 3 November 2024). These statistics frequently fluctuate around these numbers and they don't remain stable. Nonetheless, they can provide a clear

E. The Key and the Gate: Türkiye's and US' Intertwined Stances towards 1936 Convention

It becomes obvious that the present regime of the Straits, as it is regulated by the Montreux Convention, provides Türkiye with an advantageous and privileged position in relation to the other contracting parties. Its authority to ensure the proper application of the treaty in practice and its significant powers regarding transit through the Straits (especially Articles 20 and 21) prove that. Moreover, for the same reason this treaty constitutes an important tool in Türkiye's foreign affairs arsenal; it is not inaccurate to be stated that the Montreux Convention is the key which widely opens the seaway towards the Black Sea and the eastern Mediterranean. At once, Türkiye's geostrategic position is upgraded. This may be illustrated by a plethora of events: for example, Türkiye's objections with regard to the accession of Sweden and Finland to NATO membership or its willingness to buy weapons from Russia, a primary NATO opponent. These events can be seen as apt diplomatic moves on the part of Türkiye, an exploitation of the current status quo of the region. And yet, this shrewd -but realistic- balance between the principal actors would not have been possible, if the Montreux Convention had not existed. And thus, it won't be an exaggeration to state that the probability of Türkiye's becoming a regional power in eastern Mediterranean is high, because of the present legal framework regarding the Straits regime as well as the events which are currently taking place in the broader area, notably the Ukrainian war.

Furthermore, the Montreux Convention constitutes an important element of the present-day world order. Firstly, it complies with and supports Article 1(1) of UN Charter, due to its sophisticated and well-placed restrictions which limit the number of warships in the Black Sea. Additionally, the application of these limitations may be interpreted in another way; the power that controls the Straits may exclude or at the very least weaken any potential unwanted presence in the Black Sea and empower any cooperative forces. Thus, from a western point of view, the Straits are the gates that conceal and contain every threat coming from the other side, limiting these threats inside the Black Sea; and so, the Treaty is the barrier against the adversaries of the West. For this reason, it should be in the US and NATO's best interest to ensure that Türkiye remains in

enough picture of Istanbul's significance to international transit, giving at the same time a practical reason for why the Convention regulates the transit of civil aircraft.

the western camp and NATO, so that the Straits remain firmly closed towards their enemies.

And here, in my opinion, lies the major challenge that NATO and the US must overcome: to ensure that the bond between Türkiye and the West does not break. Unfortunately, this is easier said than done, and that is the case due to a difference in the approach that Türkiye and the US adopt regarding the Montreux Convention's fundamental rationale; Türkiye sees Montreux as its way to greatness and on the contrary the US and NATO conceive it as a devise to prolong and conserve their dominance. If this bond breaks, then developments may occur which may change the region's status quo; what can be stated with certainty is that the global stability will be severely threatened. And so, finally, I suggest that the Montreux Convention should be applied as it is and as its true goal implies: to ensure of International Peace and Security.

F. Conclusion: The Future of 1936 Montreux Convention

After many decades in force, the 1936 Montreux Convention has been put to the test on multiple occasions, each time proving more or less its worth at securing peace and stability in the Black Sea region. It won't be an overstatement that Montreux should be considered as one the most important international treaties of the 20th century, rightfully claiming its position alongside all the rest of the classical international agreements of the past. From the extensive legal analyses of the 1936 Convention's provisions regarding the transit of war vessels through the Straits and their application in State Practice, the following may be concluded:

a) The Montreux Convention had been worded in such a way so as to balance different national and international interests involved in this area of the world: US' and NATO's aims to contain Russia's influence inside the Black Sea by not letting Russia send large naval force out in the Mediterranean are offset by the privileged legal status that was laid down for all States littoral of the Black Sea.

b) Türkiye's geopolitical and geostrategic position not only in the Black Sea area but also in the Eastern Mediterranean is recognized by the 1936 Convention: its control over the Straits is currently total, especially if it is taken into consideration that it has the right to fully deny access to any naval force in case Türkiye is belligerent or even if it considers itself to be threatened with imminent danger of war. Thus, Türkiye's role in the area has been upgraded to that of a regional "traffic warden" of one the busiest maritime routes world-wide.

c) From State Practice it may be concluded that in general all States conform to the Treaty's provisions and act lawfully in accordance with its true spirit. What is most interesting, though, is that even in cases where States violate the Convention, they still try to harmonize their actions with Montreux, presenting them as lawful. For example, this was the case with USS Mount Witney during the Russian War against Georgia (2008) and the Russian annexation of Crimea (2014).

d) Türkiye and the US have two completely different approaches to Montreux: the former understands it as an important tool which if it is used wisely, could be a critical factor for fulfilling its greatest ambition to be acknowledged as the most robust regional power on the Eastern Mediterranean; the latter sees Montreux as an instrument of restricting Russia's influence inside the Black Sea. As long as a compromise between the two sides exists, the status quo of the region will be maintained, but if this fails, then I believe that it could lend to significant and unpredictable situations beyond anyone's control permanently damaging International Peace and Security in the process.

For these reasons, I submit that a world and an international society without the 1936 Montreux Convention is hard to be imagined. In 2036 it will eventually mark 100 years of being in force, and it is going to be celebrated as by far one of the most significant pieces of international legislation that promotes and provides stability in an international globalized world. It has all the conditions to endure and last for more years to come, and as such to prove that International Law is the only means of maintaining International Peace and Security.