



Security Council

Distr.: General
2 December 2020

Original: English

Letter dated 1 December 2020 from the Permanent Representative of Turkey to the United Nations addressed to the President of the Security Council

I have the honour to transmit herewith a letter by Mevlüt Çavuşoğlu, Minister for Foreign Affairs of the Republic of Turkey, addressed to António Guterres, the Secretary-General of the United Nations (see annex).

I would be grateful if the present letter and its annex could be circulated as a document of the Security Council.

(Signed) Feridun H. **Sinirlioğlu**
Permanent Representative



Annex to the letter dated 1 December 2020 from the Permanent Representative of Turkey to the United Nations addressed to the President of the Security Council

Ankara, 29 November 2020

On 22 November 2020 at 3 p.m. GMT, the German frigate *Hamburg*, under the command of Operation IRINI, forcefully boarded the Turkish-flagged commercial vessel M/V *Roseline A* without the clear consent and authorization of Turkey, as well as of the master of the said vessel, in blatant violation of international law.

Earlier that day, *Hamburg* had already hailed and interrogated the Turkish-flagged commercial vessel, which was transporting goods from Turkey to the Libyan port of Misratah. The vessel had openly declared its cargo prior to leaving the Turkish port en route to Misratah/Libya. Its cargo consisted of paint-related material as well as humanitarian aid including flour, oil, biscuits and medical products.

The legal adviser of Operation IRINI requested the consent of Turkey as the flag State through an email sent on Sunday morning to the personal email accounts of some Turkish officials, including those from the Turkish Embassy in Rome and the Permanent Delegation of Turkey to the European Union.

In the email message, reference was made to Security Council resolutions [2526 \(2020\)](#) and [2292 \(2016\)](#), and it was indicated that boarding would take place within four hours after the delivery of the message, claiming that there were reasonable grounds that the vessel was carrying arms or related material to Libya in violation of the United Nations arms embargo.

Neither Security Council resolution [2292 \(2016\)](#) nor any other Council resolution grants the right to Member States or to regional organizations to arbitrarily board any vessel on the high seas without the clear consent and authorization of the flag State at the expense of relevant international instruments, including the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation.

First and foremost, the chosen method of communication as well as the way it was conducted by Operation IRINI cannot be considered a proper channel of formal notification that warrants an official reply.

Nonetheless, the Turkish military attaché in Rome contacted the authorities of Operation IRINI and conveyed that M/V *Roseline* cannot be boarded without Turkey's clear consent, which should be sought through proper channels in line with established diplomatic practice.

Subsequently, before the boarding started, the Turkish Ministry of Foreign Affairs expressed its objection to the boarding, this time in writing, indicating that the boarding could not be carried out without the clear consent of Turkey, since the four-hour notice is not applicable as far as Turkish-flagged ships are concerned.

In their reply, Operation IRINI officials insisted that by sending an email, they had satisfied the necessity of "good-faith efforts" to obtain Turkey's consent and that they could proceed with the inspection even without it, and that the four-hour notice in question was considered by the European Union as "a consolidated interpretation of the concept of good-faith efforts mentioned in the UNSC resolution [2292 \(2016\)](#)".

The imposition of arbitrary deadlines and self-proclaimed extensions are not acceptable and cannot be considered as an act of good faith. In addition to the explicit lack of consent from the Republic of Turkey, the captain of the vessel also directly rejected the request for boarding. However, armed personnel of the frigate *Hamburg* landed on *Roseline A* and started the inspection using unnecessary and disproportionate force.

During the inspection, the crew were detained and mistreated, rounded up at a confined space and not allowed to meet their basic needs, also in contravention of resolution [2292 \(2016\)](#), which stresses the obligations of Member States under international human rights law.

At this point, Turkey once again informed the officials of Operation IRINI, in writing, that the boarding was unlawful without the clear consent and authorization of the flag State, and protested the forceful boarding and urged for it to end immediately. With this message, Turkey also reserved the right to claim compensation by natural and legal persons for damages, delays and commercial losses due to this unauthorized and forceful boarding.

The legal adviser of Operation IRINI responded by stating that “the operation was suspended due to not having received any form of consent, explicit or otherwise, from the flag State”, despite their earlier statement to the contrary that this consent was not required.

Turkey strongly protests this incident, as it constitutes a blatant violation of international law. It is essential to obtain the consent of the flag State to board and inspect commercial ships in international waters. Security Council resolutions on the Libyan arms embargo do not overrule this obligation, nor do they allow such arbitrary interpretation of the law by the European Union, which in any event is not binding upon Turkey.

During the inspection of MV *Roseline A*, *Hamburg* found “no evidence of illicit material” to justify the allegation that there were reasonable grounds that the vessel violated the arms embargo on Libya. Even though the captain had disclosed information of its cargo when previously hailed and interrogated by the *Hamburg* frigate, the inspection was still forced upon the vessel. This incident, in addition to the others preceding it, proves that Operation IRINI acts in a biased manner and not in good faith on the basis of an arbitrary interpretation of Security Council resolution [2292 \(2016\)](#).

Furthermore, Operation IRINI is politically motivated, as it did not bring any added value to the efforts for a peaceful resolution of the Libyan conflict. As a sea-based mission, it does not serve its professed objectives and overlooks the fact that arms transfers to Haftar and the so-called Libyan National Army are mostly done through land and air routes. Operation IRINI was launched without prior consultations with the United Nations-recognized legitimate Government of Libya and the North Atlantic Treaty Organization.

Arbitrary practices by this operation will thus no doubt hinder freedom of navigation in the Mediterranean, where world maritime trade is highly dense. The inspection by *Hamburg*, as admitted by the Spokesperson of the European External Action Service on 24 November 2020, specifically targeted a Turkish vessel in a discriminatory manner on the basis of its nationality, delayed its course unnecessarily without any reasonable grounds and unjustifiably hindered MV *Roseline A*'s freedom and safety of navigation as secured by article 5 of resolution [2292 \(2016\)](#), caused both mistreatment of the crew as well as financial losses to the company.

As notified to Operation IRINI and the European Union, Turkey reserves all rights to compensation for the damages and losses that may arise as a result of this unlawful and forceful incident as well as the right to take every precaution, within international law, to provide for the security and safety of navigation of Turkish-flagged vessels in international waters.

(Signed) Mevlüt **Çavuşođlu**
