



THE QUESTION OF THE BOSPORUS AND THE DARDANELLES STRAITS

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The struggle for control of the Bosphorus and the Dardanelles, strategic access points on the only waterway between the Black Sea and the oceans of the world, has a long history. It has become even topical in the modern age, as an effect of the increase in economic power and the expansionist tendencies of some states, bearing the imprint of the flourishing or decline of some empires whose fate depended on the strategic situation at the junction of Europe and Asia.

However, 86 years ago, in a conciliatory setting, a diplomatic instrument was signed in Montreux, emblematic in the evolution of international law, based on a real spirit of harmonization of political, economic and military interests, which authorized the transit of ships and aircraft through the area of the Bosphorus and the Dardanelles straits. Still in force today, the Montreux Convention signed on 20 July 1936, which put Ankara in possession of the keys to the straits, is one of the long-lasting international agreements, limiting the number and tonnage of vessels and, in the case of warships, the duration of their presence in the area, a fact that, in the almost nine decades, has produced effects on the interests of some states, be they Black Sea littoral states or not.

The current war in Ukraine, launched on 24 February 2022, brings back in the diplomatic debates the document whose articles relating to the conflict situation have not been invoked since the end of the Second World War, although, over time, interested parties have strongly advocated for the revision of the Montreux Convention.

Keywords: Bosphorus; Dardanelles; Montreux; Mustafa Kemal Atatürk; Nicolae Titulescu;



Motto: "...anything that has to do with the Black Sea represents a highest interest for my country, because it is the Black Sea and the straits that provide our access to the high seas... I will say that the straits are the very heart of Turkey, but they are, simultaneously, the lungs of Romania"¹.

The Bosphorus Strait and the Dardanelles Strait have always been real gateways on the only waterway connecting the Black Sea, a semi-enclosed sea, with the Mediterranean Sea, a sea with access to the oceans of the world. The control exercised over the straits by Turkey, as the country on whose territory they are located, has indisputably favoured it. The countries bordering the Black Sea, however, have always been interested in the problem of the straits, as long as the transit through the Bosphorus and the Dardanelles has represented their only access to the Mediterranean Sea, and the regime of the two straits has, inevitably, been closely linked to the safety of navigation in the Sea Black waters, the requirements of international commercial shipping and the border defence.

The great interests, of a political-strategic and economic order, surrounding the question of the Bosphorus and the Dardanelles, explain both the difficulties that have arisen over time in the attempts to regulate the problem of the two straits and the inequitable regime that has been established over them until the end of the First World War. In the interwar period, however, the legal status of the straits underwent important changes, aimed at achieving an agreement between the interests of the international community and the security and economic interests of the Black Sea littoral countries. It is because, in relation to world maritime traffic, the Bosphorus and the Dardanelles straits have always occupied a first-rate position, alongside straits such as Bab el Mandeb (Gulf of Aden), Gibraltar, Pas-de-Calais or Singapore.

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¹ Nicolae Titulescu speech in the opening session of Montreux Conference, 22 June 1936.



In the complex issue of the straits, Romania's legitimate interest has always had, as a foundation, serious historical and geographical grounds. A country bathed by the Danube, Europe's most important river, as well as a Black Sea littoral country, having the transit through the Bosphorus and the Dardanelles as the only access to international waterways, Romania has been and will remain permanently interested in maintaining freedom of navigation through the two straits.

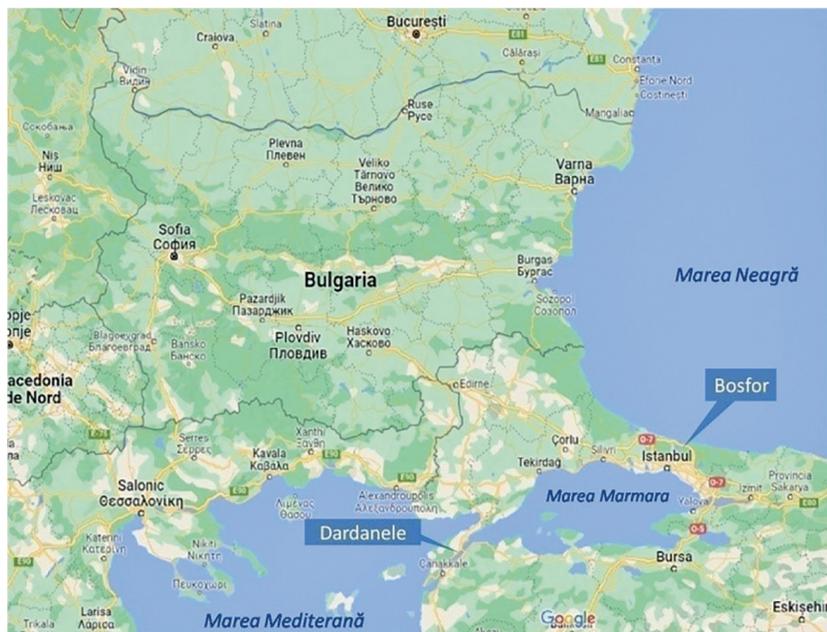


Photo no. 1: The Bosphorus and the Dardanelles
(Source: <https://www.google.com/maps>, retrieved on 12 August 2022)

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Therefore, the research methodology that I chose, in order to substantiate the theoretical framework of the article, is related to both documentation and content analysis of some emblematic bibliographic materials, which over time have addressed the question of the Bosphorus and the Dardanelles Straits, as well as observation, analysis and synthesis of the latest information in the public space regarding the control of the two straits, in the context of the current war in Ukraine.

SHORT HISTORY OF THE BOSPORUS AND THE DARDANELLES STRAITS UP TO THE END OF THE FIRST WORLD WAR

Considering their strategic importance, there are numerous historical episodes related to the Bosphorus and the Dardanelles. From Herodotus we learn that the Persian King Darius, intending to move his armies from Asia to Europe, during his expedition against the Scythians in 513 BC, built a bridge of vessels over the Bosphorus. Herodotus also tells us about the Persian King Xerxes, son of Darius, and his numerous armies that crossed the Dardanelles Strait, on pontoon bridges, in 480 BC. Later, Alexander the Great also crossed the Dardanelles Strait, having a battle here, in 323 AD. Also in the Dardanelles area, the Venetian Republic faced the Ottoman fleet in the Battle of Gallipoli, in 1416, and during the Venetian Expedition in the Dardanelles, in 1654, when the Turks were defeated.

After the fall of Constantinople in 1453, the Bosphorus and the Dardanelles Straits came under the rule of the Ottoman Empire, which, applying the Ottoman public law, closed the traffic of foreign ships in the Black Sea. So, towards the end of the Middle Ages we find the Turks absolute masters of the straits, the Black Sea being practically an inland Turkish lake. Only the sultan could grant permission for transit to and from the Black Sea.

In the 18th century, the decision to close the Black Sea began to be compromised, as a result of the Russian power expansion in the region. It was after the Treaty of Karlowitz, signed on 26 January 1699, that the Sublime Porte was forced to cede the coast of the Sea of Azov to the Russians. Later, by the Treaty of Küçük Kaynarca, in 1774, the Russians were allowed to sail in the Black Sea and through the straits (Teodorescu, 1928, p. 57). Ten years later, Austria also obtained from the Turks the freedom to sail in the Black Sea, alongside Russia.

In 1804, a Russo-Turkish agreement established the Turks and the Russians exclusive rule over the Black Sea, prohibiting the transit of any warship through the Bosphorus and the Dardanelles straits. The agreement would only be effective for five years, because in 1809 the agreement between England and Turkey blocked the transit of Russian warships through the straits to the Mediterranean, where the British held supremacy.



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Through the Peace Treaty of Paris, concluded on 30 March 1856, which ended the Crimean War, the Black Sea became a neutral sea, in which commercial vessels were free to navigate, while warships, regardless of their affiliation, were forbidden to transit, with a few exceptions, explicitly provided for in the document.

The Treaty of Adrianople², signed on 2/14 September 1829, which ended the Russo-Turkish war (1828-1829), stipulated, however, in Article 7, the freedom of transit in the Black Sea and through the straits for commercial ships belonging to the powers in a state of peace with the Sublime Porte, thus liberalizing trade in live animals, grain and wood.

The Treaty of Unkiar-Iskelessi, signed in 1833, between Russia and Turkey, prohibited the transit in the straits and the entry of warships into the Black Sea, thus preventing the British fleet from entering from the Mediterranean Sea. In fact, the secret treaty was nothing more than a renewal of the agreement of 1804, establishing the complete rule of Russia, in good terms with Turkey, over the Black Sea and the straits. As expected, the provisions of the secret Russo-Turkish treaty generated discontent among the European powers that, in 1841, would conclude the *Collective Convention of the Straits*, which established, as a principle of international law, the prohibition of the transit of warships through the Bosphorus and the Dardanelles. The principle, resulting from European solidarity, was to be interpreted according to the interest of each state. Thus, Russia's explanation was that, through the signed document, the entry of warships was prohibited, while, from England's perspective, the prohibition referred to the exit of warships from the Black Sea through the straits.

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The Italo-Turkish War of 1911 and the Balkan Wars (1912-1913) rekindled the international politics interest in the question of the straits, there being the conviction that a prosperous trade in the region could not be conceived without peace in the Black Sea and a permanent access to the Mediterranean Sea. The Turkish government initiated negotiations to get closer to the Entente powers and the UK,

² Also called the Treaty of Erdine, for the Romanian Principalities, it meant the recognition of the life reign of the elected princes, the establishment of the border between the Ottoman Empire and Muntenia along the Danube and, respectively, the restitution of the raiyats of Brăila, Giurgiu and Turnu Măgurele. Practically, the Treaty of Adrianople established the considerable diminution of the power of the Sublime Porte over the Romanian Principalities, in favour of the Tsarist Empire.

in 1913, to France and Russia, in 1914. The Turks also managed, on 2 August 1914, to conclude an alliance with Germany, considering that it would not have interests in the territory of the Ottoman Empire.

Although the administration in Constantinople sought to maintain the state of neutrality after the outbreak of the First World War, in October 1914, the German ships Breslau and Goeben entered the Black Sea, through the Bosphorus and the Dardanelles straits, with the permission of the Turkish state, and bombarded Russian ports. The incident was to change the position of the Ottoman Empire in the conflict, with the Turkish armed forces fighting battles on three continents with heavy losses.

The Bosphorus and the Dardanelles Straits regime, established in 1841, remained unchanged until the end of the First World War. However, a secret Anglo-French-Russian agreement, from 1915, acknowledged the Russians' right to rule Constantinople (Seftiuc, Cârțană, 1974, p. 60), an agreement that was to remain valid up to the collapse of the Tsarist Empire³. Implicitly, the agreement also affected the control of the straits, but it was not put into practice after the victory of the Bolshevik revolution in 1917 (Ib.).

THE LEGAL REGIME OF THE TURKISH STRAITS THE BOSPORUS AND THE DARDANELLES IN THE INTERWAR PERIOD

After the end of the First World War, the question of the Bosphorus and the Dardanelles straits maintained its known importance, becoming a permanent concern within the framework of international relations established at the European level. The contradictions between the victorious powers in the war and their ignorance of the direct interests of the Black Sea littoral states, to which was added the struggle of the Turkish people for national liberation and for the establishment of a regime of the straits that would guarantee Turkey's security and economic interests, explain the complex aspects of the question of the straits in the interwar period.

³ The establishment of the Triple Alliance in 1882, the consolidation of the German Empire and the exacerbation of Franco-German and Russo-German divergences in the last years of the 19th century led to a common foreign policy and mutual strategic military interests between France and the Tsarist Empire.



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The **Treaty of Sèvres**, dated 10 August 1920, as part of the peace treaties signed on the occasion of the Versailles Conference, came to regulate the conclusion of peace between the Allied and Associated Powers with Turkey. However, the treaty was not ratified, the political struggle for national revival around the leader Mustafa Kemal Atatürk giving the Turks the opportunity to defend their own interests against the burdensome conditions it stipulated. Thus, the interests of the Turkish people for the establishment of a nation-state were coagulated, along with other actions that would lead to negotiations for a new agreement with the European powers. Moreover, in March 1921, a treaty was signed between Turkey and Russia, which established friendly relations between the two countries and fixed the border of the Turkish state. At the same time, France, which was just withdrawing from Cilicia, accepted that the border between Turkey and Syria could be redrawn, thus modifying the provisions established by the Treaty of Sèvres. Italy was also withdrawing from Turkey. Under those conditions, the process of international recognition of the regime in Ankara, under the leadership of Kemal Atatürk, was practically triggered.

Furthermore, Kemal Pasha's victory over Greece caused the 1920 Treaty of Sèvres, signed by the Ottoman government, to terminate⁴. However, the *Lausanne Peace Treaty* of 1923 would end the Turkish Revolutionary War, acknowledging the victory of nationalist forces under the control of the Grand National Assembly of Turkey in Ankara and commanded by Mustafa Kemal Atatürk⁵.



Photo no. 2: Turkish leader
Mustafa Kemal Atatürk
(Source: <https://medium.com/universal-quotes/>, retrieved on 5 September 2022)

⁴ After the expulsion of the Allied troops from the Turkish territory by the army under the leadership of Mustafa Kemal Atatürk, the government in Ankara, formed by the Turkish National Movement, refused to recognize the provisions of the Treaty of Sèvres, signed by the representatives of the Ottoman government in Constantinople.

⁵ The treaty ensured international recognition of the sovereignty of the new state, the Republic of Turkey, proclaimed as the successor state of the Ottoman Empire.

Thus, after a long and exhausting Greco-Turkish war, after the victory of Kemal's Turkey in its struggle for national independence, after the general perception that the Treaty of Sèvres was "born dead" and after countless attempts to compromise and procrastinate it, the Lausanne Conference came to establish a new peace treaty, which, among other stipulations, was to abolish the regime of capitulations, but, at the same time, to provide for the exchange of populations between Greece and Turkey, respectively Turkey's ownership of all Anatolia and Eastern Thrace (meaning an area of about 23,000 km²) (Bărbulescu, Cloșcă, 1982, p. 157). It was ratified by Greece on 11 February 1924, later by Italy, Great Britain and Japan on 6 August of the same year. Incidentally, on 5 September 1924, the treaty was registered in the "League of Nations Treaty Series".

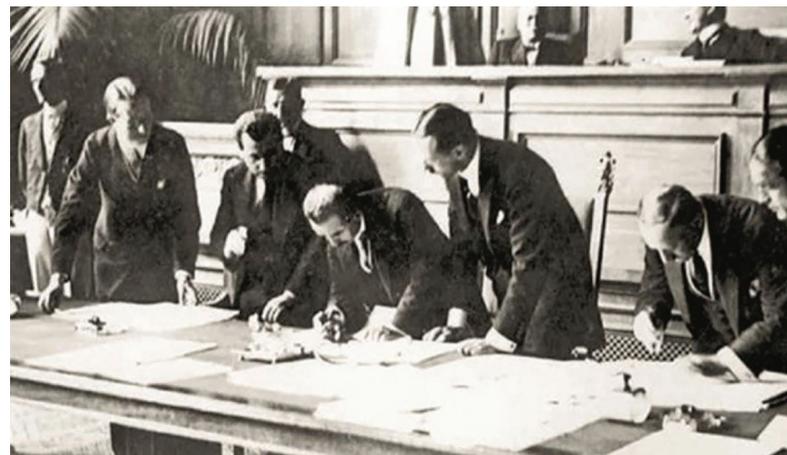


Photo no. 3: Lausanne Conference, 1923
(Source: <https://ro.rayhaber.com/2020/07/>, retrieved on 18 September 2022)

The peace treaty would also regulate the freedom of navigation through the straits. Thus, through the **International Convention related to the Regime of the Straits**, signed on **24 July in Lausanne**⁶, a new regime of the straits was established, granting, under certain conditions, freedom of movement to the vessels and the aircraft

⁶ The convention was signed by Great Britain, France, Italy, Japan, Romania, Bulgaria, Greece, the Soviet Union, Yugoslavia, Turkey. The Soviet Union signed the convention in Rome on 14 August 1923, but it did not ratify it. In Romania, the Lausanne Convention was voted by the Senate, on 12 December 1923, and by the Chamber of Deputies, on 29 January 1924. The law that ratified it was promulgated by Royal Decree no. 805, on 29 February 1924, and published in the *Official Gazette of Romania* no. 189, dated 31 August 1924.



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that were to transit them. So, for the first time, an international regime of the Bosphorus and the Dardanelles straits was established, which Russia did not dare to prevent, thus solving one of the most complex Eastern questions that had been, over time, at the root of many conflicts and wars. “Desiring to the freedom of transit through the straits and navigation between the Mediterranean Sea and the Black Sea for all nations (...) and considering that the maintenance of this freedom is necessary for the general peace and trade of the world” (Gheorghe, 1980, pp. 43-44) , the representatives of the signatory parties agreed on the recognition and declaration of the principle of freedom of navigation and transit, by sea and in the air, in the Dardanelles Strait, the Sea of Marmara and the Bosphorus Strait (Monitorul Oficial/Official Gazette of Romania, 189, 1924).

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The rules for the transit through the straits of commercial ships and aircraft, respectively of war vessels and war aircraft, in time of peace and war, were detailed in the Annex to the Convention. It remains important that the clarifications were formulated in relation to Turkey's peace or war status. Thus, as regards merchant ships, hospital ships, yachts, fishing vessels and civil aircraft, in **peacetime**, they had full freedom of navigation and transit, day and night, regardless of flag and cargo, without any formality, tax or imposition, subject to the international sanitary provisions in force. In **wartime**, if **Turkey was a neutral country**, freedom of navigation and transit, day and night, remained the same. The status of a neutral country in the conflict did not entitle Turkey to take any measures to prevent navigation through the straits, whose waters and airspace were to remain free for access and transit. In wartime, if **Turkey was a belligerent state**, the situation changed. Freedom of navigation and freedom of flight were guaranteed to civil ships and civil aircraft belonging to neutral states, provided they did not support the Turkish enemy, transport contraband materials, troops or “*enemy subjects*”. Turkey was therefore given the right to control ships and aircraft. In order to do that, the planes had to land in certain areas established and arranged by the Turkish state. Moreover, Turkey had full freedom to apply to enemy ships and aircraft measures allowed at that time by international law.

On the other hand, war vessels, which also included auxiliary ships, those carrying airplanes and military aircraft, respectively troop transports, **during peacetime**, had complete freedom of transit,

day and night, regardless of the flag or owner, without any formality, tax or imposition, but they were conditioned by the total number of forces. The maximum force, which a country had the right to transit through the straits, with the Black Sea as its destination, could not exceed that of the strongest fleet belonging to the Black Sea littoral states and which was in the sea at the time of the transit. The signatory powers reserved the right to send into the Black Sea, at any time or under any circumstances, a force that could not exceed three ships, of a maximum of 10,000 tons each. In **wartime**, in the situation in which **Turkey was a neutral country**, the same rules as those in peacetime applied, but the restrictions on total forces and cargo did not apply to the belligerent powers, *to the detriment of their rights as belligerents in the Black Sea* (Gheorghe, p. 45). In addition, the Convention prohibited warships and military aircraft of the belligerents from capturing, exercising the right of visit, or engaging in any act of hostility in the area of the straits. If, in wartime, Turkey was or became a **belligerent state**, the same restrictions were maintained on full freedom of transit for the warships of neutral states. Also, based on the Lausanne Convention, submarines belonging to states at peace with Turkey had the obligation to transit the straits only on the surface.

One of the main provisions of the Lausanne Convention, which troubled Turkey until 1936, remained the one stipulated in its Article 4, according to which the shores of the Bosphorus and the Dardanelles, all the islands of the Sea of Marmara, less the island of Emis-Ali-Avasi, respectively the islands in the Aegean Sea located near the Dardanelles Strait were demilitarized.

In order to supervise the observance of the regime of the straits, the *International Straits Commission* was established, under the supreme authority of the League of Nations, a body that was supposed to meet every two years. It operated in Constantinople⁷, from October 1924 until 9 November 1936, when the Montreux Convention came into force, and consisted of representatives of England, France, Italy, Japan, Russia, Romania, Bulgaria and Turkey. The commission also included representatives of Greece and the Kingdom of Serbs, Croats and Slovenes, as directly interested states.

⁷ Renamed Istanbul starting in 1923.



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The evolution of the international situation after 1933, characterized by the increase in the aggressiveness of the fascist states, as well as by the increase in differences in views between some Western powers, created a natural concern among small and medium-sized countries, related to their national interests, their territorial integrity and sovereignty.

In Lausanne, all the Balkan countries present at the negotiations spoke, without reservations, for a regime that would ensure full freedom of navigation through the internationalized straits. Obviously, the point of view of Turkey, as the state that owned the straits, could not be ignored in any way. Thus, during the conference, Turkish diplomacy agreed to a regime of free movement for military vessels as well, thus acknowledging, in fact, how complicated the situation would be in the event of an armed conflict, when Turkey would be neutral. After the end of the First World War, in the context in which the freedom of navigation had acquired a real importance for the countries of the Black Sea and the Mediterranean basin, Turkey was forced, even if not easily, to consent to a series of concessions, in the sense of harmonizing its national interests with the general interests regarding ensuring intercontinental maritime communications (Seftiuc, Cârțană, p. 380).

For Romania, the regime of the straits established in Lausanne had a special significance. Beyond the aspects related to the navigation in the Black Sea and the access to the Mediterranean Sea, the freedom of the straits had a major effect on the navigation on the Danube, considering that, at that time, the economic development of the Romanian state was closely related to the freedom of movement on the river.

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On **10 April 1936**, the government in Ankara issued a **circular note** to the signatory governments of the Lausanne Convention and to the General Secretariat of the League of Nations in Geneva suggesting the convening of an international conference to revise the status of the straits established in 1923. The note presented the change in the European political, military and security situation compared to that of 1923, when Europe was moving towards disarmament, and its political organization seemed to be based on principles of law, sanctioned

by international commitments⁸. The note also mentioned that, if the situation in the Black Sea was still characterized by good understanding between the parties on every matter⁹, insecurity appeared more and more evident in the Mediterranean Sea, where military build-up was visibly resumed, island and continental fortifications were built without ceasing, and shipyards were building vessels of a record tonnage.

On the other hand, the note indicated that the 1923 Straits Convention mentioned only the state of peace and the state of war, in the latter case, Turkey being neutral or belligerent, without foreseeing the possibility of a general or special threat of war or of granting Turkey the right to look after its own legitimate defence. From the perspective of the signatories of the note, the recent events in Europe had proven exactly that the critical phase of an external danger was the very threat, the state of war being possible to arise later, unexpectedly and without any other formality (Ib., p. 251). On those grounds, and due to the fact that the application of the provisions set forth in Article 18 of the Lausanne Convention, regarding the joint guarantee of the four great powers, had become inoperative, the government in Ankara announcing the powers that took part in the 1923 negotiations that *“it is ready to start negotiations to reach, in a short period of time, agreements aimed at regulating the regime of the straits in safe conditions, indispensable for the inviolability of the Turkish territory and in the broadest spirit for the constant development of commercial navigation between the Mediterranean Sea and the Black Sea”*¹⁰.

The reaction of the Balkan countries, including Romania, to the Turkish note on 10 April 1936, proves that they understood that, under the new historical conditions of the 1930s, measures aimed at ensuring peace and strengthening security in the Black Sea region were required. Unfortunately, however, the Turkish note was given at a time when Nazi Germany's economic and political expansion was obvious in South-Eastern Europe¹¹, when revisionist reactionary circles in Hortist Hungary and Bulgaria openly displayed plans to counter the clauses

⁸ Turkey had signed the restrictive clauses of the Lausanne Convention, being ensured by its art. 18 (in addition to the guarantee of art. 10 of the Covenant of the League of Nations), according to which, in any situation, the signatories and the four great powers (England, France, Italy and Japan) assumed the responsibility to defend the straits against any threat.

⁹ In the note, the term was *“de concorde en tous”*.

¹⁰ The text of the note sent by the Turkish government to the signatories of the Lausanne Convention (Dașcovici, 1937, pp. 181-184).

¹¹ Germany attended neither the Montreux nor the Lausanne Conference.





of the treaties from Trianon and Neuilly-sus-Seine. In this regard, it is worth mentioning that, only a month before, Germany violated the treaties of Versailles and Lucarno, proceeding to the occupation of the Rhine region with troops¹².

Between 22 June and 20 July 1936, in Montreux, Switzerland, the *Conference regarding the Regime of Straits in the Black Sea* took place, which would establish a new regime for them, by adopting, on **20 July 1936**, the **International Convention regarding the Regime of the Straits**, to replace the one signed in 1923, in Lausanne. On 22 June 1936, at the Hôtel Palace in the small Swiss town, where the works of the conference were to open, the representatives of Turkey, the USSR, Romania¹³, Bulgaria, Greece, Yugoslavia, France, Great Britain, Australia and Japan started negotiations.

“Desiring to regulate transit and navigation in the Straits of the Dardanelles, the Sea of Marmora and the Bosphorus comprised under the general term “Straits” in such manner as to safeguard, within the framework of Turkish security and of the security, in the Black Sea, of the riparian States (...)”, the contracting parties representatives recognized and stated the principle of the free navigation through them. Thus, in Article 2, the Montreux Convention stipulates that, in time of peace, merchant vessels enjoy complete freedom of transit and navigation in the straits, by day and by night, under any flag and with any kind of cargo, without any formalities, except those provided in Article 3. The latter stipulates that all ships entering the straits by the Aegean Sea or by the Black Sea have to stop at a sanitary station near the straits for the sanitary control prescribed by Turkish law within the framework of international sanitary regulations. Therefore, in **wartime**, when **Turkey is not belligerent**, merchant vessels, regardless of the flag and cargo, enjoy freedom of transit and navigation in the straits, under the conditions stipulated in articles 2 and 3 of the Convention. If **Turkey is belligerent**, merchant vessels under the flag of countries with which

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¹² Hitler's gesture of force led the Foreign Office in Bucharest to reproach the Turkish diplomacy for not being sufficiently *“inspired”* in choosing the moment to send the note and to ask France and England to take vigorous measures against the German Reich (Seftiuc, Cârțană, p. 265).

¹³ Romania's Delegation consisted of Nicolae Titulescu (Foreign Minister, Head of Delegation), Eugen Filotti (Romanian Minister in Turkey), Constantin Coștescu (Minister, former Romanian representative to the Lausanne Conference and Romanian delegate to the Danube Commission, as Chair of the Technical Committee), Vespasian Pella (Minister, diplomat), General Nicolae Samsonovici (Chief of the General Staff), Colonel (N.) Eugen Roșca (the Navy Inspectorate representative).

Turkey is not at war enjoy the freedom of transit and navigation in the straits provided they do not support Turkey's enemies. In such a situation, the vessels can enter the straits in daylight, and they can transit it following a route indicated, individually, by the Turkish authorities. If **Turkey considers itself threatened** by an imminent danger of war, the provisions of Article 2 continue to apply, but vessels can enter the Bosphorus and the Dardanelles in daylight, and the transit follows a route indicated by the Turkish authorities.

Related to war vessels, Article 10 of the Convention stipulates that, in peacetime, light surface vessels, minor war vessels and auxiliary vessels, regardless of their belonging to Black Sea or non-Black Sea states enjoy the freedom of transit through the straits without any taxes of charges, regardless of their flag. Access to the straits can be performed in daylight, and it is subject to the conditions in Article 13 and the following. War vessels, other than those mentioned above, can transit only under the conditions stipulated in articles 11 and 12. Thus, by Article 11, the Black Sea states are authorised to send through the straits capital vessels of a tonnage greater than stipulated in Article 14, paragraph 1, namely 15,000 tons, provided that these vessels pass through the straits singly, escorted by not more than two destroyers. The same states have the right to send through the straits, *for the purpose of returning to their base*, the submarines built or bought outside the Black Sea, provided that the documents proving provenience were sent to the Turkish authorities in due time.

A particularly important provision even today is that of Article 18, according to which, whatever the purpose of their presence in the Black Sea, the warships of the non-littoral states will not be able to stay in its waters for *more than 21 consecutive days*¹⁴.

Article 26 of the Montreux Convention stipulates the ratification and entry into force of the document, giving a new status to the Bosphorus and the Dardanelles, by abrogating the Convention signed in Lausanne. The phrase inserted in the preamble of the new Convention remains edifying in this regard: *“The High Contracting Parties [...] have resolved to replace by the present Convention the Convention signed at Lausanne on 24 July 1923”* (ib., note 14). For entry into force,

¹⁴ *The Convention regarding the Regime of the Straits in the Black Sea on 20.07.1936, International Act.* Text in Romanian and French, published in the *Official Gazette/Monitorul Oficial al României* no. 200, on 29 August 1936.



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By Article 11, the Black Sea states are authorised to send through the straits capital vessels of a tonnage greater than stipulated in Article 14, paragraph 1, namely 15,000 tons, provided that these vessels pass through the straits singly, escorted by not more than two destroyers. The same states have the right to send through the straits, for the purpose of returning to their base, the submarines built or bought outside the Black Sea, provided that the documents proving provenience were sent to the Turkish authorities in due time.



however, at least six ratifications were needed, including that of Turkey. Following an understanding between Ankara and Moscow, the Grand National Assembly of Turkey and the Soviets in Moscow ratified on the same day, 30 July 1936, the Straits Convention, signed on 20 July at Montreux¹⁵.



Photo no. 4: Nicolae Titulescu together with the members of the Romanian delegation at the Montreux Conference, 1936 (Seftiuc, Cârțană, p. 304)

Following long debates during the Montreux Conference, Article 28 of the Convention stated the term of validity and the modalities to denounce it. Initially, the Turkish delegation suggested a validity of 15 years, the British one, of 50 years, the Soviet delegation suggested 25 years, and the Romanian representatives asked for an unlimited period of time, with the possibility of denouncing it at certain periods of time and under special conditions.

It is also important to mention that, following long debates during the Montreux Conference, Article 28 of the Convention stated the term of validity and the modalities to denounce it. Initially, the Turkish delegation suggested a validity of 15 years, the British one, of 50 years, the Soviet delegation suggested 25 years, and the Romanian representatives asked for an unlimited period of time, with the possibility of denouncing it at certain periods of time and under special conditions (Seftiuc, Cârțană, p. 350). Following the negotiations, it was agreed on a period of 20 years for the validity of the Convention, the principle of freedom of transit and navigation through the straits, stipulated in Article 1, remaining unlimited. However, the contracting parties reserved the right to denounce the Convention, with a two-year notice, given, if necessary, before the agreed 20-year term. The notice was to be transmitted to the French Government, charged with communicating it to all parties, and the Convention was to remain

¹⁵ Subsequently, by ratification by the other signatory states, the Montreux Convention entered into force on 9 November 1936.

in force until the expiration of the two years (Ib., p. 351). Regarding the denunciation of the Convention, this act should have been followed by the agreement of the contracting parties on the convening of a new conference.

THE MONTREUX CONVENTION APPLICATION DURING THE POST-WAR PERIOD

During the Yalta Conference, in February 1945, Stalin brought up in the discussions with Churchill and Roosevelt the fact that the provisions of the Montreux Convention were outdated, in the sense that they gave Turkey full control over the transit of warships between the Black Sea and the Mediterranean Sea, labelling as unacceptable such a situation, in which the Turks remained with *“one hand on Russia’s neck”* (Preston, 2021, p. 324). The Soviet leader qualified as *“intolerable”* the situation by which the Russians, who had sought for centuries to seize the Bosphorus and the Dardanelles, were forced to ask Turkey for the right to send ships through the Turkish straits. In reply, Churchill would state that he had *“mixed feelings on the matter”* but promised to support a request from the Soviets to modify the terms of the Convention (Ib., p. 319). However, the situation remained at the level of discussions and promises, and in the years following the Second World War, the peace that was established in the Black Sea region did not in any way impose the application of the provisions of the Convention during wartime.



Photo no. 5: Bosphorus Strait, Turkey
(<https://www.romaniatv.net/>, retrieved on 25 September 2022)



The trading through the Bosphorus and the Dardanelles by the Black Sea and non-Black Sea countries, using the active Black Sea ports, such as Odesa, Nikolaev, Kherson, Rostov, Feodosia, Novorossiysk, Tuapse, Batumi, Constanța, Varna, Burgas or Istanbul, has caused the traffic and tonnage transported through the straits to increase significantly, from year to year.

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Control of the straits, however, produced reverberations in the initiation and maintenance of the Cold War, with Turkey being supported by the West in its dispute with the USSR¹⁶. However, the articles of the diplomatic instrument that would privilege Turkey in terms of traffic through the straits remained unchanged.

The interest in the content of the Montreux Convention revived after 2004, once the Euro-Atlantic border reached the Black Sea. As expected, Turkey remained the one that always resisted a revision of the document in its attempt to avoid losing control over the straits. Moreover, both the Russian Federation and Ukraine, as well as some Western countries, with particular interests in the Black Sea and which avoided damaging their relations with Moscow, being in a special kind of coalition designed to oppose NATO's involvement in region, did not want to adjust or cancel the Montreux Convention, even if, from some points of view, there were sufficient and strong arguments in this regard. There was even the question of replacing it with the UN Maritime Law, signed on 10 December 1982 in Montego Bay (Jamaica), by 119 states (minus the USA) (Dungaciu, 2019, p. 160).

One of the arguments put forward for amending the Convention was that the document was signed in 1936 by Great Britain, the Soviet Union, Turkey, France, Bulgaria, Romania, Greece, Yugoslavia, Australia and Japan, and some of those states no longer exist, while others emerged on the map of Europe. Under these conditions, the new states bordering the Black Sea (e.g. Ukraine, Georgia), in turn, should have been able to decide on the condition of the security space in which they are located. Especially since, respecting the legal principle of *rebus sic stantibus rebus*¹⁷, the change of circumstances entails the impossibility of applying a treaty.

¹⁶ The tense situation generated by the refusal of the Turkish government to allow the Soviet Union free transit through the straits, after the end of the Second World War, would be the triggering factor in the development by the Americans of the Truman Doctrine (1947) leading to Turkey's approach to the USA, respectively to its membership of NATO (1952).

¹⁷ In Civil Law, the Latin expression designates the clause by which the obligation added by a convention is conditional on the maintenance of the existing situation at the time of its conclusion (Source: EuroAvocatura.ro, retrieved on 14 August 2022).



Photo no. 6: Çanakkale Bridge 1915 or the Dardanelles Bridge (L = 2023 m), Gallipoli, Turkey (<https://www.rfi.ro/economie-139896>, retrieved on 28 September 2022)

Another reason for the intervention on the text of the Montreux Convention would have been that, in countless situations, its provisions were violated, as a result of the lack of consistency, the technical data presented in its content being considered by some as irrelevant in relation to the reality.

Moreover, the British Royal Navy representatives have repeatedly shown that the provisions of the Montreux Convention are an obstacle to the *Global Britain Program*¹⁸ in the Black Sea, by the fact that the document limits the time of stationing in its waters and the tonnage of the warships of non-littoral states.

Perhaps the most important argument for change, however, may be that the term *war* has undergone changes in its meaning, especially after the attacks on 11 September 2001, with the emergence of the *global war on terrorism*, or after 2014, if we consider the worldwide development of *hybrid warfare*. In recent years, the distinction between *war* and *peace* has been a relative one, and the interpretation of the Convention, in this context, becomes complicated.

However, against the background of a strong reaction from Turkey, which has always considered the text of the Montreux Convention

¹⁸ *Global Britain Program 2022-2023* entails maritime patrolling in the most tense areas of the Planetary Ocean, particularly in the Mediterranean Sea and the South China Sea. Part of this program also provides for increasing the number of escort ships, supported by air, in the Black Sea.



ROMANIAN
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as sacrosanct and which categorized any intention to interfere with it as an infringement of its sovereignty, the interest in this subject has gradually decreased in recent years.

TRANSIT THROUGH THE STRAITS IN THE CONTEXT OF THE WAR IN UKRAINE

With the outbreak of the conflict in Ukraine on 24 February 2022, discussions about the legitimacy, adaptation or revision of the 1936 Straits Regime have reignited. Immediately after the invasion of Ukraine by the armed forces of the Russian Federation, the leadership in Kiev urged Turkey to block the transit of Russian warships through the Bosphorus and the Dardanelles, the waterway to the Black Sea. As part of the military operation, Russian troops landed in Ukrainian ports at the Black Sea and the Sea of Azov. Although Turkey has the authority, under the Montreux Convention, to limit the transit of warships through the straits if it feels threatened, Kiev's request put the government in Ankara in a difficult position, caught between managing its engagements with the West and its tight ties with Moscow. However, Turkey, which in recent years has cultivated good relations with both Ukraine and Russia, immediately responded to Kiev, through the voice of Turkish Foreign Minister Mevlut Cavusoglu¹⁹, advancing the impossibility of preventing warships from returning, through the straits, to their home bases, located in the Black Sea. However, Turkish experts in international law had to determine whether the *special military operation*²⁰ of the Russian forces in Ukraine can be defined as a war, so that the provisions of the Montreux Convention, signed in 1936, could be invoked.

On 28 February 2022, Turkey decided to activate the Montreux Convention, whose provisions regarding the state of war had not been applied since the end of the Second World War, thus closing the Bosphorus and the Dardanelles straits to military vessels. It also led to the disruption of the logistical supply chain for the Russian troops deployed in Syria, interfered with the actions of the Russian Federation

¹⁹ On an official visit to Kazakhstan, the head of Turkish diplomacy, Mevlut Cavusoglu, declared, on 25 February 2022, that Ankara was carefully analyzing Kiev's request, but not without considering the right of the Russian Federation under the 1936 Montreux Convention to return the ships to their home bases.

²⁰ As the President of the Russian Federation, Vladimir Putin, dubbed the attack on Ukraine, on 24 February 2022.

to rotate its military forces in the Mediterranean Sea, and obviously prevented Moscow from bringing additional warships into the waters of the Black Sea. Thus, by activating the Convention, Russia was put in difficulty, in terms of supporting its troops in Syria and in honouring export deliveries, especially in contracts for armaments and combat equipment, for which it used warships. However, the use of civilian commercial ships, some bought in Turkey and refurbished, to transit through the straits, to provide logistical support for operations in Syria, Libya and Ukraine, to export military products to Algeria or to continue work on the nuclear power plant in El Dabaa, Egypt could not be prevented.

Moscow's constant preparations for war in recent years, its annexation of Crimea in 2014, the intervention of Russian forces in Syria in 2015, the growing influence of the Kremlin in the Caucasus and the Black Sea area and, last but not least, the current war in Ukraine have heightened the Turks' fears of their larger neighbour, the Russian Federation. However, the invocation of a direct threat to Turkey, which would require the immediate implementation of the provisions of the 1936 Convention, under this aspect, have remained questionable. However, Turkey immediately banned the transit of all warships through the Bosphorus and the Dardanelles and warned littoral and non-littoral countries not to send such vessels into the Black Sea (CNN Turk, 2022), invoking Article 19 of the Montreux Convention, which gives them the right to block the transit of warships through the straits, except when they are returning to their home bases.

However, *Naval News*, the official publication of the British Navy, brought to the attention of international public opinion the fact that Russian merchant ships, such as the *Sparta II* were caught, in late August 2022, carrying weapons for the war that the Russian Federation has conducted into Ukrainian territory, while Russian warships are prevented by Turkey from being moved from the Mediterranean Sea to the Black Sea. So, even if Ankara prohibited, immediately after the outbreak of the war in Ukraine, the entry of warships into the Black Sea, according to the mentioned publication, on this maritime route, Russian S-300 anti-aircraft missile systems were withdrawn from Syria, destined for the Kerch Strait (Sutton, 2022), to strengthen the defence of the bridge connecting the territory of Crimea with that of the Russian Federation²¹.

²¹ The bridge was destroyed on the morning of 8 October 2022.



*“Naval News”,
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international
public opinion
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were caught,
in late August
2022, carrying
weapons for
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the Russian
Federation
has conducted
into Ukrainian
territory, while
Russian warships
are prevented
by Turkey from
being moved
from the
Mediterranean
Sea to the Black
Sea.*

*Immediately
after the
invasion of
Ukraine by the
armed forces
of the Russian
Federation,
the leadership
in Kiev urged
Turkey to block
the transit of
Russian warships
through the
Bosphorus and
the Dardanelles,
the waterway
to the Black
Sea. As part
of the military
operation,
Russian troops
landed in
Ukrainian ports
at the Black Sea
and the Sea of
Azov.*



Older roll-on/roll-off (ro-ro) ships, such as Barbaros, Hizir Kocatepe (Varyag) and Şampiyon Trabzonspor frequented Novorossiysk port. The ships used to carry weaponry and military products in the past, and their current use only supports the Russian Federation's war effort against Ukraine.

Moreover, according to an analysis published on the *Middle East Institute* website on 19 May 2022, signed by the Turkish geopolitical analyst Yörük Işık, the Russian Federation knowingly violated the spirit of the Montreux Convention by using civilian ships for military purposes (Copcea, 2022). According to Işık, at that time, five types of civilian merchant ships were used by the Russians for military purposes. Thus:

- cargo ships of the Oboronlogistika company (part of the Russian Ministry of Defence), such as Pizhma, Sparta, Sparta II, Ursa Major (Sparta III) and Sparta IV, regularly transported military equipment and materials from the port of Novorossiysk to Syria and from the Baltic ports of Ust-Luga and Kaliningrad to Novorossiysk;
- cargo ships of some Russian private companies, owned by the Russian government or working on its behalf (e.g. Adler, Angara, Lady Mariia or M Leasing), under the Russian flag, carried military exports, including armaments. For example, the merchant ship Lady Mariia carried large quantities of weapons from Kaliningrad to Novorossiysk and from Novorossiysk to Myanmar;
- older roll-on/roll-off (ro-ro) ships, such as Barbaros, Hizir Kocatepe (Varyag) and Şampiyon Trabzonspor frequented Novorossiysk port. The ships used to carry weaponry and military products in the past, and their current use only supports the Russian Federation's war effort against Ukraine;
- Russian-flagged oil tankers continued to transport jet fuel from Hmeimim and Baniyas bases in Syria. Basically, these civilian ships support the Russian military, and if they were prevented from transiting the Bosphorus and the Dardanelles, they would harm the Russian air force in the Syrian theatre of operations. In addition, the Hmeimim base also provides refuelling flights for Russian military actions in Mali, the Central African Republic and Venezuela. Thus, stopping the transit of Russian oil vessels through the straits would immediately endanger the military operations conducted by the Russian Federation at the global level;
- bulk carriers under Russian or Syrian flags, such as Fenikia, Laodicea, Matros Pozynich, Mihail Nenashev or Souria, regularly transported grain through the Bosphorus and the Dardanelles straits.

Therefore, as long as the provisions of the Montreux Convention are not restrictive enough, the Russian Federation have quickly resorted to practical ways of transiting the Turkish straits, under the conditions of their closure, by using supposed private companies and civilian shipping vessels, in order to support military operations, globally, including those in Ukraine, even if the use of civilian commercial ships for military purposes violates the spirit of the Montreux Convention, of which, by the way, it is a signatory.

The declaration by Russian President Vladimir Putin, in his speech on 29 September 2022, of the Ukrainian provinces of Donetsk, Lugansk, Kherson and Zaporizhia as territories of the Russian Federation, accusing the West of waging a hybrid war against the Russian state, further complicates matters in which means peace in the Black Sea region.

CONCLUSIONS

The Pontic problem has always had its particularity, given by the characteristics of the Black Sea – a semi-enclosed sea, which can communicate with the Mediterranean Sea and, further, with the oceans of the world, only through the Bosphorus and the Dardanelles straits. The strategic role of the two straits, located at the junction of Europe and Asia, has led, over the centuries, to a fierce struggle for their control. Beyond their economic significance, due to commercial shipping in the region, the straits have always been points of interest and contention because of their importance from the military point of view.

The question of the Bosphorus and the Dardanelles gained international relevance in the late 18th century as a result of the pressure exerted by Russia and Western powers against the Turkish blockade of the straits. They began to open up to wide trade, after the Black Sea had been practically a *Turkish lake* for three centuries. However, the series of treaties concluded throughout the 19th century, depending on the increasing influence of some powers in the Black Sea region, did not lead to the establishment of a firm legal regime, which would regulate navigation and international trade through the straits.

After the end of the First World War, the changes that occurred on the international scene, as a result of the struggle for national liberation and the defence of the legitimate interests of some states, the establishment of a new balance of forces in the world



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After the failure of the Treaty of Sèvres, the Convention of Lausanne came to regulate free transit through the straits. The internationalization of the straits, through the demilitarization of their coasts and the establishment of the International Straits Commission, clearly put Turkey at a disadvantage. The lapses or the vague and ambiguous formulations of the legislator made the straits regime established in Lausanne quickly prove its lack of viability and its weaknesses, it practically succumbing after only 13 years, without having had a very glorious existence.

after the collapse of the German Empire, of the dual Austro-Hungary Monarchy and of the Tsarist Empire and the emergence of the Soviet state, made the question of the straits enter a new phase. The dispute became increasingly tense, pitting the interests of great powers such as France or England for the Near East, the control of the straits and the domination of Constantinople, and having serious effects on the edifice of the Entente.

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Ankara's pressures, expressed in the circular note of 10 April 1936, which requested the signatory states and the General Secretariat of the League of Nations to review the provisions of the Lausanne Convention, as well as the new historical circumstances dictated taking other measures, likely to strengthen Turkey's security and link the status of the straits to regional pacts and the European system of bilateral mutual assistance treaties. Thus, the Montreux Convention was supposed to establish a different international law regime for the straits. And this in the context in which the policy of fascist Italy in the Eastern Mediterranean and the systematic repudiation by Hitler's Germany of the clauses of the Treaty of Versailles legitimately aroused the restlessness of the peoples, of small and medium-sized states in particular. On the other hand, the Soviet Union was gaining more and more ground, and the contribution to establishing the terms of the new Straits Convention of 1936 became edifying in that respect.

As far as Romania is concerned, the conclusion of the Lausanne Convention relating to the straits, on 24 July 1923, occurred in a specific domestic and international political context, while the legal status established for the Bosphorus and the Dardanelles, through the Montreux Convention, concluded in 1936, was perfected in a completely different internal, but especially international, context. The regime of the straits was permanently found among the objectives

of the Romanian foreign policy in the interwar period, along with the concern for maintaining the territorial integrity of the country and for the efficient functioning of the system of alliances. The mentioned objectives, the international conditions in which the events took place, the relations between Romania and its neighbours, the political-diplomatic and economic relations developed by the Romanian state with the great powers of the Entente make us understand the attitude of diplomacy from Bucharest in the question of the straits, not only the positive aspects, but also the limitations that emerged in the approach to this complex issue. In the period 1919-1923, the governments from Bucharest considered that the best option for protecting the freedom of navigation through the Bosphorus and the Dardanelles, which would correspond to the interests of the Romanian state, would have been the internationalization of the straits, precisely to avoid repeating the situation from 1914-1918, namely the preponderance of a single power in the Black Sea. To some extent, the great powers also wanted the same, precisely to strengthen their influence over Turkey.

The convention signed in Montreux maintains the validity of the principle of freedom of navigation through the straits for commercial ships, in the event of Turkey's neutrality. In case of war, however, only the ships of neutral states benefit from this right of transit, conditional on non-collaboration with the enemy of Turkey, as a belligerent state. As for warships, in 1936 different conditions were established for littoral and non-littoral states, depending on Turkey's neutral or belligerent status, the Turkish government being authorized to remilitarize the area of the Bosphorus and the Dardanelles straits.

Referring to the diplomatic instrument resulting from the Conference held in the small town of Montreux, on the banks of the Lake Geneva, in 1936, Nicolae Titulescu stated that *"it will mark an important date in international life"* (Titulescu, 1936, p. 541), through its contribution to strengthening peace in the Black Sea region, being a brilliant example of understanding between peoples, respecting international commitments. The words of the Romanian diplomat would be taken, at the time, by various publishing houses and press bodies from London, Paris, Moscow or Ankara, so that, later on, we would find them in the speeches of prestigious politicians and in legal or history writings.



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Photo no. 7: Romanian diplomat Nicolae Titulescu
(<https://historia.ro>, retrieved on 30 September 2022)

The fact that even today the Montreux Convention (1936) is in force represents a strong argument for the solidity of this diplomatic instrument. Its application in international practice, especially in the current security context in the Wider Black Sea Region, remains the main aspect in terms of its consistency.

Although there have been numerous moments when the idea of revising the Montreux Convention has been debated, things have remained unchanged to date in terms of the letter and spirit of the document. The current situation in Ukraine brings back into question the need to review and revise the provisions of the Convention, but, for now, at the international level, this fact remains a taboo subject.

Turkey will continue to play an important role in the future of the Bosphorus and the Dardanelles, as well as in the entire Black Sea region, as long as Europe, NATO and the United States of America wish to consolidate a strategic posture relevant to the security of this part of the world, whose eventual instability can become, at any moment, a global problem.

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