This note presents an analysis from the viewpoint of public international law of the event that occurred on November 24, 2015, when a Russian Sukhoi Su-24 bomber jet was downed by the Turkish Air Force over the border region between Syria and Turkey. While some of the basic circumstances of the case remain controversial, enough elements have emerged from media coverage to permit for the identification of the main legal issues, if not also to assess the legality of the Russian behavior and of the Turkish reaction in all its details. The known facts warrant the conclusion that the attack and the downing of the Russian jet can be seen as a disproportionate reaction on the part of the Turkish Government and, therefore, as a violation of the prohibition of the use of military force under Art. 2(4) of the UN Charter and under the corresponding customary rule of international law.

Keywords: jus ad bellum; aerial intrusion; aerial sovereignty; use of force; necessity; proportionality.

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1. Introduction

It is an understatement to say that the downing of a Russian Sukhoi Su-24 military jet by the Turkish Air Force on Tuesday, November 24, 2015, has increased the tensions between the states involved in the Syrian crisis.¹ The precise circumstances of the incident remain disputed and are likely to remain unclear for some time. Ideally the facts should be unveiled through a thorough and independent investigation – as asserted by, among others, UNSG Ban Ki-Moon² and US President Barack Obama.³ While certain elements seem accepted as established facts according to public declarations and media coverage, some crucial factual elements remain disputed. The present analysis thus attempts to identify the main legal issues raised by these events by examining the differing accounts available in public media. It proceeds by trying to reconstitute the general circumstances of the incidents (Ch. 2.), before assessing them in the light of the relevant rules and principles of international law (Ch. 3.).


³ See supra n. 1.
2. The Facts: An Attempt at Reconstitution

On November 24, 2015, a Russian bomber was undertaking an operation in the northwest of Syria, in a region controlled by opposition forces, near the Turkish border region of Yayladağı. The bomber was intercepted and downed by an air-to-air missile fired from a Turkish F-16 jet and crashed on Syrian territory. It is disputed whether the Russian plane entered Turkish airspace. The pilot and the co-pilot managed to activate their ejection seats and escape the destroyed aircraft. It appears that at least the co-pilot, Lieutenant Colonel Oleg Peshkov, was shot and killed by ethnic Turkmen rebel forces in Syria. Some early media coverage reported that both crew members were shot and killed. According to the Syrian newspaper al-Watan, the pilot, Captain Konstantin Murakhtin, was allegedly rescued by Syrian special forces. Other sources, including the Russian Ministry of Defence, mention a joint Russian and Syrian operation resulting in the death of soldier Aleksandr Pozynich, one of the Russian soldiers involved in the rescue. A video – purportedly filmed by members of the US trained Free Syrian Army’s First Coastal Division – emerged in which a militant is seen while he attacks and destroy a Russian-made helicopter with a BGM-71 TOW anti-tank missile. This event took place in the proximity of the crash site – about six kilometres away. Soon after, on November 25, violent demonstrations took place in front of the Turkish Embassy in Moscow, with stones thrown at the building causing

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material damage. According to some media, the Moscow police did not intervene to restore order and to ensure the Embassy’s security.9

The parties differ on the precise circumstances leading to the attack. Russian President Vladimir Putin – who qualified the act as ‘a stab in the back’ committed by accomplices of the Islamic State – asserts that the aircraft neither crossed the Turkish border nor threatened Turkey’s security.10 He states that, when hit by the missile, the aircraft was flying at an altitude of roughly 6,000 meters in Syrian airspace at a distance of one kilometre from the Turkish border. According to a leaked letter from the Permanent Mission of Turkey to the UN to the British President of the United Nations Security Council, Mr. Matthew Rycroft, and statements by Turkish Prime Minister Ahmet Davutoğlu and Turkish President Recep Tayyip Erdoğan, Turkey asserts that the attack occurred in response to a violation of Turkish sovereignty and in conformity with its rules of engagement.11 The letter to the UN states:

This morning (24 November), 2 SU-24 planes, the nationality of which are unknown have approached Turkish national airspace in Yayladağı/Hatay region. The planes in question have been warned 10 times during a period of 5 minutes via ‘Emergency’ channel and asked to change their headings south immediately.

Disregarding this warning, both planes, at an altitude of 19,000 feet, violated Turkish national airspace to a depth of 1.36 miles and 1.15 miles in depth in length for 17 seconds from 9.24:05” local time.

Following the violation, plane 1 left Turkish national airspace. Plane 2 was fired at while in Turkish national airspace by Turkish F-16s performing air combat patrolling in that area in accordance with the rules of engagement. Plane 2 crashed onto the Syrian side of the Turkish-Syrian border.12

While this specific event’s important repercussions in international affairs commands particular attention – not the least because it represents the first direct military clash between Russia and a NATO country – it has to be placed in the broader


framework of the ongoing armed conflict in Syria and the tensions it has caused between Turkey and the Syrian government. Since the outbreak of the conflict in 2011, several border clashes have occurred between Syria and Turkey—including the shooting down of a Turkish F-4 Phantom jet by the Syrian Air Force in June 2012 and a Syrian helicopter by a Turkish fighter jet in September 2013.\(^{13}\)

3. Legal Issues

From an international legal perspective, these facts raise several important questions relating to general international law on the use of force\(^{14}\) and the laws of armed conflict. Assuming that a violation of the Turkish airspace did occur, was the Turkish action in accordance with international law? Could a Russian incursion in Turkish airspace lasting 17 seconds be qualified as an armed attack triggering the right of self-defence by Turkey? Was the Turkish reaction necessary and proportionate to the threat posed by such an—arguably minor—infringement of Turkish sovereignty? Conversely, assuming that the Russian aircraft did not enter Turkish airspace, does the Turkish attack amount to an armed attack under Art. 51 of the UN Charter? From the perspective of _jus in bello_, one can also wonder whether the targeting of the aircraft's crew members by a rebel Syrian armed group during their descent violated international humanitarian law. And, finally, one can also wonder whether the Russian authorities complied with their obligations arising from diplomatic law in their treatment of the demonstrations occurred in front of the Turkish Embassy in Moscow.

3.1. Does an Overflight by a Military Aircraft Amount to a ‘Use of (Military) Force’ under Art. 2(4) of the UN Charter?

The first issue regarding the _jus contra bellum_ is whether the alleged infringement of Turkish territory by the Russian aircraft amounts to a use of military force in violation of Art. 2(4) of the UN Charter. If this is the case, it remains to be determined if such a use of force amounts to an ‘armed attack’ or if it is an instance of a ‘less grave form.’ It is thus generally understood that not all uses of force amount to ‘armed

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attack’ in the meaning of Art. 51 UN Charter. Otherwise, if Russia’s actions do not reach the threshold for the use of military force – as we will argue – their qualification as ‘armed attacks’ is ipso jure excluded.

Aerial incidents of this kind are not uncommon in international practice. Some famous precedents involving civilian aircrafts include the downing of Korean Air Lines flight KAL-007 by Soviet planes on September 1, 1983, and the downing of Iran Air flight 655 by the USS Vincennes on July 3, 1988. Indeed, the first of these incidents catalyzed the development of a set of standards applying to air intercept of civilian aircrafts with the adoption of the Montreal Protocol of May 10, 1984, relating to an amendment to the Convention on International Civil Aviation (Art. 3 bis).

But international law seems more indeterminate – and to a certain extent even confusing – as regards cases involving military aircraft. The downing of a US Lockheed U-2 reconnaissance aircraft over Soviet territory, on May 1, 1960, and the downing


of a Breguet Atlantic of the Pakistani Air Force by Indian jets in the Rann of Kutch on August 10, 1999, count among the most famous and well-documented incidents. Moreover, accusations of violation of air sovereignty frequently occur in cases of territorial dispute. Indeed, in this context, the overflight of disputed territory or adjacent maritime zone often represent a means for a state to signify the rejection of exorbitant territorial claims by another state – thus precluding the possibility that its inaction may be interpreted as acquiescence. This is attested to in, for instance, Greek-Turkish relations in the Aegean Sea, in the context of the territorial and maritime disputes in the South China Sea, and in the Gulf of Sidra incident of August 19, 1981, when a US F-14 aircraft downed two Libyan Sukhoi Su-22 over international waters. In any case, as reaffirmed in Art. 3(c) of the 1944 Chicago Convention, flights of state aircrafts over the territory of another state without its consent constitute a breach of the latter's territorial integrity. Depending on the circumstances, aerial intrusion by military aircrafts can be considered as instances of threats of military force in contradistinction with Art. 2(4) of the UN Charter. But do they automatically qualify in themselves as uses of military force which are prohibited by Art. 2(4) of the UN Charter?

This raises the question of the existence of a minimal threshold of coercion for acts to fall under the aegis of Art. 2(4) of the UN Charter. According to Olivier Corten, state practice shows that cases that do not imply explicit hostile intent fall below the threshold and are generally not dealt with by reference to Art. 2(4).

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24 Article 3(c) Chicago Convention: ‘No state aircraft of a contracting State shall fly over the territory of another State or land thereon without authorization by special agreement or otherwise, and in accordance with the terms thereof; See also Art. 2(1) UN Charter; Military and Paramilitary Activities in and against Nicaragua, supra n. 15, ¶ 251; Ki-Gab Park, La protection de la souveraineté aérienne 51–62 (A. Pedone 1991); Marcus Schladebach, Lufthoheit: Kontinuität und Wandel (=: 236 Jus Publicum) 216, 253–61 (Mahr Siebeck 2014).

25 See Park, supra n. 24, at 190–92.

26 See Olivier Corten, Le droit contre la guerre: L'interdiction du recours à la force en droit international contemporain 67–118 (A. Pedone 2014) [hereinafter Corten, Le droit]; Park, supra n. 24, at 74 (noting
Independent Fact Finding Mission’s Report on the 2008 War between Georgia and Russia thus stated – quoting Robert Kolb – that the ‘the interception of a single aircraft’ lies below the threshold of Art. 2(4) of the UN Charter.\textsuperscript{27} The main difficulty with this approach is to draw the line between such instances of \textit{de minimis} recourse to coercion, calling for ‘strictly necessary police measures’ as a matter of maintenance of public order, and cases of use of military force falling under the scope of Art. 2(4) of the UN Charter. According to Corten, this has to be done by assessing the criteria of gravity and intent of the ‘attacking’ state.\textsuperscript{28}

Obviously, the political context – as well as other circumstances – will weigh heavily in the subjective appreciation of the states involved. In the present case, although tension are palpable in public declarations, it seems that both Russia and Turkey have been willing – at least in a first stage – to de-escalate the situation and lower the tone. NATO’s Secretary General Jens Stoltenberg stated: ‘Diplomacy and de-escalation are important to resolve this situation.’\textsuperscript{29} This stance is also reflected in United Nations Security Council President Matthew Rycroft’s declaration.\textsuperscript{30} At the outset of the crisis, both countries consciously avoided using \textit{jus contra bellum} terms in their declarations; Turkey referring to the notion of ‘national security’ rather than ‘self-defence.’ This tends to confirm the fact that the actors involved do not envisage the initial alleged violation of Turkish airspace through the lens of Art. 2(4) of the UN Charter.

\textbf{3.2. Was the Turkish Reaction Lawful?}

This is not to say that a state experiencing a violation of its airspace by military airplanes may in no situation use force when the incursion fails to amount to an ‘armed attack.’\textsuperscript{31} But air intercept in these cases are governed by another set of rules...

\textsuperscript{29} Statement by the NATO Secretary General after the Extraordinary NAC Meeting, NATO (Nov. 24, 2015), <http://www.nato.int/cps/en/natohq/news_125052.htm> (accessed Mar. 6, 2016).
\textsuperscript{31} See, for the view that any, even minor, intrusion in airspace amounts to an armed attack, Stefan Hobe, \textit{Airspace} in 1 The Max Planck Encyclopedia of Public International Law 263, 266 (Rüdiger Wolfrum, ed.) (Oxford University Press 2012).
and principles pertaining to police operations in time of peace rather than by more
general rules of *jus contra bellum*. This approach is reflected in the Resolution
adopted by the *Institut de droit international* in 2007 at the session in Santiago. Paragraph 5 of the Resolution states in its relevant part:

Acts involving the use of force of lesser intensity [than armed attacks] may
give rise to counter-measures in conformity with international law. In case of
an attack of lesser intensity the target State may also take strictly necessary
police measures to repel the attack.  

These so-called ‘measures of police,’ which – in the case of aerial intrusions – imply
the intercept of the foreign aircraft, if necessary by force, are grounded on what
Benedetto Conforti calls ‘the “internal force” of the State, *i.e.* the coercive
measures which a State can take against individuals or communities within its territory.’ They
can thus be adopted in certain circumstances even in the absence of a prior ‘armed
attack’ in the meaning of Art. 51 of the UN Charter. Although it is sometimes delicate
to assess an incident in maintaining a strict analytical distinction, recourse to coercive
means in this context should only occur when several cumulative conditions are
respected.

3.2.1. Was Turkey’s Reaction Confined to Its Territory?

Although recourse to coercive means may be allowed both if we were to consider
these cases through the lens of Art. 51 of the UN Charter self-defence and ‘police
enforcement actions,’ this last point could make a big difference in the present case.
Since it flows in the last instance from the principle of state sovereignty, the right
to adopt coercive ‘police enforcement actions’ of such magnitude is necessarily
limited to individual action – as opposed to collective self-defence – on the national
territory – as opposed to the territory of a third state and without touching upon
the question of enforcement actions in international spaces.

In this case, it seems plausible that the attack might have taken place – at least
partly – when the Russian aircraft was (already) outside of Turkish airspace. According

32 See, *e.g.*, Park, supra n. 24, at 291–98.
34 *Id.* See also the discussion in Olivier Corten, *Les résolutions de l’Institut de droit international sur la légitime défense et sur les actions humanitaires*, 2007(2) Revue belge de droit international (R.B.D.I.) 608–13.
to a declaration by President Vladimir Putin, ‘the plane had been attacked when it was 1 km (0.62 mile) inside Syria.’\textsuperscript{37} This is obviously a point that would call for further investigation.

3.2.2. Did Turkey Issue Warnings?

Except in circumstances where the intention of the trespassing aircraft are manifestly hostile, repeated warnings must have been issued and proven ineffective.\textsuperscript{38} This condition should be seen as an aspect of the condition of necessity according to which recourse to forceful means must be the only available means of ending the unlawful aerial intrusion.\textsuperscript{39} In this case, Turkey maintains that 10 warnings were issued in the five minutes preceding the intercept\textsuperscript{40} while the Russian side – basing itself on the testimony of the pilot, Captain Konstantin Murakhtin – deny that any warning were given.\textsuperscript{41} To assess the respect of this condition, an inquiry on the exact circumstances of the incident should not only aim to establish whether the warnings were effectively issued but whether they were given in a manner that could be effectively received and understood by the Russian aircraft's crew. It is symptomatic in this regard that the most recent press release of the Turkish Ministry of Foreign Affairs issued on January 30, 2016, the day following a new alleged Russian aerial incursion in Turkish airspace insists on the fact that warnings have been issued both in English and Russian languages.\textsuperscript{42}

3.2.3. Was Turkey’s Reaction Necessary and Proportionate to the Objective of Restoring Its Aerial Sovereignty?

The condition of absolute necessity and proportionality of the measures undertaken with the aim of ensuring aerial security must be respected.\textsuperscript{43} Necessity

\textsuperscript{37} Supra n. 11.

\textsuperscript{38} See, e.g., Wright, supra n. 19, at 850; Lissitzyn, supra n. 19, at 587; Hingorani, supra n. 19, at 167; Schladebach, supra n. 24, at 257.

\textsuperscript{39} See infra n. 44 and accompanying text.


\textsuperscript{43} See Park, supra n. 24, at 191.
means that force must be the ultima ratio to restore security on the territory. The requirement of proportionality means the proportion that has to be observed between the action taken and its purpose, namely the reestablishment of territorial sovereignty and the maintenance of public order.

As regards airspace violations, the (very) short duration of an incursion is not necessarily an indication that measures of coercive intercept were out of proportion with the perceived threat. The speed of aircrafts and the potentially devastating consequences of inaction have to be taken into account, as illustrated by the attacks on Pearl Harbour on December 7, 1941, and particularly on September 11, 2001. In some cases, an incursion by several aircraft might constitute the first stage of an impending aggression. States have a legitimate need to be able to react quickly and effectively to such an upcoming attack. This might involve an intercept through forcible means if warnings remained ineffective.

But given the surrounding circumstances of the present case, it is difficult to infer a hostile intent of the Russian Government towards Turkey. In this regard, one has to admit though that the Russian Air Force’s practice of flying with the transponder turned off – if the accounts are true – do not speak in its favor. Although similar violations of Turkish sovereignty by Russian aircrafts occurred in the previous months, communications were regular on the issue, and Russia had been willing to admit an infringement of Turkish airspace in October 2015. In this context, it would have

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45 See Addendum, supra n. 44, at 69.


been scarcely plausible to infer an aggressive intent of the Russian side. Furthermore, the very short duration of this particular case over a relatively peripheral part of its territory did not seem to call for such a forceful response.49 The circumscribed and publically stated goal of Russia’s military presence in the region tends to indicate that its intention was not to attack Turkey.

These troubled circumstances led Russian Foreign Minister Sergei Lavrov to state that the intervention had been pre-planned and that the downing of the Sukhoi Su-24 was the result of a Turkish ‘ambush.’50 In any case, the downing of a plane causing – though indirectly – the death of a crew member appears to constitute a disproportionate response to the nominal violation of Turkey’s territory. To sum up the analysis of the law relating to the use of force, the legality of the downing of the Russian plane is dubious, to say the least. According to Art. 31(1) of the International Law Commission’s Draft Articles on Responsibility of States for Internationally Wrongful Acts [hereinafter Draft Articles], Turkey is thus ‘under an obligation to make full reparation for the injury caused by the internationally wrongful act.’51

3.3. Did the Downing of the Russian Aircraft Trigger the Right to Adopt Measures in Self-Defence?

In a first stage, President Vladimir Putin – arguably addressing mainly the Russian internal audience – used strong words to qualify Turkey’s action – even calling them a ‘crime’ – but did not use terms such as ‘aggression’ or ‘armed attacks.’52 Russian Prime Minister Dmitry Medvedev later qualified Turkish actions as an ‘act of aggression against our country.’53 It is nevertheless debatable if the downing of one single aircraft amounts to an act of armed attack triggering the right of self-defence or if it is confined to the notion of a border incident.54 Even if the downing of the Sukhoi Su-24 were to be considered as an act that passes the threshold of ‘armed

49 See also Fyodor Lukyanov, After Sukhoi Crash: A Bloc or a Coalition Dilemma, Russia in Global Affairs (Nov. 25, 2015), <http://eng.globalaffairs.ru/redcol/After-Sukhoi-crash-a_bloc-or-a-coalition-dilemma-17836> (accessed Mar. 6, 2016).
52 Supra n. 11.
54 See the references supra n. 15.
attack; it is nevertheless doubtful that it could be deemed as triggering Russia’s right of self-defence. Since the attack ceased immediately after the downing of the plane and both parties expressed willingness to settle the incident through peaceful means, there appears to be no necessity for Russia to act in self-defence. The Russian Government confirmed this when it opted for the adoption of peaceful countermeasures against Turkey in the days following the event.

3.4. Was the Killing of the Aircraft’s Crew a Violation of International Humanitarian Law?

As regards *jus in bello*, the targeting of the aircraft’s crew members by the Syrian rebels is a violation of international humanitarian law. According to Art. 42(1) of the Protocol Additional to the Geneva Conventions of August 12, 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) of June 8, 1977 [hereinafter AP I], ‘[n]o person parachuting from an aircraft in distress shall be made the object of attack during his descent.’ This provision is nevertheless not applicable to this case since the armed conflict opposing Syrian governmental forces, assisted by Russia, should be qualified as non-international. Moreover, Syria is not a party to AP I.

But this rule is deemed to be a reflection of international humanitarian customary law applicable to non-international armed conflicts by the ICRC as well as by the Manual on International Law Applicable to Air and Missile Warfare. The violation


of the rule is nevertheless not recognized as a war crime in international treaties. As is well known, the Geneva Conventions and the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts of June 8, 1977 (AP II), do not contain any provision relating to international criminal responsibility. The Rome Statute of July 17, 1998, of the International Criminal Court does not make it a specific war crime to target these individuals neither in international armed conflict nor in non-international armed conflicts.

### 3.5. Did Russia Violate Its Obligations under the Law of Diplomatic Relations?

Finally, the alleged passivity of the police in reaction to the material damages caused to the Turkish Embassy in Moscow appears to constitute a breach of Russia’s ‘special duty’ as a receiving state ‘to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.’ In application of this ‘special duty,’ receiving states have the obligation to prevent public demonstrations – whatever the political motives of the demonstrators – from disturbing the peace or dignity of the diplomatic mission or from causing damage to its buildings. This ‘special duty’ may be accomplished through the criminal prosecution of trespassers or of persons that have committed acts of depredation on the diplomatic premises.

The omission of the Moscow police authorities may easily be understood as a covert form of ‘retaliation’ – although such behaviour does not contribute to de-escalating tensions – and it is in no way justified under international law. According to Art. 50(2) of the Draft Articles, countermeasure can in no case justify a breach of the inviolability of diplomatic premises. As the International Court of Justice [hereinafter ICJ] affirmed in the classic Tehran Embassy Hostages case,
[e]ven in the case of armed conflict or in the case of a breach in diplomatic relations those provisions require that both the inviolability of the members of a diplomatic mission and of the premises, property and archives of the mission must be respected by the receiving State.\textsuperscript{62}

Indeed – as is illustrated by the use, by the ICJ, of the term ‘self-contained regime’ – the rules on diplomatic privileges and immunities are generally excluded from the scope of ordinary rules on countermeasures.\textsuperscript{63} If the alleged passivity of the authorities could be confirmed, Russia would incur responsibility for all the damages caused to the Turkish diplomatic premises.

4. Concluding Remarks

Since the beginning of the Russian intervention in Syria, Russia and Turkey have been accusing each other of adopting provocative behavior. In this kind of context, the ‘(over-)reactions’ of one side to the perceived ‘provocations’ of the other side might well be seen as new ‘provocative actions,’ thus launching an infernal sequence of reciprocal provocations. This vicious cycle threatens to go on and further heighten political tensions among the involved actors. When such a crisis implicates, on the one side, one of the biggest military and nuclear power of the planet and, on the other side, a middle power integrated in a military alliance such as NATO, there are good reasons to worry about the consequences and to try and prevent the escalation by all available means. Despite the worrying rhetoric by some akin to war-mongering,\textsuperscript{64} the Russian Government wisely decided not to react militarily to the unlawful downing of its aircraft and opted for the adoption of peaceful countermeasures. But the magnitude of the measures adopted leaves little room

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\textsuperscript{63} United States Diplomatic and Consular Staff in Tehran, supra n. 62, ¶ 86: ‘The rules of diplomatic law, in short, constitute a self-contained régime which, on the one hand, lays down the receiving State’s obligations regarding the facilities, privileges and immunities to be accorded to diplomatic missions and, on the other, foresees their possible abuse by members of the mission and specifies the means at the disposal of the receiving State to counter any such abuse.’ See also, on the sometimes misunderstood notion of ‘self-contained régime,’ Bruno Simma & Dirk Pulkowski, Of Planets and the Universe: Self-contained Regimes in International Law, 17 Eur. J. Int’l L. 483 (2006), available at <http://www.ejil.org/pdfs/17/3/202.pdf> (accessed Mar. 6, 2016). doi:10.1093/ejil/chl015

for further escalation in the realms of peaceful means in the hypothetical case of a new incident. This is particularly worrying in the light of the recent accusations of the Turkish Ministry of Foreign Affairs, according to which, a Russian Sukhoi Su-34 bomber has violated Turkish airspace on January 29, 2016.65

On NATO’s side, decision-makers would do well to take Turkish assertions with a grain of salt. While understandably willing to reaffirm the political unity of the alliance, NATO and its member states should endeavour to take a breath before expressing unconditional support for the Turkish side.66 By ignoring this advice of prudence, the alliance risks precipitating itself and the rest of the world in a potentially cataclysmic storm before even realizing it. Hopefully the parties will strive to reach a solution through peaceful means in accordance with their international obligations.

References


Guillaume, Gilbert. Les grandes crises internationales et le droit 61–78 (Seuil 1994).

65 See Republic of Turkey, Ministry of Foreign Affairs, supra n. 42.

66 See also the harsh critics of US policy expressed by Santarelli, supra n. 14.


*L. Legal Argumentation in International Crises: The Downing of the Korean Air Lines Flight 007, 97 Harv. L. Rev. 1198 (1983).*


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