

The Legal Status of Azov Sea and the Kerch Strait: Ukraine v. Russia

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Abstract

The Black Sea has been the scene of conflict between coastal states throughout history. Recently, emerging Russia-Ukraine tension continues. The Russian Federal Security Service ("FSB") destroyed and captured three Ukrainian Military Ships and detained 24 of its personnel on November 23, 2018. As the dispute continued, Ukraine finally raised the matter to the International Tribunals on Law of The Sea ("ITLOS"). This tension, which reaches a hot conflict point from time to time, causes legal changes in the Black Sea eventually. This article discusses the current legal status of Crimea, the Sea of Azov, and the Kerch Strait and aims to explain from the perspective of Russia, Ukraine, and Turkey. The study shows how the conflict environment in the region has a changing effect on the existing maritime borders and whether Russia's act is a part of violation of the UNCLOS and International Law.

Keywords: azov sea; kerch strait; legal status

1. Introduction

A set of norms that govern the relationship between coastal states known as International Maritime Law. It establishes the right and obligations of States in maritime environments. (Harrison, 2011, p. 1) It constitutes a comprehensive codification and development of contemporary international law governing the sea in time of peace. (Ahmed, 2017, p. 23) There is no field of international law that endures a revolutionary development in the last four decades more than International Maritime Law. (Starke, 1972, p. 223) The Azov Sea is a small, shallow, and geographically inland sea connected to the Black Sea by the Kerch Strait. Its legal status has been a matter of dispute after the dissolution of the Union of Soviet Socialist Republics ('USSR'). Until the dissolution of the USSR in 1991, it was the coast of the Azov Sea, and the only state that ruled both sides of the Kerch Strait was the USSR. During this period, the Azov Sea was considered subject to the inland water's regime, while the Kerch Strait was considered a national strait.

In 1991, Ukraine, one of the republics that formed the Soviet Union, declared its independence. The Russian Federation was established as the successor of the USSR. Thus, two neighboring states, coastal to the Azov Sea and the Kerch Strait, came into existence. The Russian Federation and Ukraine started negotiations to determine the legal status of the Azov Sea and the Kerch Strait in those years. Based on Article 37 of UNCLOS stated that

“This Section applies to straits which are used for international navigation between one part of the high seas or an exclusive economic zone and another part of the high seas or an exclusive economic zone.”(United Nations, 1982, art. 37)

Refers to the article, and as a result of these negotiations, the bilateral Agreement on Cooperation in the Use of Azov Sea and the Kerch Strait on 2003 (“2003 Agreement”) has been signed. The agreement provides that the Azov Sea and the Kerch Strait can be used freely by both Russia and Ukraine in terms of sea traffic and transit passage by vessels.(Official Journal of the European Union, 2020) Every ship that appears Russian and Ukraine flags enjoy the right of transit passage governs in the agreement.

Under Part III of UNCLOS contains the utilization of straits used for international navigation. Under this provision, vessels have the right to enjoy "Transit Passage" when crossing the straits used for international navigation.(Bernaerts, 2006) Under Article 38 of UNCLOS, Transit Passage can be defined:

1. In straits referred to in article 37, all ships and aircraft enjoy the right of transit passage, which shall not be impeded; except that, if the strait is formed by an island of a State bordering the strait and its mainland, transit passage shall not apply if there exists seaward of the island a route through the high seas or through an exclusive economic zone of similar convenience concerning navigational and hydrographical characteristics.
2. Transit passage means the exercise following this Part of the freedom of navigation and overflight solely for the purpose of continuous and expeditious transit of the strait between one part of the high seas or an exclusive economic zone and another part of the high seas or an exclusive economic zone. However, the requirement of continuous and expeditious transit does not preclude passage through the strait to enter, leave, or returning from a State bordering the strait, subject to the conditions of entry to that State.
3. Any activity which is not an exercise of the right of transit passage through a strait remains subject to the other applicable provisions of this Convention.(United Nations, 1982, paras. 38-1)

The article above provides the freedom of the right of the vessels to cross any straits used for international navigation. However, the passage shall be expeditious and continuous, except in the situation of *force majeure*.(United Nations, 1982, paras. 38-2) The right of freedom also includes the freedom of sailing and the right to cross through the archipelagic sea lanes.

Since the 2000s, various problems have occurred between the parties regarding the Azov Sea and the Kerch Strait use. In 2014, the tension in the Azov Sea and Kerch Strait started to get worse. After a military coup in the Crimean Peninsula, an autonomous region of Ukraine, Crimea joined Russia with the decision of the Crimean Parliament. Although the legal basis of Crimea's joining to Russia is controversial, the international community opinion that Russia's annexation of Crimea is unlawful.

After 2014, Russia dominated both sides of the Kerch Strait due to its *de facto* sovereignty in the Crimean Peninsula. Russia has built a bridge in the Kerch Strait. It is claimed that the bridge's height prevents the passage of, especially Ukrainian flagged merchant ships. Russia has also been closing the Kerch Strait with unilateral decisions at various intervals, more and more in recent years. Ukraine has responded by cutting ties with Russia and asking for support from the west. More than 10,000 people have been killed in southeast Ukraine since 2014, and the conflict is ongoing.(Roth, 2018)

Concerning the 2003 Agreement regarding the Transit Passage, there has been a violation conducted by Russia. The Russian Federal Security Service ("FSB") destroyed and captured three Ukrainian Military Ships. Three ships belonging to the Ukrainian Navy were stopped by Russia on November 25, 2018, while crossing the Kerch Strait to the Azov Sea. Russia seized the vessel and arrested their crews. (Kraska, 2018) Ukraine shall be allowed to enjoy the right of transit passage in the Kerch Strait, and that the act of preventing this right means that Russia is violating Article 2 of the 2003 agreement. Therefore, based on the description above, the authors consider knowing deeply the legal status of the Azov Sea and Kerch Strait, interesting in conducting a further comprehensive study based on Russia, Ukraine, and Turkey perspective and also whether Russia's act is a part of violations of UNCLOS and International Law.

2. Discussion and Analysis

2.1 Geography of the Black Sea, Azov Sea, and Kerch Strait

2.1.1 Black Sea

The Black Sea is a deep sea between southeastern Europe and Asia Minor connected to the Mediterranean by the Bosphorus and the Sea of Marmara and the Sea of Azov by the Kerch Strait. (Treves, 2015) The Black Sea gets seawater input through the Bosphorus, 200km³ per year. Besides, freshwater flows from the surrounding areas, especially Central Europe and the Middle East. The most important river that enters the Black Sea is the Danube. The Black Sea has an area of 422,000 km² and a maximum depth of 2,210 m. The countries bordering the Black Sea are Turkey, Bulgaria, Romania, Ukraine, Russia, Georgia. The Crimean Peninsula is the Autonomous Republic of Ukraine. Important cities on its coast include Istanbul (formerly Constantinople and Byzantium), Burgas, Varna, Constanta, Yalta, Odesa, Sevastopol, Kerch, Novorossiysk, Sochi, Sukhumi, Batumi, Trabzon, Samsun.

2.1.2 Azov Sea

The Azov Sea is an inland sea bordered by the southern coast of Ukraine and Russia. It is connected to the Black Sea by the Kerch Strait, which is a natural waterway. The Azov Sea is a tiny and semi-enclosed sea of the Atlantic Ocean. During Ancient Greek times, it was known as Meotian Lake. This water reservoir has always been of significant strategic importance to the states around its shores. Historically, the Azov Sea played a crucial role several times. However, because of its geo-specificity, meaning that the Azov Sea is the most isolated sea in the world that rushes deeply into the Eurasian continent, it is isolated from the vital geostrategic regions Eurasia.

The Sea of Azov is 210 miles long and 80 miles wide. It covers 14,500 square miles of sea area. In addition to the Don and Kuban rivers, the Mius, Berda, Obitaçnaya, and Yeya rivers flow into the Sea of Azov. (Britannica, 2009) As the deepest point of the Sea of Azov is 14 meters, it is considered the shallowest sea in the world. In the Azov Sea, the temperate and continental climate is dominant. Fogs often form. The northern part of the sea can freeze from December to March. Icebreakers aid navigation in the sea. There is heavy ship traffic in the Sea of Azov. In shallow sea points, the course of heavy ships is affected. Important main ports in the Azov Sea are the Ukrainian ports of Mariupol and Berdyansk and the Russian ports of Taganrog and Yeysk. (Britannica, 2009)

2.1.3 Kerch Strait

The only passage connecting the Azov Sea to the Black Sea is the Kerch Strait. While the Taman peninsula of Russia is located on the eastern side of the Kerch Strait, the Crimean Peninsula, whose legal status has been disputed since 2014, is located on the west side. The Kerch Strait is 41 km long, 4-15 km wide, and 5-13 meters deep. (Ucosta, 2018) The Kerch-Yenikale Canal, which opened in 1877 in the Bosphorus and managed by Ukraine until recently, is the only route through which large ships can pass. Smaller vessels can use Russian crossings on the east side of the strait, suitable for navigation. Until 2014, more than 8000 Russian and Ukrainian flagged ships have passed through the Kerch Strait annually. (Schatz & Koval, 2019) It is stated that in Kerch Port, an annual income of 80.000 USD is obtained from the piloting service in the strait. (Schatz & Koval, 2018)

2.2 The Legal Status of Crimea, The Sea of Azov and Kerch Strait

The conflict between Russia and Ukraine is not only about the status of maritime jurisdictions. As a matter of fact, even if a determination is made regarding the waters here, the problems will continue due to the position of Crimea. In that case, it is necessary to evaluate the legal status of Crimea and the approaches regarding the status of the Azov Sea and Kerch Strait. The majority of states and lawyers find the annexation of Crimea unlawful. In this case, there will be two scenarios regarding the legal status of the Sea of Azov and the Kerch Strait. (Schatz & Koval, 2018) First, this region is the inland waters shared by Russia and Ukraine, transforming from a single-state gulf to a multi-state gulf. Second, the two states declare their maritime jurisdiction, and this becomes a semi-closed sea. According to these preliminary assumptions, The Kerch Strait, on the other hand, will be a national strait subject to the inland water's regime in the first scenario. In contrast, the second scenario will be covered by UNCLOS article 37 since it will combine one part of the high seas or exclusive economic zone with another aspect of them.

Russia accepted the Sea of Azov as a gulf in 1985 according to the straight-line method according to the 1958 Geneva Convention Art. 7/4. Some authors think that in the gulfs shared by more than one state, the usual way will be limited to the normal baseline, starting the measurement of sea areas from the lowest ebb line of the sea. Some writers think otherwise. For example, Scovazzi says, "A gulf that is closed by the straight-line method when there is a state around it; Why would the legal definition change since the sovereignty over land changed and two states emerged? ". (Katuoka & Klumbyte, 2019, p. 233) In this respect, it is necessary to look at the example of Piran Bay, which Russia frequently gives an example.

According to Slovenia, Piran Bay was a legal/normal gulf before the dissolution of Yugoslavia, and its waters were considered inland waters. According to this, after the dissolution of Yugoslavia, it became both a legal and a historical gulf; the principle of *uti possidetis* should be sought here. Croatia denied this claim. According to Croatia, Yugoslavia did not block Piran waters with a closure line, although there was no obstacle. Both states recognize that they are the successors of Yugoslavia. Slovenia claimed that the status of Piran Bay did not change in this respect.

Arbitration Court, based on the issue of the Gulf of Fonseca, determined that the status of the inland water existed before the dissolution of Yugoslavia and continued in the same way afterward: "The dissolution transferred the rights of Yugoslavia to the successor states Slovenia and Croatia and did not change the current status. "The court also saw no need to define a different regime in these waters. In this respect, similarities can be made between the

Piran Gulf case and the conflict in the Sea of Azov and the Kerch Strait. First of all, when the Soviet Union collapsed, the Sea of Azov was considered a gulf. After the dissolution of the Soviet Union, some agreements were concluded between these two states, which were the successors of the USSR, and they stated that these waters were "historically inland waters of the two states." (Katuoka & Klumbyte, 2019, p. 234) Indeed, mainly the 2003 Agreement contains important articles to understand the legal status of the region. The first article of the agreement, which sees the waters in the area as the inland waters of the two states, is as follows: (The 2003 Agreement between Russia and Ukraine., 2003)

"The Sea of Azov and the Kerch Strait have historically been inland waters of the Russian Federation and Ukraine.

The state borderline will border the Sea of Azov under the agreement between the Parties.

The solution to problems related to the water area of the Kerch Strait is accomplished through an agreement between the Parties. "

Likewise, in the second article of this agreement, the basic rules regarding the passage through the Kerch Strait are determined: (The 2003 Agreement between Russia and Ukraine., 2003)

"Russian and Ukrainian flagged commercial ships, warships, and state ships used for non-commercial purposes have freedom of navigation in the Sea of Azov and the Kerch Strait.

"Merchant ships under the flags of third states can enter the Sea of Azov and pass through the Kerch Strait when entering or leaving a Russian or Ukrainian port.

"Warships and other state ships of third States operated for non-commercial purposes may enter the Sea of Azov and pass through the Kerch Strait when sent by invitation or permission of one of the Parties and in agreement with the other Party, on a visit or a call to work."

As can be understood from this agreement, the two states consider the waters as their "inland waters." The same statements were repeated in the Joint Declaration signed by the Presidents of the two states after this agreement and published in the 54th issue of the Law of the Sea Bulletin. (United Nation New York, 2004) Although Ukraine stated in the Arbitration Court that it "Never accepted an inland water regime that was not restricted," The 2003 Agreement regulates the joint sovereignty of two states over a region. The imposition of restrictions on merchants and warships of third states while crossing the Kerch Strait is proof of this. In this respect, the Sea of Azov and the Kerch Strait have the status of inland waters.

On the other hand, when the Sea of Azov consider as a semi-closed sea, the Kerch Strait will become a strait open to international navigation and will be subject to a transit pass regime, which provides broader ease of passage than a harmless passage for all states within the scope of UNCLOS article 37 and both Russia and the Ukrainian military, and commercial vessels can enjoy the right to the Kerch Strait. (Huang, 2020, p. 10)

2.3 Russian Violations

2.3.1 Violations of the Law of the Sea

Based on maritime law, capture or attack opponent's ships only permitted when the vessels were engaged in hostile action, not only when violate the territorial waters. Thus, the

incident highlights that Russia's lack of concern about violations of international norms of conduct extends to basic principles of international law such as the Law of the Sea. Assuming that UNCLOS would apply in this case, the Russian action would be very unlawful in many ways. Russian warships led security patrols to violate innocent passage in areas under Ukrainian sovereignty if the incident happened in Ukraine's territorial sea. If the attack occurred in the Russian territorial sea, Russian action violated the innocent passage right of Ukrainian ships and showed that Russia acted inconsistently with article 19 of UNCLOS.

Because overlapping seas form the central channel of the Kerch Strait, Russia's requirements for mandatory pilots are not permitted by section 21 of UNCLOS. Russia appears to have adopted compulsory pilotage through the Kerch Strait, which may not apply to foreign-flagged vessels without adopting the requirement by Member States of the International Maritime Organization (IMO). (Kraska, 2018) Ukraine's ships can enjoy the right to navigation since the IMO has not adopted any pilotage requirements. Article 42 of UNCLOS stated that "States bordering straits shall give due publicity to all such laws and regulations. Foreign ships exercising the right of transit passage shall comply with such laws and regulations." Based on article 42, Russia's compulsory pilotage in Kerch Straits has violated the article, which excludes any regulation by coastal states located in bordering straits.

2.3.2 Violation of Ukrainian Sovereign Immunity

Many States criticized Russia for violating the right of Ukrainian freedom of navigation through Kerch Strait, and because of this incident, the Ukrainian warship's sovereign immunity is violated. In article 29, a Ukrainian ship is a warship, which is described as a ship belonging to the armed forces; carry an external mark that distinguishes the vessel from its nationality; under the command of an officer assigned by the state government and whose name is on the list of suitable or equivalent service, and manned by a crew that is under regular armed forces discipline. Under article 32 of UNCLOS, warships are protected by the immunity of sovereignty as reflected and therefore unbreakable; no state can exercise jurisdiction over them, and their arrests are illegal. Moreover, the attacks on the Ukrainian ships appeared to have taken place in Ukraine's territorial seas, even though it was under Russian occupation. (Varghese, 2020, p. 14)

Following Article 32 of UNCLOS, the regime of innocent passage in the territorial sea is the only recourse for the coastal state to "oblige it to leave the territorial sea immediately" if the sovereign immune ship violates. Although this view is not universal, the legitimate steps coastal states may take to require a foreign warship to leave the territorial sea do not contain the use of force. The coastal state can use power to induce warships, not on innocent passage to depart the territorial sea. (Churchill & Lowe, 1999) States are somewhat reluctant to use force against foreign warships in territorial seas that are not in an innocent passage; however, as the state's decades of practice of warning but avoiding attacking intruding submarines in territorial seas illustrate. (Churchill & Lowe, 1999)

While the Russian invasion of Ukraine was a war of unlawful aggression in violation of Article 2 (4) of the United Nations Charter, (Kurnia, 2016, p. 27) Now that both countries are involved in IAC, the Russian armed forces have the right to target and destroy Ukrainian warships. During these battles, Russian troops still had to adhere to the law of war, such as the principle of distinction, the principle of humanity, and the prohibition against unnecessary suffering and excessive injury. (Apple, 2006, p. 36) At the same time, Ukrainian crew members have the right after being captured to be treated humanely as legitimate combatants. Members of this service shall be granted prisoner of war status under article 4 of the Geneva Convention

Concerning the Treatment of Prisoners of War (GC III).(Geneva Convention Concerning the Treatment of Prisoners of War (GC III)., n.d.) But Ukraine has been charged with entering Russia with an illegitimate weapon - a crime with a maximum punishment of six years. Taking face value on Russia's claim that the Ukrainian ships are not on an innocent passage, Russia has no legal basis for affirming jurisdiction over sovereign foreign naval vessels, let alone fire on them. However, Russia's insistence on taking lawful action against ships not in innocent passage ignores naval warfare laws, which are more forceful of the legal regime.(Schaack, 2017)

2.4. Russia, Ukraine, and Turkey's Perspective

2.4.1 Russia's Perspective

Russia considers the situation of the Azov Sea and Kerch Strait before 1991 as inland waters. The Soviet Union legally accepted this place as its inland waters, and there was no objection to this from any state. According to the 1924 Constitution of the USSR, this place should be considered inland waters for the Ukrainian Soviet Socialist Republic.(PCA Verdict, 2020)

The USSR ratified the 1958 Geneva Convention on November 22, 1960. Article 7 of the 1958 Geneva Convention regulates gulfs whose coasts belong only to one state. "In cases where the distance between the natural entry points of a bay does not exceed twenty-four miles during the lowest tide, a line closing the gulf can be drawn between these two ebb lines, and the waters closed in this way are considered inland waters." The mouth of the Sea of Azov is more minor than twenty-four miles. In this respect, the USSR announced in 1985 that the Sea of Azov was its inland waters by drawing a line between Cape Kyz-Aul and Cape Zhelezny-Rog at both ends of Kerch Strait.(Schatz & Koval, 2019) Russia states that the inland waters regime has become an obligation of the agreement for other states.(PCA Verdict, 2020, para. 204) In other words, the Azov Sea has legally gained the quality of a bay (juridical bay or normal bay).

According to Russia, this status of the Azov Sea and Kerch Strait continued after the independence of Ukraine. Namely, Ukraine and Russia are the successor states of the Soviet Union. In line with the principle of the continuity of the states, the inland waters regime was automatically transferred to the everyday use of the two states.(PCA Verdict, 2020, para. 202) In accordance with this, in the State Border Agreement of January 28, 2003, and the 2003 Azov-Kerch Cooperation Agreement, in the Joint Declaration made after this, Russia and Ukraine have declared that the Sea of Azov and the Kerch Strait is the inland waters of the two states.(PCA Verdict, 2020, para. 206)

Ukraine's opinion "according to UNCLOS, 10/1 and the 1958 Geneva Convention 7/4 will not apply in the gulfs surrounded by more than one coastal state. These gulfs cannot be accepted as inland waters" is constantly rejected by Russia.(PCA Verdict, 2020, para. 207) For example, in the Piran Bay issue between Croatia and Slovenia. The status of the Piran Bay, which was considered inland waters during the Federal Socialist Republic of Yugoslavia, was transferred to Slovenia and Croatia, which were the successors of Yugoslavia after Yugoslavia's dissolution in 1991. Croatia-Slovenia arbitration courts stated that the 1958 Geneva Convention Article 7, paragraph 1, and Article 10 of the 1982 Convention do not exclude gulfs of inland waters surrounded by more than one coastal state.(PCA Verdict, 2020, para. 209)

Another example given by Russia is the Rovuma Bay, where Tanzania and Mozambique are coastal. These two states drew a line to the Rovuma Bay in 1988 and determined with an agreement that the waters beyond this line were considered to be the familiar inland waters of the two states. Besides, Russia mentioned the 1981 Limitation Agreement of Brazil and France and the 1973 agreements between Uruguay and Argentina as examples of similar bilateral agreements. (PCA Verdict, 2020, para. 210)

Russia, therefore, considers the Sea of Azov as common inland waters. The Kerch Strait believes that it has exclusive powers in the Kerch Strait, as its sovereignty is exercised on both sides of the strait. Besides that, Russia stated that by complying with the provisions of the 2003 Agreement, the Ukrainian ships did not prevent the freedom of navigation and the access for foreign vessels other than the battleship to ports in the Azov Sea. (Fleck, 1995, p. 69)

2.4.2 Ukraine's Perspective

Although Ukraine received the status of the Sea of Azov and Kerch Strait until 1991, it claims that it cannot accept such a situation. According to Ukraine, the Azov Sea should be regarded as a semi-closed sea according to article 122 of UNCLOS. (PCA Verdict, 2020, paras. 212–213) Article 122 of UNCLOS is as follows:

"A gulf of the closed or semi-enclosed sea, surrounded by two or more States and connected by a narrow passage to another sea or ocean, or consisting entirely or mainly of territorial waters and exclusive economic zones of two or more States, a sea basin or a sea is understood. "

In this regard, Ukraine has interpreted UNCLOS, Article 10 and Article 122 as a distinction, as follows: While there is only one coastal state in Article 10, there is more territorial waters, exclusive economic zone, or continental shelf can be mentioned. (PCA Verdict, 2020, paras. 213–214) Ukraine thinks that territorial waters and exclusive economic zones can be declared in the Sea of Azov. Thus, the legal status of the Kerch Strait will also fall within the scope of UNCLOS article 37.

According to Ukraine, Articles 8 and 10 of UNCLOS regulate situations where there is only one coastal state. The concept of multi-state inland waters status is a very exceptional and depreciated concept. The Law of the Sea Convention should be interpreted in accordance with its purposes. In this respect, to accept the multi-state inland waters status and will contradict the balance that the UNCLOS is trying to establish its legal predictability and the regulatory structure of the law of the sea.

Ukraine has developed a benchmark for the examples given by Russia. The special status of multi-state gulfs can only be accepted if the following criteria, such as:

1. The body of water is small and not large enough to encompass an exclusive economic zone.
2. There is an explicit agreement between all coastal states to establish a multi-state inland waters regime.

2.4.3 Turkey's Perspective (Third states did not contest this claim). (PCA Verdict, 2020, para. 218)

In terms of international security, the Black Sea region is essential in many ways. First, frozen conflicts in the many areas neighboring the Black Sea pose a threat to regional security. Second, soft security threats, especially narcotics, human and arms trafficking, and terrorist activities, are another security problem in the region. Third, the Black Sea has an essential place

in distributing resources such as natural gas and petroleum to European markets, especially of the Russian and Caspian basins, whose geo-economic importance is increasing. (Overland, 2015, p. 67) The region's proximity to Caspian and Central Asian hydrocarbon resources increases the strategic importance of the EU and NATO countries in terms of energy security. (Özçelik, 2014)

Against competition and aggressive policies between Russia and Ukraine, Ukrainian foreign policy is based on a balance of power approach. The USA and Europe are an essential part of this balance of power policy. In the Black Sea region, neighboring Turkey, Ukraine is a critical strategic partner country. After the Cold War has been crucial in terms of ensuring Ukraine's political and economic opportunities to establish good relations with Turkey in the Black Sea region in terms of Ukraine's geopolitical triangle with the establishment of the Ankara-Kiev-Baku.

As a result of the productive economy and Ukraine in the Black Sea region of Turkey, they serve to ensure the development and continuity of political and cultural relations. The two countries will also be the main and most important actors of the new security structuring in Eurasia. (Hasanaig, 2016) Turkey's NATO allies and Ukraine as a key Azov are so closely involved with security vulnerabilities that may arise from the Sea and the Kerch Strait status. Therefore, the Sea of Azov and the Kerch Strait Ukraine is under control of Turkey's security and would not be wrong to mention it would be the possible advantage of the gains from trade.

3. Conclusion

Apparently, the conflict between the two States regarding Kerch Strait and its neighboring territories has been prevalent. The agreement signed between the two states had smoothed the tensions between them significantly as the sea was now measured as an international asset, and both states had equal access to it. No matter how Russia deems the status of the Azov Sea, by closing the Kerch Strait on one side, it is clear that the action is contrary to the 2003 Agreement and UNCLOS Article 37. Furthermore, even if by any chance Russia has the right to the proper response according to maritime law, for the border guard to escort the violating ships out of the territorial zone, not to destroy them.

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