



THE QUALIFICATION OF MILITARY ACTIVITIES IN THE ORDER OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA THE DETENTION OF THREE UKRAINIAN MILITARY VESSELS

This paper comments the order on provisional measures of the International Tribunal for the Law of the Sea (ITLOS) of 25 May 2019 in the *Case concerning the detention of three Ukrainian naval vessels (Ukraine v. Russian Federation)*. On 31 March 2019, Ukraine instituted arbitral proceedings under Annex VII to the United Nations Convention on the Law of the Sea (UNCLOS) against the Russian Federation in a dispute concerning “*the immunity of three Ukrainian naval vessels and the twenty-four servicemen on board*”. Subsequently, on 16 April 2019, Ukraine submitted to the Tribunal a request for the prescription of provisional measures under article 290(5), of the Convention in relation to the dispute.

The present work focuses on the material scope and effects of the UNCLOS parties’ declarations on the non-acceptance of arbitration and judicial procedures for the settlement of disputes made under Article 298(1)(b) of the UNCLOS.

It then explores the legal qualification of “military activities” made in the arbitration award relating to the *South China Sea Arbitration (The republic of the Philippines v. the People’s Republic of China)* and the distinction between “military activities” and “enforcement activities” in the ITLOS order of 25 May 2019.

Finally, the articles focuses on the conflicting aspects of the ITLOS’s decision concerning the non-existence of military action in the case at stake.