

Thoughts on the Montreux Convention in the light of Recent Developments - Levent Kırval-Arda Özkan



The Turkish Straits, comprising the İstanbul and Çanakkale Straits and the Sea of Marmara -which connects the Black Sea to the Aegean and the Mediterranean Sea- is considered one of the most important waterways in the world from a strategic

perspective. The Turkish Straits are valuable not just because of their unique features from an environmental context -not found anywhere else in the world- but also because it is situated in an important geographical location. In addition, the Turkish Straits are important for political, military, and economic security as they serve as the main trade route connecting the Black Sea littoral countries to world markets. Several wars were fought since ancient times to control them.

The regulation of passage through the Straits has also caused many conflicts. Since 1936, the transit regime through the Straits has been smoothly managed under the Montreux Convention. However, when wars and crises occurred in the Black Sea basin in the post-Cold War period, especially when Turkey blocked US warships that wanted to pass through the Straits, the regulation of passage through the Straits became controversial again.

The Turkish Straits are politically, economically, and strategically important, resulting from their geographically important location to various countries. This makes it especially significant for the littoral states of the Black Sea -Georgia, Ukraine, Russia, Bulgaria, Romania, and Turkey. The Montreux Straits Convention, which governs the transit regime from the Straits, is a multilateral agreement that has been in effect since 1936. The Convention, implementation of which is overseen by Turkey, constitutes appropriately balanced regime between Black Sea littoral and non-Black Sea states.

The safety of navigation in the Straits forms an integral part of the principle of free passage proposed by the Convention. The concept of safety of navigation in the Convention means that Turkey has the right to regulate the transit routes within international law. The fact that passage through the Straits is regulated by an international convention limits Turkey's control on the Straits.

Indeed, there is a special regime in the Straits, which aims at freedom of navigation with some limitations, formulated within the Montreux Convention.

According

to the passage regime regulated in Montreux Convention, the freedom of passage of all states' merchant ships through the Straits during peacetime is accepted without restrictions. In the time of war, if Turkey is at war or feels itself in danger of an imminent war, the freedom of passage of merchant ships is subject to certain conditions. In the passage of warships through the Straits during peacetime, certain limitations are kept for vessels under a specific tonnage, such as the number of foreign ships, the notification requirement, daytime passage and time limit. While the passage of large warships of the states that did not have a coast to the Black Sea was prohibited, large warships of the littoral states were allowed to pass through the Straits if they complied with necessary notifications and the condition of crossing alone. During wartime, if Turkey is not belligerent, ships of impartial states can pass through the Straits as during peacetime, while ships of warring states are prohibited from passing through the Straits. If Turkey is one of the belligerents in time of war or if Turkey feels itself under the imminent threat of war, Turkey can arrange the passage regime of the Straits as it wishes to ensure its security.

However,

the maritime traffic intensity in the Turkish Straits has reached very critical and dangerous dimensions today. While 17 ships passed through the Bosphorus daily

in 1947, this number has exceeded 150 in recent years, reaching around 50,000 annually. In addition to the increased ship traffic, ship sizes have also grown, and the cargo quality has changed. Most ships passing through the Straits today carry poisonous, dangerous, or explosive materials. The number of tankers carrying oil, petroleum products and other hazardous goods through the Straits is around 5,500 per year. This corresponds to approximately 15 tankers per day.

Maritime

traffic in the Turkish Straits already exceeds the limits of a secure passage. This also raises the risk of accidents to critical levels. Thus, the Straits Regulation came into force on 1 July 1994 to ensure the safety of life, property, environment, and navigation in the Turkish Straits. Later, the Regulation was revised in 1998 and entered into force on 6 November 1998. The significant decrease in the number of accidents occurring in the Straits since then has demonstrated the success and necessity of this regulation. These regulations were prepared in harmony with the principle of freedom of passage in international law and maritime rules introduced by the Montreux Convention as the freedom of passage does not mean an uncontrolled and undisciplined passage.

The Turkish Straits have always taken their place on the global agenda by attracting the attention of the great powers of the time. The rivalry today continues between NATO allies and Russia in this region. Considering that the provisions of the Montreux Convention continue to protect the Straits against NATO forces against its interests, Russia judges that the Montreux balanced regime still provides Russia with an advantageous situation. However, during the 2008 South Ossetia War, discussions about the implementation of the provisions of the Convention rekindled due to the passage of warships of NATO members from the Straits to the Black Sea. So much so that Russia argued stated that NATO ships violated the Montreux provisions, which impose a three-week staying time-limitation on warships of non-littoral states in the Black Sea.

Significant geopolitical changes have occurred in the Black Sea since the end of the Cold War, and certainly since 1936, when the Convention was signed. Bulgaria and Romania are both EU and NATO members, while Ukraine and Georgia wish to become members of NATO and the EU. Turkey has been a member of NATO since 1952 and a negotiating candidate country with the EU. These developments have caused Russia

to feel being surrounded in the region. Evaluating the Black Sea basin in this context, the USA and Russia rivalry continues here at maximum intensity.

Moreover,

Russia's recent occupation of parts of Ukraine has created a new conflict in the region. In this situation, discussion on the Montreux Convention's implementation

in the event of a possible war between the West and Russia became alive.

Montreux

clearly favors the littoral states of the Black Sea and permits them to have a superior

(with regards to type, tonnage, and duration) naval presence in the Black Sea.

Nevertheless,

it is being challenged by the various wars and conflicts in the region, not

least by the Russia-Ukraine war, control of Abkhazia and

South Ossetia by Russia, and the NATO and EU expansion to the Black Sea

Particularly,

a military operation by the West against Russia can put the Montreux regime in danger. As Russia today in effect occupies parts of the sovereign states of Ukraine and Georgia, the West has implemented various sanctions and even mentioned a military intervention. Should this take place, it will be a difficult for Turkey to remain neutral. As a state controlling the Straits, Turkey will certainly close the Straits to military naval traffic.

In

addition to all of these, a new development in the region is the acceptance of Ukraine and Moldova as candidate states for the EU. The membership status of these countries will alienate Russia in the Black Sea even more. As Russia already feels the push from NATO expansion to the east, it will be severely isolated in the Black Sea by the EU membership status of these states. These developments

again underline the importance of the Montreux regime. The preservation of the Montreux Convention, regulating the security of the Black Sea, is in the

interests of the entire international community.

In Turkey, Istanbul Canal's construction is also on the agenda as an alternative to the Bosphorus. In the Environmental Impact Assessment report on the Istanbul Canal, the Çanakkale Strait is also mentioned. Such a structure that bypasses the Turkish Straits would affect the Montreux Straits regime. It is already argued in Turkish press that the US supports this project to provide an alternative entry to the Black Sea for its military ships. In any case, once a project like this is on the agenda in earnest, the Montreux regime might be opened to debate again. As there is a war in the Black Sea region now, adding such project to the equation, it might change the *status quo*.

If a discussion starts about the Montreux Convention and if drawing up a new convention deemed necessary, the new regime will undoubtedly be disadvantageous for Turkey. It should be remembered that the Montreux Convention was signed before the Second World War in a more balanced international environment. This balance does not exist today. Especially in an environment where littoral states are at war with each other, it is almost impossible to reconstruct a convention that favors them.

Given this possibility, Turkey should abstain from any steps that might jeopardizes the Montreux Convention. A potential war between the West/NATO and Russia will further aggravate this discussion. It should not be forgotten that the only sea that the West, especially the US, has not unfettered access in the world is the Black Sea. Undoubtedly, all related states will take this opportunity to alter this situation. For this reason, the Montreux Convention should be supported to the end, and the state of the Black Sea as a *sea of peace* should be maintained.



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