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## The Maritime Dimension of the Russian-Ukrainian War

## About the Author

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## **INTRODUCTION**

Russian-Ukrainian war has been traditionally analysed in two dimensions - the Crimean occupation and the military activity in Eastern Ukraine. However, a third dimension - maritime – has been developing steadily, presenting higher risks and multiply manifestations.

As the Russian Federation uses Eastern Ukraine and the Black Sea region as a testing ground for many military and hybrid tactics, later applying them in other regions, the maritime dimension of the Ukrainian-Russian war is worthy of study for better understanding Russian actions in the Baltics, Northern Sea, Arctic, Japan Sea, Mediterranean, and elsewhere. The April 2021 military build-up that attracted the attention of all NATO allies demonstrated the significance of the maritime domain for the Russian Federation, as the deployed ships remained despite the announced withdrawal of forces. Moreover, increased activities in the Black Sea region during the last two years give us arguments to consider the maritime domain a full-fledged third theatre of confrontation.

It is necessary to understand that Russian actions in the Black Sea and the Sea of Azov are not aimed only at Ukraine, but first of all to project power against NATO as an organization and against Turkey as an individual state.

## **BACKGROUND INFORMATION**

The maritime domain of the Russian-Ukrainian conflict attracted the attention of the world media in November 2018, when Russian forces illegally captured three Ukrainian navy boats near the Kerch strait and arrested Ukrainian crews<sup>1</sup>. Despite the decision of the Hamburg Tribunal,<sup>2</sup> Moscow released neither the ships nor the personnel, thus ignoring norms of the international law and international institutions responsible for it. Moscow later released them in a prisoner exchange.

However, other elements of the maritime confrontation do not have the same media attention even though many of them have more serious and far-reaching consequences. These actions include provocations against ships, disturbance of the commercial navigation, manipulation of safety norms, and the periodical closing of the Kerch Strait to navigation by ships sailing under any flag.

From the maritime perspective, we should consider both the Black Sea and the Sea of Azov as a single operational theatre due to their interconnection. Thus to understand the current situation, it is necessary to get back first to the 1997 Russian-Ukrainian treaties that allowed the stationing of the Russian Black Sea Fleet in Crimea for a period of 25 years.<sup>3</sup> At that time, the Ukrainian and Russian

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<sup>1</sup> H. Shelest, "Kerch Strait incident and its implications for regional security," EaP Think Bridge, *Foreign Policy Council "Ukrainian Prism"*, December 2018, <http://prismua.org/en/pdf/1012-18/>

<sup>2</sup> "Case Concerning the Detention of Three Ukrainian Naval Vessels (Ukraine V. Russian Federation)," Provisional Measures, *International Tribunal For The Law Of The Sea*, Press Release, 25 May 2019, [https://www.itlos.org/fileadmin/itlos/documents/press\\_releases\\_english/PR\\_284\\_En.pdf](https://www.itlos.org/fileadmin/itlos/documents/press_releases_english/PR_284_En.pdf).

<sup>3</sup> Угода між Україною і Російською Федерацією про статус та умови перебування Чорноморського флоту Російської Федерації на території України [Treaty between Ukraine and the Russian Federation about the status and conditions of the Russian Federation's Black Sea Fleet stationing at the territory of Ukraine], 1997, *Parliament of Ukraine*, [https://zakon.rada.gov.ua/laws/show/643\\_076#Text](https://zakon.rada.gov.ua/laws/show/643_076#Text).

navies shared the ports located in Crimea. The conditions of this treaty were extended in 2010 for the next 25 years (up to 2042) because the Ukrainian president at the time, Viktor Yanukovich, was hoping to get a gas supply deal. Since 2014, Ukraine was left with only a quarter of its naval platforms as the Russian Federation captured the rest during the annexation of Crimea. The second important milestone is the year of 2003, when the two countries signed the Treaty of the Sea of Azov and determined the sea as a joint one that would be shared equally without sea borders or territorial waters limitations between them.<sup>4</sup>

The development of its military capabilities in Crimea, a significant build-up and an analysis of its procurement plans give evidence that the Russian Federation considers the Black Sea and the Mediterranean Sea as a single region of operation. The modernization of the Russian Black Sea Fleet is one of the most ambitious elements of the Russian State Arms Procurement program for 2011-2020. Its active militarization of Crimea means that the Russian Federation can project power and threaten up to a 3000km radius. Yet this military development in Crimea is aimed not only at the Black Sea but also at the Mediterranean and the Middle East.

## **CURRENT CONTEXTUAL ANALYSIS**

There are four distinct trends that characterize how the security situation in the maritime domain has developed in the Black Sea since 2014. The trends are sometimes presented separately from one another, but they can unfold in conjunction. These trends are as follows:

### **A claim of the territorial waters around Crimea.**

After the illegal annexation of Crimea in 2014, the Russian Federation has also been trying to execute its rights to the territorial waters around the peninsula. The Kerch incident in November 2018 was the first such incident of significance. Although the attack happened in the neutral waters, the Russian authorities filed charges against Ukrainian sailors “with illegal border crossing by a group of individuals acting in collusion.”<sup>5</sup>

Far less media attention focused on the regular cases of fishermen boats being captured, with their crew being arrested. These cases happen predominantly in the waters between Kherson and Crimea.<sup>6</sup> The last incident happened fifty nautical miles from the Ukrainian port of Ochakov in April 2021.<sup>7</sup>

The third important element is Russian economic activities in the Ukrainian waters around Crimea, including the occupation of oil fields and platforms belonging to the Ukrainian state<sup>8</sup>.

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<sup>5</sup> “Russian Court Jails Captured Ukrainian Sailors for Two Months,” *Radio Free Europe*, 27 November, 2018, <https://www.rferl.org/a/west-rallies-behind-ukraine-calls-on-russia-release-detained-sailors-kerch-azov/29623124.html>

<sup>6</sup> For an example, “Ukraine Calls On Russia To Release Detained Fishermen,” *Radio Free Europe*, 18 February, 2020, <https://www.rferl.org/a/ukraine-calls-on-russia-to-release-detained-fishermen/30440961.html>

<sup>7</sup> “Fishermen detained by FSB in Black Sea return to Ukraine,” *Ukrinform*, 22 April 2021, <https://www.ukrinform.net/rubric-society/3233101-fishermen-detained-by-fsb-in-black-sea-return-to-ukraine.html>.

<sup>8</sup> “Russia operates captured Ukrainian oil rigs in Ukraine’s exclusive economic zone,” *Informnapalm*, 28 March, 2020, <https://informnapalm.org/en/russia-operates-captured-ukrainian-oil-rigs-in-ukraines-exclusive-economic-zone/>.

## Attempts to monopolize the Sea of Azov.

In violation of the Treaty of Azov and the United Nations Convention on the Law of the Sea (UNCLOS), the Russian Federation conducts regular inspections of ships going to the Ukrainian ports and prevents them from traversing the Kerch Strait.<sup>9</sup> Delays in passing can last up to four days, with no such impediments being put in place for those ships calling at Russian ports. Furthermore, the Russian coast guard has also inspected ships even within the 12 miles zone<sup>10</sup> that would mark Ukraine's territorial waters under international law, but the Treaty of Azov de facto allows it. These incidents take place regularly and have intensified since 2018. They involve ships sailing under all flags, going to or out of the Ukrainian ports of Mariupol and Berdyansk.

Compounding matters is that, in April 2021, the Russian Federation announced the close of the Kerch Strait due to various "exercises" that will last until October 2021. The closure affects all state-owned (official) ships, including those that are Ukrainian.<sup>11</sup> This announcement strictly contradicts the norms of the Treaty of the Sea of Azov, as Ukraine cannot be limited in any way. The problem is that in the Ukrainian case, it also means prohibition for rescue boats, tugs, and some fishery boats.

## Provocations against Ukrainian, NATO, and the US Navy ships.

Provocations against ships in neutral waters as well as dangerous manoeuvres of both ships and airplanes are a new normal of the Black Sea. Such tactics serve to demonstrate capabilities, to bluff, and to provoke incidents, as many of the Russian Federation's actions are physically dangerous to those sailors directly affected.<sup>12</sup>

For example, on 8 May 2021, the State Border Services of Ukraine reported that during the joint US-Ukraine coast guards ships exercise that was taking 100 miles from the shore but within Ukraine's exclusive economic zone, their activities were closely monitored by two Russian coast guard ships acted aggressively. They "circled around, announced imaginary coordinates of the closed areas demanding to leave them, manoeuvred in a such a manner to narrow possibility for Ukraine's and US ships to manoeuvre, [and] did not respond to calls via the international communication channels."<sup>13</sup> Incidents are not always naval and invariably involve the United States. In May 2021, French jets were escorted by the Russian military jets.<sup>14</sup>

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<sup>9</sup> "The Duration of Artificial Delays of Vessels in the Kerch Strait, The Monitoring for January-April 2021," *Black Sea News*, 15 May 2021, <https://www.blackseanews.net/en/read/176324>.

<sup>10</sup> I. Kabanenko, "Russia's 'Boa Constrictor' Strategy in the Sea of Azov: A Prelude to Amphibious Landings?" *Eurasia Daily Monitor*, vol. 15, issue 89, 11 June 2018, <https://jamestown.org/program/russias-boa-constrictor-strategy-in-the-sea-of-azov-a-prelude-to-amphibious-landings/>.

<sup>11</sup> "Russia to close parts of Black Sea, Kerch Strait for 6 months," *Daily Sabah*, 16 April 2021, <https://www.dailysabah.com/world/europe/russia-to-close-parts-of-black-sea-kerch-strait-for-6-months>

<sup>12</sup> For example, "US Accuses Russia of Unsafe Aerial Intercept Over Black Sea," *Voice of America*, 7 September 2016, <https://www.voanews.com/usa/us-accuses-russia-unsafe-aerial-intercept-over-black-sea>

<sup>13</sup> Рандеву не для двох. Флагман Морської охорони Держприкордонслужби зустрів корабель Берегової охорони США HAMILTON [Rendezvous not for two. Flagman of the Coast Guard met US Coast Guard ship Hamilton], *State Border Service of Ukraine*, 9 May 2021, <https://dpsu.gov.ua/ua/news/randevu-ne-dlya-dvoh-flagman-morskoi-ohoroni-derzhprikordonsluzhbi-zustriv-korabel-beregovoi-ohoroni-ssha-hamilton-/>

<sup>14</sup> "Russian Su-27s intercept French military planes over Black Sea," *Anadolu Agency*, 11 May 2021, <https://www.aa.com.tr/en/world/russian-su-27s-intercept-french-military-planes-over-black-sea/2237629>

In another case, in April 2021, high-ranking Russian representatives made a provocative statement about a possible US ships call to the Black Sea, declaring that “We warn the United States that it will be better for them to stay far away from Crimea and our Black Sea coast. It will be for their own good.”<sup>15</sup> Such statements are common against the NATO members’ ships, especially those from the United States and the United Kingdom.

### **“War of exercises”: Manipulating international law in the maritime domain.**

The regular closure of the different sea areas for real or “fake” military exercises has been happening since 2014. In 2019-2020, there were times when about a quarter of the Black Sea was closed by Russian notifications.<sup>16</sup> Another element is overlapping zones of exercises, so disturbing Ukrainian or international activities. Sea Breeze 2019 needed to change the exercises scenario due to such intentional overlap.<sup>17</sup> The June 2021 NAVTEX notifications sent by Ukraine and Russia demonstrate that it can be an issue again during Sea Breeze 2021 exercises in July. Yet another is how Russia introduces an excessive number of military forces to the Black Sea under the pretext of exercises. This happened in April 2021 when ten additional ships arrived but have not been withdrawn after the respective announcement.<sup>18</sup>

## **SCENARIOS**

### **1. Turkish Ambiguity**

This scenario envisages negative developments, including Ankara’s decision to prevent military ships of the non-Black Sea countries from passing Bosphorus by invoking clauses of the Montreux Convention. This scenario can accompany the spin-off developments of the Istanbul canal construction, which is not covered by the Convention regulations. This scenario can happen if Turkey’s relations deteriorate significantly with NATO allies amid warming relations with Moscow and personally between Erdogan and Putin.

This scenario envisions an increase in Russian activity in the Black Sea, including greater blocking of the routes to the Ukrainian ports and an attempt to get full control under the Ukrainian territorial waters around Crimea.

### **2. A military build-up without a clear NATO strategy**

Under this scenario, which is the most realistic, all parties involved will try to maximize their military capabilities, which will lead to greater competition and militarization of the Black Sea region.

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<sup>15</sup> “Russia calls US an adversary, warns its warships to avoid Crimea,” *Reuters*, 13 April 2021, <https://www.reuters.com/world/europe/russia-warns-us-warships-steer-clear-crimea-for-their-own-good-2021-04-13/>.

<sup>16</sup> “The «War of Exercises» in the Black Sea: A New Very Dangerous Stage that Cannot Be Ignored,” *Black Sea News*, 30 August, 2020, <https://www.blackseanews.net/en/read/167556>.

<sup>17</sup> “Navy commander says scenario of Sea Breeze 2019 changed due to Russia’s actions,” *KyivPost*, 2 July 2019, <https://www.kyivpost.com/ukraine-politics/ukrainian-navy-commander-says-scenario-of-sea-breeze-2019-drills-changed-due-to-russias-actions.html>.

<sup>18</sup> Росія сконцентрувала велику групу кораблів і літаків в Криму. [Russian concentrated a big group of ships and airplanes in Crimea], *BBC Ukraine*, 20 April 2021, <https://www.bbc.com/ukrainian/features-56820657>.

Considering that the interests of parties involved are in conflict, we will see a decrease in regional security. At the same time, the process will accompany with intensified alliance-building to support competing powers in the Black Sea region. Such partnerships can involve the United States, the United Kingdom, Georgia, Romania, and Turkey, without implicating NATO.

The aggravating factors are an absence of the NATO Black Sea strategy and deficiency of the NATO's vision of itself as an integral part of the Black Sea. That is, NATO has an unfortunate tendency in thinking that Article 5 ceases being potentially applicable beyond the Romanian, Bulgaria, and Turkish coastline. It needs to see how the waters themselves are important to the alliance more generally. Otherwise, one may just as well conclude that NATO has a far more active policy towards Afghanistan than it does towards the Black Sea despite the positioning of three allies on that body of water.

Against this worsening context, the risk of incidents in the Black Sea region will increase, as well as possible provocations from the Russian side. Moscow will try not only to maximize its power but also guarantee greater geographical cover. The ambiguous position of Turkey as a NATO ally trying to secure good relations with Russia will be a point of contention.

### **3. NATO develops a Black Sea strategy**

Under this scenario, NATO will construct its clear vision of the Black Sea region, minimizing the effect of the previously-discussed misperceptions that the NATO perimeter does not include the Black Sea. It will involve developing capacities of both littoral member-states (i.e. Romania and Bulgaria) and aspirant countries, using all possibilities of the Enhanced Opportunity Partnership, of which Georgia and Ukraine are members. In this case, developing the NATO Black Sea Strategy is a must, as it will allow for the clear identification of threats, goals, and list of actions for the Alliance. The "Smart Defence" concept can become a new paradigm of NATO activities in the Black Sea region, which will allow better use of all capacities and formulation of effective, but not aggressive, defence.<sup>19</sup>

Under such a scenario, NATO also will secure its positions in the region by guaranteeing its presence and balance against Russia, even without additional ships from the non-Black Sea countries visiting the region (in case of a crisis).

## **RECOMMENDATIONS**

1. To develop the NATO Black Sea Strategy. In defining NATO's policy towards the region, two questions should be answered. Which countries to cover? And does it consider the Black Sea as a part of NATO or just as a neighbouring territory? These questions are important as the answers to them will influence the next steps of going about evaluating existing relations, threats, and challenges. Some could be securitized, others perhaps downgraded.

2. To increase the number of NATO ships patrolling, especially in the Eastern Black Sea. This could also involve expanding the number of allies participating in such a rotating presence in the

<sup>19</sup> "Smart Defense," *NATO Review Magazine*, 2015, <https://www.nato.int/docu/review/topics/en/smart-defence.htm>.

Black Sea region as well as considering the greater involvement of Georgia and Ukraine in operational activities.

3. To search for new methods and asymmetric responses to balance the Russian stance by conventional and unconventional ways. There is a need to overcome provocations and the “war of exercises”, manipulation of navigation telex (NAVTEX) notifications, and so forth.

4. To monitor Russian manipulations with the international mechanisms of maritime notifications and guarantee navigation safety. This recommendation can involve supporting Ukrainian cases in the international tribunals and courts so as to guarantee its rights for territorial waters and safety of navigation.

5. To consider widening between maritime component of the Canadian UNIFIER mission in Ukraine. In particular, British-Canadian cooperation could expand to cover projects supporting Ukrainian navy development and training.