

**LEGAL AND POLITICAL ASPECTS OF THE AEGEAN DISPUTE AND
ITS IMPLICATIONS FOR TURKEY'S RELATIONS WITH GREECE
AND THE EUROPEAN UNION**

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Abstract: The aim of this article is to evaluate the legal and political aspects of the Aegean dispute with special reference to its implications for Turkey's relations with Greece and the European Union. The main argument of the article is that virtually all major attempts at rapprochement between Turkey and Greece have been sparked by crises stemming from their bilateral differences over the Aegean. Another argument of the article is that Greece has used the European Union's decision making mechanism as leverage against Turkey to achieve its national interests. It is concluded in line with these arguments firstly that the Aegean dispute has influenced substantially Turkey's relations with the European Union and secondly that certain conflicts that Turkey and Greece have experienced in their relations over the Aegean have been the stimulus behind the current rapprochement.

Keywords: Aegean Dispute, Turkish Foreign Policy, Turkey-EU Relations, Turkey-Greece Relations, Law of the Sea

**EGE SORUNU'NUN HUKUKİ VE SİYASİ BOYUTLARI VE
TÜRKİYE'NİN YUNANİSTAN VE AVRUPA BİRLİĞİ İLE
İLİŞKİLERİNE ETKİLERİ**

Öz: Bu makalenin amacı Ege Sorunu'nun hukukî ve siyasî yanlarını Türkiye'nin Yunanistan ve Avrupa Birliği ile ilişkilerine etkileri üzerinden değerlendirmektir. Makalenin temel argümanı Türkiye ve Yunanistan arasındaki hemen hemen bütün uzlaşma girişimlerinin Ege'ye ilişkin farklılıklarından kaynaklandığı şeklindedir. Diğer bir argüman ise Yunanistan'ın ulusal çıkarlarını gerçekleştirmek için Avrupa Birliği karar alma mekanizmasını Türkiye'ye karşı bir kaldıraç olarak kullandığı şeklindedir. Bu argümanlar doğrultusunda, birinci olarak, Ege Sorunu'nun Türkiye'nin Avrupa Birliği ile ilişkilerini önemli ölçüde etkilediği, ikinci olarak da Türkiye ve Yunanistan'ın Ege'ye ilişkin yaşadıkları çatışmaların devam etmekte olan uzlaşma sürecinin başlamasını kolaylaştırdığı sonucuna varılmaktadır.

Anahtar Kelimeler: Ege Sorunu, Türk Dış Politikası, Türkiye-AB İlişkileri, Türkiye-Yunanistan İlişkileri, Deniz Hukuku

I. Introduction

The Aegean dispute is at the core of Turkey's relations with Greece. It is almost equally important for the country's relations with the European Union (EU). As a matter of fact, at the 1999 Helsinki European Council, Turkey was required to agree to submit the Aegean dispute to the International Court of Justice (ICJ) by 2004 in case all other efforts failed (European Council, 1999a:

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Par. 4). The EU also assured at the 1999 Helsinki European Council that resolution of the Cyprus issue would not be a prerequisite for the accession of Southern Cyprus to the EU (European Council, 1999a: Par. 9.b). This means that resolution of the Aegean dispute and the Cyprus issue are the two important components of Turkey's relations with Greece and the EU (Diez, 2002: 154-155; Aksu, 2004: 107; Özer, 2010: 558). As a matter of fact, these issues were referred to in the Accession Partnership Documents (APD) of Turkey as essential for the political dialogue between Turkey and the EU since the 2000 Nice European Council (Terzi, 2005: 114).

The aim of this article is to evaluate the legal and political aspects of the Aegean dispute with special reference to its implications for Turkey's relations with Greece and the EU. The main argument of the article is that virtually all major attempts at rapprochement between Turkey and Greece have been sparked by crises stemming from their bilateral differences over the Aegean. Another argument of the article is that Greece has used the EU's decision making mechanism as a leverage against Turkey to achieve its national interests. It is concluded in line with this argument firstly that the Aegean dispute has influenced substantially Turkey's relations with the EU and secondly that certain conflicts that Turkey and Greece have experienced in their relations over the Aegean have been the stimulus behind the current rapprochement.

According to Ker-Lindsay, the Aegean dispute is "the result of differing interpretations over the rights and consequences of various treaties" (Ker-Lindsay, 2007: 110). Hence, the legal dimension of the Aegean dispute will be evaluated with special reference to the provisions of the governing treaties that the two countries tend to interpret differently. To that end, arguments of both countries regarding the Aegean dispute and the impact thereof on their previous and continuing attempts at rapprochement will be highlighted.

II. Aegean Dispute

The Aegean dispute is composed of disagreements i) over the sovereignty of certain islands and islets in the Aegean Sea; ii) the demilitarization of the Eastern Greek islands; iii) the breadth of the territorial seas; iv) the delimitation of the continental shelf; and v) the width of the national airspace of the Greek islands in the Aegean Sea and the operative control of the Flight Information Region (FIR) (Gündüz, 2001: 81; İnan and P. Gözen, 2009: 175-176). Nonetheless, Turkey and Greece have not reached a consensus on the components of the Aegean dispute. In more concrete terms, Greece argues that delimitation of the continental shelf, namely "delimitation of the submarine areas between the Anatolian coast and the nearby Greek islands, beyond their six-mile territorial seas" is the only unresolved issue regarding the Aegean (Toluner, 2000: 121). To the contrary, in the view of Turkey, the

Aegean dispute encompasses the demilitarized status of the Eastern Aegean islands, breadth of the territorial seas, delimitation of the continental shelf, width of the national airspace of the Greek islands in the Aegean and the operative control of the FIR and sovereignty over disputed islands (Kut, 2001: 253). In other words, Turkey does not decouple the dispute over delimitation of the continental shelf from the rest of what it sees as integral parts of the Aegean dispute. With respect to how to resolve the dispute, Greece pushes for the referral of the delimitation of the continental shelf to the ICJ whereas Turkey views adjudication as a last resort and therefore it prioritizes negotiations for the entirety of the dispute (Kut, 2001: 266; Kozyris, 2001: 102; Gündüz, 2001: 96-97).

However, the Aegean dispute was not a major issue in Turkey-Greece relations until 1973. Instead, the two countries were at odds over the Cyprus issue before the 1970s. Therefore, Turkey did not contest until 1974 the width of the national airspace of the Greek islands, and did not object to the attributing of the operative control of the FIR to Greece in 1952 by the International Civil Aviation Organization (ICAO) (Kut, 2001: 263). The only issue that Turkey objected to in the 1960s was the remilitarization of the Eastern Aegean Islands by Greece (Heraclides, 2010: 79). Yet, the two countries have not experienced a major dispute over remilitarization. Thus, it was in 1973-74 that Turkey and Greece began to confront each other because of their bilateral differences over the Aegean. As a corollary, previous attempts at rapprochement that were sparked by their bilateral differences over the Aegean dispute date back to the 1970s. However, these earlier attempts at rapprochement failed mainly because of the fact that the two countries were trying to resolve their bilateral differences without agreeing on what were the points of contention (Ker-Lindsay, 2007: 111). They were also inhibited by domestic opposition to the settlement. Governments that engaged in the settlement of the dispute were criticized domestically on different grounds that will be evaluated concisely throughout this article.

Emphasizing previous attempts at rapprochement and domestic opposition to the settlement is important because they illustrate how the current rapprochement differs from its predecessors. It is different because the EU could relatively silence domestic opposition to the settlement and reduce the number of veto players via providing the respective governments of the two countries with arguments to justify their engagement in the settlement of the Aegean dispute (Öniş and Yılmaz, 2008: 130). In addition, many principles on the settlement of the Aegean dispute have emerged throughout those previous attempts at rapprochement.

Nonetheless, even though Turkey and Greece have improved their relations since 1999, the Aegean dispute has not been resolved in its entirety. The two countries started their 'exploratory talks' over the Aegean dispute in 2002. The 58th round of 'exploratory talks' was held in September 2014 in

Greece. Yet, details of these talks are not made public. However, it may be argued that ‘exploratory talks’ are progressing satisfactorily given that the dispute was not referred to the ICJ in 2004 as it was stipulated at the 1999 Helsinki European Council. The EU would have called Turkey to agree to refer the Aegean dispute to the ICJ on the behest of Greece if ‘exploratory talks’ had not been progressing satisfactorily. As a matter of fact, the EU confined itself to solely welcoming recent developments in Turkey-Greece relations at the December 2004 Brussels European Council (European Council, 2004: Par. 20).

The dispute over the delimitation of the continental shelf is important in that it has resurfaced several times in the past with significant implications on Turkey-Greece relations. More importantly, it is the only issue which both Turkey and Greece regard as a point of contention.

III. Dispute over the Delimitation of the Continental Shelf

The delimitation of the continental shelf has been an important issue in Turkey-Greece relations since the 1970s. Dispute over the delimitation of the continental shelf includes “delimitation of the respective sovereign rights of the two countries in the Aegean seabed and its subsoil” (Heraclides, 2010: 167). Whether the Greek islands off the Turkish coast can generate continental shelves of their own is the most important aspect of the dispute over the delimitation of the continental shelf (Lagoni, 1989: 148).

In the view of Greece, the delimitation of the continental shelf is the only issue awaiting resolution in the Aegean Sea (Athanasopoulou, 1997: 77; Kut, 2001: 267). However, for Turkey it is only one of several components of the Aegean dispute. Furthermore, Turkey seeks a political solution through bilateral negotiations while Greece is in favour of a judicial one, namely proceeding to the ICJ (Kut, 2001: 266; Kozyris, 2001: 102; Gündüz, 2001: 96-97). The dispute has brought the two countries close to rapprochement for a number of times in the past. Yet, these previous attempts at rapprochement failed for the reasons mainly related to domestic politics.

The 1958 Geneva Convention on the Continental Shelf (CCS) and the 1982 UN Law of the Sea Convention (UNCLOS) are the two important documents for the delimitation of the continental shelf. Continental shelf is defined as:

The continental shelf of a coastal State comprises the seabed and subsoil of the submarine areas that extend beyond its territorial seas throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial seas is measured where the outer edge of the continental margin does not extend up to that distance (UNCLOS, Article 76.1).

Thus, the concept can simply be referred to as “the downward projecting ledge of the continent in the sea” (Gündüz, 1990: 3). Of importance

for the dispute over the delimitation of the continental shelf is whether islands and islets can have continental shelves of their own. Actually, it is stated:

territorial seas, the contiguous zone, the exclusive economic zone and the continental shelf of an island are determined in accordance with the provisions of this Convention applicable to other land territory” (UNCLOS, Article 121.2).

Thus, it may be conferred that islands are entitled to have continental shelves of their own. However, “rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf” (UNCLOS, Article 121.3). This means that an island has its own continental shelf as long as it sustains human habitation or economic life. Nonetheless, the delimitation of the continental shelf of islands may be subjected to further limitations.

As a matter of fact, an island may be denied to generate a continental shelf with full effect if it is close to the coast of another State (Van Dyke, 2005: 87). In this regard, States with opposite coasts are expected to conclude a bilateral agreement to delimit continental shelves in relation to each other in line with the UNCLOS which states:

Delimitation of the continental shelf between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law ... in order to achieve an equitable solution (UNCLOS, Article 83.1).

Accordingly, the delimitation of the continental shelf through bilateral agreement has priority over the principle of equidistance in case states have opposite coasts. Principle of equidistance becomes applicable only when States with opposite coasts cannot achieve a bilateral agreement to delimit their continental shelves. Principle of equidistance means “drawing a median line as a boundary between the two shores of the States with opposite coasts” (Heraclides, 2010: 169). In other words, “the boundary [for the delimitation of the continental shelf] is the median line, every point of which is equidistant from the nearest points of the baselines from which the breadth of the territorial seas of each state is measured” (Athanasopoulos, 2001: 56). This principle was set out in the CCS as:

in the absence of an agreement, and unless another boundary is justified by special circumstances, the boundary shall be determined by application of the principle of equidistance (CCS, Article 6.1).

By special circumstances, reference may have been made to the size, population and location of an island (Van Dyke, 1989: 174). Thus, an island can be denied to generate a continental shelf with full effect if it is small, is inhabited by a relatively low number of people or it is close to the coast of another State. With respect to the Greek islands off the Turkish coast, it may be argued that the proximity of these islands to the Turkish coast is a special circumstance that should be taken into account for the delimitation of the continental shelf (Kut, 2001:253-254).

When applied to the Aegean Sea, the principle of equidistance would require that the median line be between the Turkish coast and the Greek islands off the Turkish coast. Therefore, Turkey would be left with very little of the continental shelf of the Aegean Sea in case the principle of equidistance was applied.

In the view of Greece, islands in the Aegean Sea should have continental shelves of their own same as the continental land masses in line with Article 121 of the UNCLOS (Versan, 2001: 246). This means that Greece disregards special circumstances prevalent in the Aegean. Furthermore, Greece posits that the principle of equidistance should apply to delimit the continental shelf between the Greek islands off the Turkish coast and the Turkish coast because the two countries could not agree on an agreement for delimitation (Marsh, 1989: 229; Gündüz, 2001: 98).

For Turkey, Greek islands off the Turkish coast do not have continental shelves of their own because they are natural prolongations of the Turkish mainland (Aydın, 1999: 169; Nachmani, 2002: 101-102). Therefore, in the view of Turkey, the concept of natural prolongation and special circumstances should be given primary emphasis in delimiting the continental shelf of the Aegean (Kut, 2001: 266; İnan and P. Gözen, 2009: 159). With respect to special circumstances, Turkey argues that the principle of equidistance should be applied not between the Greek islands off the Turkish coast and the Turkish coast but between the Greek and Turkish mainland (Heraclides, 2010: 169).

Turkey and Greece have diverging views on the delimitation of the continental shelf. Such intransigence of views had important implications on their political relations, as well.

Dispute over the delimitation of the continental shelf broke out in 1973 after Greece explored oil reservoir off the coast of the island of Thassos (Taşöz) in the Northern Aegean (Schmitt, 1996: 34; İnan and P. Gözen, 2009: 187). Greece granted exploration rights to foreign companies for the exploration of oil reservoir beyond the island's six-mile-territorial seas (Schmitt, 1996: 34; İnan and P. Gözen, 2009: 187). Turkey interpreted the act of Greece to initiate exploration activities beyond the island's territorial seas as a 'de facto' delimitation of the continental shelf (Heraclides, 2010: 78). In response, Turkey granted exploration rights to Turkish State Petroleum Company (TPAO) on 1 November 1973 for the exploration of oil reservoir to the west of Greek islands of Lesbos (Midilli) and Chios (Sakız) which are located in the Eastern Aegean Sea (Kut, 2001: 265). The same day, Turkey published a map in the Official Gazette to the effect of delimiting the continental shelf of the Aegean Sea. In the map, continental shelves of the Greek islands situated eastward of the median line that was drawn between the Turkish and Greek mainland were limited to their six-nautical-mile territorial seas (*Resmi Gazete*, 1973). Greece officially protested Turkey for exploration rights granted to TPAO and the map

in February 1974. It also reiterated that continental shelf of the Aegean Sea should be delimited between the Greek islands off the Turkish coast and the Turkish coast (Marsh, 1989: 229; Kut, 2001: 266; Gündüz, 2001: 98). In response, Turkey announced that it intended to send its vessel called *Çandarlı* for exploratory activities into where it regarded as its continental shelf (Schmitt, 1996: 34; İnan and P. Gözen, 2009: 187-188). The vessel started its six-day seismological survey accompanied by thirty-two Turkish warships in May 1974 (Kut, 2001: 265). Greece reacted to the act of Turkey through diplomatic protests (Schmitt, 1996: 34; İnan and P. Gözen, 2009: 187-188). However, Turkey continued to issue further exploration rights for the region around the Dodacanese islands (Ker-Lindsay, 2007: 20). While Greece kept protesting, relations were further strained when Turkey intervened militarily in Cyprus in July 1974 (Athanasopoulos, 2001: 47).

In January 1975, Greece proposed Turkey that the issue of the delimitation of the continental shelf in the Aegean Sea be referred to the ICJ (Schmitt, 1996: 35). However, Turkey argued that the issue was of political nature and therefore it required not a judicial but a political solution. Therefore, the two countries decided to seek a political solution through bilateral talks (Schmitt, 1996: 35). Yet, the talks proved fruitless given diverging arguments of the two countries on the issue. In the face of the failure of talks, Turkey declared in February 1976 that it intended to initiate further exploratory activities in the Aegean Sea (İnan and P. Gözen, 2009: 187-188). Consequently, Turkey dispatched its vessel called *Sismik-I* in August 1976 for seismological survey off the western coasts of the islands of Lemnos (Limni), Lesbos (Midilli), Chios (Sakız) and Rhodes (Rodos) for three days (Schmitt, 1996: 36; Kut, 2001: 265). In response to the act of Turkey, Greece made recourse to the United Nations Security Council (UNSC) claiming that Turkey prejudiced the maintenance of international peace and security (Schmitt, 1996: 36). Greece also proceeded to the ICJ for an interim measure for the parties to refrain from further exploratory activities in the area and from resort to military measures (Bilge, 1989: 72; Schmitt, 1996: 36). Furthermore, Greece asked the ICJ to delimit the continental shelf of the Aegean Sea (Schmitt, 1996: 36). In September 1976, the ICJ issued its ruling on interim measures requested by Greece. It noted that declaring interim measures was not necessary because rights of Greece had not been substantially prejudiced by the exploratory activities of Turkey (Aegean Sea Continental Shelf Case on Request for the Indication of Interim Measures of Protection, 1976: Par. 47).

Soon afterwards, the two countries engaged in bilateral talks in Bern, Switzerland to improve their relations and subsequently signed the Bern Agreement in November 1976. Thereby, Turkey and Greece committed themselves to refrain from any act relating to the continental shelf of the Aegean Sea, and to study state practices and international rules applicable to the delimitation of the continental shelf (Bern Agreement, Par. 6 and 8). Thereafter,

the two countries embarked on talks over their differences in January 1978 under what was called 'the Montreux Spirit' (Firat, 2002: 757). It was the first major attempt at rapprochement between the two countries since the Aegean dispute broke out in 1973 (Firat, 2002: 757; Ker-Lindsay, 2007: 21). However, talks slowed down mainly because of the criticism cast by the opposition parties in Greece to the settlement of the Aegean dispute. They argued that Greece was giving up its internationally recognized rights by engaging in talks with Turkey (Ker-Lindsay, 2007: 22). Nonetheless, the two countries agreed on a number of principles during their talks. Regarding the delimitation of the continental shelf, they decided that "the end result of delimitation was to be based on international law and practice, applied in such a way as to lead to an equitable solution" and that "Turkey would be offered compensation if its continental shelf ended up being meagre" (Heraclides, 2010: 102). In addition, they decided not to declare an exclusive economic zone in the Aegean (Heraclides, 2010: 102). These principles are important because they have directed subsequent talks. For instance, the two countries still do not possess an exclusive economic zone in the Aegean. In addition, recourse to the ICJ as a final course to follow was enshrined in the Presidency Conclusions of the December 1999 Helsinki European Council, as well (European Council, 1999a: Par. 4).

Meanwhile, the ICJ ruled on the request of Greece for delimitation of the continental shelf in December 1978. It ruled that the ICJ was not able to rule on the matter because it had not been referred to it by all parties concerned (Aegean Sea Continental Shelf Case on Jurisdiction of the Court, 1978: par. 108). Thus, unilateral referral of Greece was turned down. In other words, the ICJ clarified that it could rule on the matter only if Turkey and Greece referred the issue together.

Veto players and domestic politics came to the fore when talks held under the 1976 Bern Agreement were completely suspended in October 1981 after Pan-Hellenic Socialist Party (PASOK) led by the Prime Minister Andreas Papandreou came to power in Greece (Gürkan, 1989: 125). The Greek Prime Minister argued that not Greece but Turkey had demands and therefore engagement in bilateral talks would benefit only the latter (Tsakonias, 2010: 45). In addition, the Greek Prime Minister argued that the 1976 Bern Agreement expired because bilateral talks were terminated (Kut, 2001: 265; Aybet, 2009: 153).

Relations between the two countries further deteriorated after the Turkish Republic of Northern Cyprus (TRNC) declared its independence in November 1983. This is illustrative of the resilience of the Cyprus issue for Turkey-Greece relations. In response to the independence of TRNC and its recognition by Turkey, Greece adopted a new defence doctrine in December 1984 through which Turkey was called the main external threat to the country's sovereignty (Tsakonias, 2010: 45).

At the domestic stage, the Prime Minister Turgut Özal from Motherland Party (ANAP) was in power in Turkey since November 1983. The new Turkish Prime Minister was known for his willingness for enabling Turkey's accession to the EU and improving relations with Greece (Firat, 2002a: 109). As a matter of fact, the Turkish Prime Minister took a number of constructive measures such as the abolition of the entry visa for Greek citizens and attempts at increasing trade between the two countries to improve Turkey-Greece relations (Firat, 2002a: 109; Heraclides, 2010: 118). Yet, the Greek Prime Minister A. Papandreou was not willing to improve relations with Turkey until his re-election. PASOK was re-elected in June 1985. The Greek government had to soften its stance towards Turkey after experiencing another crisis over the continental shelf in 1987, and after getting to know how heavily arms race with Turkey burdened the Greek economy (Larrabee, 2001: 236; Firat, 2002a: 111). Actually, the 1987 crisis "acted as a catalyst for a brief thaw" in Turkey-Greece relations as in 1976 (Heraclides, 2010: 122).

The second crisis over the continental shelf of the Aegean broke out in March 1987 when Greece intended to introduce legislation for obligatory purchase of a majority stake of a Canadian company which was conducting exploratory activities in the Aegean Sea for oil in line with the exploration rights granted from 1973 on (Ker-Lindsay, 2007: 24). In the view of Greece, the company had to be nationalized because exploratory activities outside of its territorial seas impacted on its relations with Turkey (Ker-Lindsay, 2007: 25). In response, Turkey pointed to the 1976 Bern Agreement through which the two countries had committed themselves to refrain from any act relating to the continental shelf of the Aegean (Heraclides, 2010: 90). It also reiterated that it would forestall any attempt by Greece to conduct exploratory activities outside of its territorial seas (Ker-Lindsay, 2007: 25). However, for Greece, the 1976 Bern Agreement had expired when bilateral talks failed in 1981 (Kut, 2001: 265; Aybet, 2009: 153). Thus, Greece nationalized a majority stake of the company, and directed it to begin exploratory activities in international seas off Thassos (Taşöz). In response, Turkey dispatched its vessel for exploratory activities in the contested areas around the Greek islands of Lemnos (Limni), Samothrace (Semadirek) and Lesbos (Midilli) – beyond their six-mile territorial seas (Van Dyke, 1989: 267). Consequently, the two countries came to the brink of confronting each other, but they did not end up fighting mainly because of pressure from the United States of America (USA) and North Atlantic Treaty Organization (NATO) not to conduct exploratory activities in the contested areas of the Aegean Sea. Hence, Turkey decided to stay in the uncontested areas while Greece declared that it was bound by the 1976 Bern Agreement (Kut, 1998: 520). Eventually, the two countries committed themselves to refrain from such activities over the continental shelf until the issue is resolved.

The second crisis paved the way for what was known as 'the Davos Process' initiated in January 1988 following a meeting between the leaders of

the two countries at the World Economic Forum (WEF) in Davos, Switzerland. Although A. Papandreou was known for his earlier opposition to the previous talks with Turkey, the 1987 crisis compelled the Greek Prime Minister to change his stance towards rapprochement with Turkey, especially after getting to know how heavily arms race with Turkey burdened the Greek economy (Larrabee, 2001: 236; Fırat, 2002a: 111). Hence, the 1987 crisis approached the stance of the Greek government to that of the Turkish government.

During the Davos Process, the two countries committed themselves to develop “permanent peaceful relations” (Larrabee and Lesser, 2003: 74). In addition, Turkish and Greek Foreign Ministers, Mesut Yılmaz and Karolos Papoulias signed a Memorandum of Understanding on Confidence Building Measures (CBMs) in May 1988. The Davos Process also paved the way for the lifting of Greek veto against the reactivation of the Association Agreement between Turkey and the EU that had been suspended following the September 1980 military coup in Turkey (Athanasopoulos, 2001: 49). Greek veto against reactivating the Association Agreement indicates how Greece hoped to use the EU as a leverage against Turkey to achieve its national interests.

Domestic politics and veto players came to the fore again when domestic opposition in Greece criticized the Greek Government for neglecting the Cyprus issue during the Davos Process (Bertrand, 2003: 2). Talks were suspended entirely when the New Democracy (ND) under the leadership of the Prime Minister Constantine Mitsotakis came to power in June 1989. For the Greek Prime Minister, resolution of the Cyprus issue was a prerequisite for the advancement of rapprochement between Turkey and Greece (Ker-Lindsay, 2007: 27). However, the Cyprus issue had high resilience in Turkish domestic politics at that time and therefore Turkey was not in a position to concede from its position on the issue.

It is seen that domestic opposition in Greece has been highly influential in the failure of the previous attempts at rapprochement between the two countries (Öniş and Yılmaz, 2008: 124). Although the two countries have not confronted each other seriously over the delimitation of the continental shelf again since 1987, they have not agreed on its resolution either. Nonetheless, it is at the core of the ‘exploratory talks’ over the Aegean initiated in 2002. In this regard, the influence of the EU on the current rapprochement is noteworthy. As a matter of fact, it provided the respective governments of both countries with arguments and incentives to justify their engagement with the settlement of the Aegean dispute against veto players and domestic politics (Öniş and Yılmaz, 2008: 130). In the case of Turkey, accession to the EU is conditional, among other things, on the improvement of the country’s relations with Greece (Jenkins, 2001: 21; Kirişçi, 2006: 18). Thus, EU membership is both an incentive to settle the Aegean dispute and justification against domestic opposition to the settlement and veto players. In the case of Greece, improving

relations with Turkey is an important incentive and justification to eschew arms race and overcome domestic opposition to the settlement.

IV. Dispute over the Demilitarization of the Eastern Aegean Islands

The demilitarization of the Eastern Aegean islands is one of the components of the Aegean dispute. The main point of contention is whether the two countries are still obliged to keep the islands in the Eastern Aegean demilitarized. Especially, the impact of the 1936 Montreux Convention on the provisions concerning demilitarization of the 1923 Lausanne Straits Convention and whether Turkey can invoke provisions of the 1947 Paris Peace Treaty despite not being a signatory are contested by the two countries.

Demilitarization of the islands in the Eastern Aegean was not established uniformly (Ronzitti, 1989: 299-301). As a matter of fact, there are three groups of islands in the Eastern Aegean that were demilitarized by separate documents. For instance, islands of Lemnos (Limni) and Samothrace (Semadirek) were demilitarized by the 1923 Lausanne Straits Convention whereas islands of Lesvos (Midilli), Chios (Sakız), Samos (Sisam) and Ikaria (Ahikerya) were demilitarized by the 1923 Lausanne Peace Treaty. In addition, the Dodecanese Islands were demilitarized by the 1947 Paris Peace Treaty. The 1923 Lausanne Peace Treaty explicitly provides for the demilitarization of the islands of Lesvos (Midilli), Chios (Sakız), Samos (Sisam) and Ikaria (Ahikerya) (Lausanne Peace Treaty, Article 13).

The regime of demilitarization of the second group of islands – Greek islands of Samothrace (Semadirek) and Lemnos (Limni) and Turkish islands of Gökçeada, Bozcaada and Rabbit Islands was established by the 1923 Lausanne Straits Convention (Lausanne Straits Convention, Articles 4.3 and 6). Actually, there are no significant differences between demilitarization regimes established by the 1923 Lausanne Peace Treaty and the 1923 Lausanne Straits Convention. Nonetheless, while the former aims at maintaining peace in the region, the latter is concerned with free and unimpeded passage and navigation through Turkish straits (Adam, 2000: 206). These differences over the aims of the two documents are important in understanding the impact of the 1936 Montreux Convention on the obligations of Turkey and Greece stemming from the 1923 Lausanne Straits Convention. In addition, The 1947 Paris Peace Treaty provides for the demilitarization of the Dodecanese Islands (Paris Peace Treaty, Article 14.1).

Whether the 1936 Montreux Convention terminated demilitarized status of the Turkish straits and islands in the Aegean Sea while continuing demilitarized status of the Greek islands of Samothrace (Semadirek) and Lemnos (Limni) is contested by both Turkey and Greece. The two countries interpret differently the 1936 Montreux Convention which states that the signatories to the Convention “have resolved to replace by the present

Convention the Convention signed at Lausanne on the 24th July 1923” (Montreux Convention, Preamble). However, the principal aim of the 1936 Montreux Convention is stated as to “regulate transit and navigation in the Straits... in such a manner as to safeguard, within the framework of Turkish security and of the security, in the Black Sea, of the riparian States” (Montreux Convention, Preamble). Thus, there is no explicit reference to the demilitarized status of the Greek islands of Samothrace (Semadirek) and Lemnos (Limni) in the 1936 Montreux Convention. As the main concern thereof is to provide security for Turkey and the riparian States of the Black Sea in the face of threatening Italian and German activities before the World War II (WWII), Turkey concludes that the 1936 Montreux Convention unilaterally terminated demilitarized status of the Turkish straits and islands in the Aegean (Schmitt, 1996: 21). In other words, the 1936 Montreux Convention did not terminate demilitarized status of the Greek islands of Samothrace (Semadirek) and Lemnos (Limni). Whether Turkey can invoke the provisions of the 1947 Paris Peace Treaty is another aspect of the dispute over demilitarization.

To sum up, in the view of Greece, the 1936 Montreux Convention terminated demilitarized status of not only the islands of Samothrace (Semadirek) and Lemnos (Limni) but also the islands of Lesvos (Midilli), Chios (Sakız), Samos (Sisam) and Ikaria (Ahikerya) which were demilitarized by the 1923 Lausanne Peace Treaty (Kut, 2001: 258). In addition, Greece argues that fundamental changes in circumstances (*rebus sic stantibus*) have occurred since 1923 and therefore it is no longer obliged to keep these islands demilitarized (Athanasopoulos, 2001: 78). By fundamental changes in circumstances, Greece refers to the Turkey’s militarization of its Aegean coasts and the establishment of the Army of the Aegean in 1975 (Van Dyke, 2005: 74). With respect to the Dodecanese Islands, Greece contends that Turkey cannot invoke the provisions of the 1947 Paris Peace Treaty because it is not a signatory to it (Van Dyke, 2005: 80). Furthermore, despite having started remilitarization in the 1960s, Greece seeks to justify its remilitarization of these islands on the grounds of self-defence against the Army of the Aegean which was established in 1975 (Schmitt, 1996: 51). On self-defence, Greece invokes the UN Charter which states:

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security (UN Charter, Article 51).

For Turkey, the 1936 Montreux Convention terminated demilitarized status of only the Turkish straits and the islands of Bozcaada, Gökçeada and Rabbit Islands in the Aegean Sea (Schmitt, 1996: 21). It is a fact that the 1936 Montreux Convention does not refer to the Greek islands in the Eastern Aegean although it allows Turkey to remilitarize Turkish straits by stating: “Turkey may immediately remilitarize the zone of the Straits” (Montreux Convention, Protocol). Furthermore, demilitarization of the first group of islands – Lesbos (Midilli), Chios (Sakız), Samos (Sisam) and Ikaria (Ahikerya) was not established by the 1923 Lausanne Straits Convention but the 1923 Lausanne Peace Treaty. Therefore, the 1936 Montreux Convention is irrelevant for the obligations stemming from the 1923 Lausanne Peace Treaty.

With respect to the reliance of Greece on self-defence, Turkey counter-argues that Article 51 of the UN Charter allows merely for temporary measures for self-defence in case a State faces an armed attack (Van Dyke, 2005: 106). Yet, Greece is not in a position to defend itself because Turkey poses no armed threat to it. In addition, the Army of the Aegean was established after Greece started remilitarization in the 1960s. More importantly, Turkey has not undertaken any responsibility not to militarize its territories in the Aegean region (Stivachtis, 1999: 104). Furthermore, the argument on ‘fundamental changes in circumstances’ is unfounded because according to the 1969 Vienna Convention on the Law of Treaties “a fundamental change of circumstances may not be invoked as a ground for terminating or withdrawing from a treaty if the treaty establishes a boundary” (Vienna Convention, Article 62.2.a). As the 1923 Lausanne Peace Treaty establishes a boundary between Turkey and Greece, it cannot be terminated or withdrawn from on the pretext that fundamental changes in circumstances have occurred. With respect to whether it can invoke the provisions of the 1947 Paris Peace Treaty, Turkey argues that if certain benefits are provided explicitly to a third State by a Treaty then the third State should have the right to invoke its provisions irrespective of being a signatory (Van Dyke, 2005: 82). As a matter of fact, the 1969 Vienna Convention on the Law of Treaties states:

A right arises for a third State from a provision of a treaty if the parties to the treaty intend the provision to accord that right either to the third State, or to a group of States to which it belongs, or to all States, and the third State assents thereto. Its assent shall be presumed so long as the contrary is not indicated, unless the treaty otherwise provides (Vienna Convention, Article 36.1).

As the provisions of the 1947 Paris Peace Treaty concerns security of Turkey, it is in a position to invoke them. Politically, militarization of the islands in the Eastern Aegean Sea attests to threat perceptions of Greece towards Turkey. In other words, it manifests the mistrust between the two countries.

Greece began to remilitarize islands in the Eastern Aegean in the 1960s intensively contravening the aforementioned articles. Turkey protested

remilitarization in 1964, 1969 and 1970 (Inan and Acer, 2004: 131). Greek activities to remilitarize the islands in the Eastern Aegean increased following Turkey's military intervention in Cyprus in 1974. However, in its diplomatic notes of 1964 and 1969, the Ministry of Foreign Affairs of Greece stated that Greece continued to respect all its treaty obligations (Stivachtis, 1999: 103). In addition, Turkey was not the only country that protested remilitarization. As a matter of fact, the Union of Soviet Socialist Republics (USSR) announced its disconformity with remilitarization of the Dodecanese Islands as early as in 1948 when remilitarization was not that intense (Heraclides, 2010: 205).

Dispute over the demilitarization has not been resolved to date. It is a fact that dispute over the demilitarization of the Greek islands in the Eastern Aegean is closely related to the tendency of the either side to interpret the governing provisions differently and to disregard certain aspects of them. However, politically, the dispute over the demilitarization has not been highly influential on Turkey-Greece relations. This is mainly because of the fact that neither Turkey nor Greece associates it with its sovereignty and territorial integrity. In addition, Greece does not recognize the compulsory jurisdiction of the ICJ for the dispute over the demilitarization (Syrigos, 2001: 287). Actually, resolution of the sovereignty and territorial integrity related components of the Aegean dispute would decrease the mistrust between the two countries. Consequently, they would be less prone to perceive threats from each other and therefore militarization would no longer be a point of contention.

V. Dispute over the Width of the National Airspace of the Greek Islands in the Aegean Sea and the Operative Control of the Flight Information Region

Another contentious issue in Turkey-Greece relations is the width of the national airspace of the Greek islands in the Aegean Sea. Whether the claim of Greece for a ten-nautical-mile national airspace for its islands in the Aegean Sea, contrary to their six-nautical-mile territorial seas, is lawful is at the core of the dispute. Actually, Turkey does not recognize the width between six and ten nautical miles of the national airspace of the Greek islands in the Aegean Sea. By the way, the Greek national airspace is unique in that it does not correspond to the breadth of its six-nautical-mile territorial seas. Apart from the width of the national airspace, Turkey and Greece are also at odds over the operative control of the FIR. Whether Turkish State aircraft should provide their flight plans and position reports before they enter into the Athina FIR is at the core of the dispute.

The most relevant document for national airspace is the 1944 Chicago Convention on International Civil Aviation. According to the 1944 Chicago Convention, territory of a State is "...the land areas and territorial seas adjacent thereto under the sovereignty, suzerainty, protection or mandate of such State"

(Chicago Convention, Article 2). In addition to that, “the contracting States recognize that every State has complete and exclusive sovereignty over the airspace above its territory” (Chicago Convention, Article 1). It is conferred that the outer limits of the width of the national airspace and the breadth of the territorial seas should be identical because exclusive sovereignty of a State is limited to the national airspace above its territory. Therefore, national airspace should not extend beyond territory, as territory means the mainland and territorial seas of a State.

In the view of Greece, Turkey has acquiesced to the extension of the Greek national airspace to ten nautical miles because it has not objected to it for almost more than four decades (Marsh, 1989: 227). Furthermore, Greece argues that it has the right to extend the breadth of its territorial seas to twelve-nautical-mile under the UNCLOS and therefore claiming ten-nautical-mile national airspace should be lawful (Heraclides, 2010: 194).

For Turkey, claiming ten-nautical-mile national airspace is not lawful because the width of the national airspace and the breadth of the territorial seas must be identical. In addition, Turkey argues that it has not acquiesced to the ten-nautical-mile national airspace because it became aware of it in 1974 when ICAO announced it to its Member States on the behest of Greece (Marsh, 1989: 227; Heraclides, 2010: 194). Actually, Greece could claim a ten-nautical-mile national airspace for its islands in the Eastern Aegean in case it had ten-nautical-mile territorial seas.

Greece declared its ten-nautical-mile national airspace in 1931. The breadth of the territorial seas of Greece was three nautical miles at that time. Nonetheless, Turkey did not object to the extension of Greek national airspace to ten-nautical-mile until 1974 because it was not aware of it (Kut, 2001: 264; Van Dyke, 2005: 85). Since then, Turkey has been challenging the space between six and ten nautical miles regularly with a view to showing that it has not acquiesced to the ten-nautical-mile national airspace for the Greek islands in the Aegean (Kut, 2001: 263; Van Dyke, 2005: 85). Greece considers the challenges by Turkish fighter jets to the space between six and ten nautical miles as violations to its territorial integrity. On the other hand, political implications of the dispute over the operative control of the FIR broke out in 1974, as well.

FIR is defined as “an airspace of defined dimensions within which flight information service and alerting service are provided” (Chicago Convention, Annex 2). According to the 1944 Chicago Convention, “this Convention shall be applicable only to civil aircraft, and shall not be applicable to State aircraft” (Chicago Convention, Article 3.a). However, State aircraft are expected to operate with due regard for the safety of civil aviation (Chicago Convention, Article 3.a). Thus, the regime of the FIR does not apply to State aircraft but civil aircraft although the former should take into account the rules established by ICAO for the safety of civil aviation.

With respect to the FIR, in the view of Greece, although the ICAO has jurisdiction only over civilian aircraft, State aircraft are expected to operate with due regard for the safety of civil aviation and thus cooperate with the FIR system. Therefore, Turkish State aircraft should provide their flight plans and position reports before they enter into the Athinai FIR (Nachmani, 2002: 101).

For Turkey, Greece does not enjoy exclusive sovereign rights over the Athinai FIR but only has the operative control thereof for the safety of air traffic of the civilian aircraft (Bargiacchi, 2000: 216). Therefore, State aircraft are not obliged to issue flight plans and position reports before they enter into the Athinai FIR (Bargiacchi, 2000: 216). Nonetheless, Turkey acknowledges that State aircraft should take into account the safety of civil aviation although they are not obliged to provide flight plans and position reports (Kut, 2001: 264; Heraclides, 2010: 218).

Dispute over the width of the national airspace of the Greek islands in the Aegean and the operative control of the FIR stems from different interpretations of the governing Treaties. As a matter of fact, the two countries interpret provisions of the governing Treaties in line with their national interests. Given their contrasting national interests, interpretations by the two countries differ considerably. Political implications of the dispute over the width of the national airspace of the Greek islands in the Aegean and the operative control of the FIR are noteworthy.

After the WWII, the ICAO introduced the system of FIR in the face of the increasing rise of air traffic. By the system of FIR, flights are secured and facilitated because planes that pass through the FIR region of a State are required to provide their flight plans and position reports (Bargiacchi, 2000: 214). The ICAO tasked Greece with the air traffic control of the Athinai FIR in 1952 and specified the dividing line between this region and the region of Istanbul FIR “at the median line between the Eastern Aegean Greek Islands and the Turkish coast” (Van Dyke, 2005: 86). The ICAO tasked Turkey with the air traffic control of the Istanbul FIR which extends from the Turkish Aegean coastline to the Eastern Turkish territory. Turkey was also tasked with the air traffic control of the Ankara FIR that encompasses parts of the international airspace of the Black Sea and parts of the international airspace of the Eastern Mediterranean.

Dispute over the FIR broke out when Turkey issued Notice to Airmen (NOTAM) 714 in August 1974 to oblige all aircraft to report their flight plans and position reports to Turkey when crossing the median line in the Aegean Sea between Greek and Turkish mainland (George and Stenhouse, 1989: 85). The timing of the NOTAM 714 coincided with the period between the first and second military intervention by Turkey in Cyprus. By NOTAM 714, Turkey expected to extend the control of Istanbul FIR to almost half of the Aegean Sea (Heraclides, 2010: 81). In response, Greece declared that the Turkish NOTAM was in contravention of the ICAO regulations and therefore it did not have legal

force (Schmitt, 1996: 48). Turkey responded by stating “for the aircraft that do not conform to this NOTAM, the authorities decline all responsibility for that which concerns the security of flight” (Schmitt, 1996: 48). Following that, Greece issued NOTAM 1157 through which it noted that the Aegean airspace was a danger zone (Schmitt, 1996: 48). These NOTAMs by Turkey and Greece resulted in the suspension of all international flights over the Aegean for six years.

It is noteworthy that the operative control of the FIR became subject of the talks held from 1978 to 1981 under the so-called Montreux Spirit. The two countries agreed on that the operative control of the FIR would not place sovereign rights and that the Athinai FIR would cooperate with the Istanbul FIR (Heraclides, 2010: 108). Furthermore, Turkey withdrew NOTAM 714 in 1980. In response, Greece cancelled NOTAM 1157. Thereby, international flights over the Aegean Sea started again. Nonetheless, Greece continues to ask Turkish State aircraft to provide their flight plans and position reports before they enter into the Athinai FIR (Van Dyke, 2005: 86). However, Turkey refuses to provide these plans on the grounds that the system of FIR applies only to the civilian aircraft.

VI. Dispute over the Breadth of the Territorial Seas

Turkey and Greece have considerable differences on the breadth of their territorial seas in the Aegean. Dispute over the breadth of the territorial seas is important in that it has additional implications for delimiting continental shelf and navigational and overflight freedoms of Turkey.

Dispute over the breadth of the territorial seas concerns probable extension by Greece of its current six-nautical-mile territorial seas to twelve nautical miles. The current breadth of the Turkish and Greek territorial seas in the Aegean Sea is six nautical miles. Turkey claimed its six-nautical-mile territorial seas in 1964 after Greece extended the breadth of its territorial seas from three to six nautical miles in 1936. Especially, whether such an extension would apply to the Greek islands off the Turkish coast is contested by the two countries.

The UNCLOS paved the way for the extension of the breadth of the territorial seas to an upper limit of twelve nautical miles (UNCLOS, Article 3). Nonetheless, the right to extend the breadth of the territorial seas to twelve nautical miles has its own limitations in case special circumstances prevail. As a matter of fact, the UNCLOS states:

Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial seas beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured. The above provision does not apply, however, where it is necessary by reason of historic title or

other special circumstances to delimit the territorial seas of the two States in a way which is at variance therewith (UNCLOS, Article 15).

The emphasis on historic title or other special circumstances is important in that it calls States with opposite coasts to delimit their territorial seas in relation to each other by agreement. In other words, special circumstances should be considered when delimiting the breadth of the territorial seas. As a corollary, twelve-nautical-mile territorial seas are not applied automatically irrespective of prevalent special circumstances. However, the UNCLOS does not specify special circumstances clearly. Nonetheless, it is supposed that the most apparent special circumstance regarding the Aegean Sea is its unique geographical configuration given the proximity of the Greek islands off the Turkish coast to the Turkish coast (Kut, 2001: 262-263; Karl, 1989: 158).

Whether islands off the Turkish coast can generate territorial seas to the detriment of Turkey is the most outstanding aspect of the dispute over the breadth of the territorial seas. With respect to the breadth of the territorial seas of islands, the UNCLOS states: "... the territorial seas, the contiguous zone, the exclusive economic zone and the continental shelf of an island are determined in accordance with the provisions of this Convention applicable to other land territory" (UNCLOS, Article 121.2). This means that islands are entitled to have territorial seas same as the mainland of a State. However, Greek islands in the Eastern Aegean Sea present special circumstances given their proximity to the Turkish coast. In case they are given twelve-nautical-mile territorial seas, Turkey's navigational and overflight freedoms would be prejudiced significantly.

In the view of Greece, the right to extend the breadth of its territorial seas from six to twelve nautical miles in the Aegean Sea is "absolute" and "unalienable" under the terms of UNCLOS (Heraclides, 2010: 183). In addition, Greece argues that Turkey would benefit from the right of innocent passage in case the Greek territorial seas in the Aegean are extended to twelve nautical miles (Kozyris, 2001: 106; Nachmani, 2002: 100-101).

Turkey argues that the breadth of the territorial seas should be delimited on the basis of a bilateral agreement with Greece given prevalent special circumstances in the Aegean (İnan and P. Gözen, 2009: 158). Actually, in case Greece extended the breadth of its territorial seas from six to twelve nautical miles in the Aegean, Turkey's freedom of high seas and overflight would be prejudiced significantly. It is noteworthy that the UNCLOS permits extension of the breadth of the territorial seas to twelve nautical miles as long as such an extension does not compromise the interests and security of other States (UNCLOS, Article 7.6). Once the territorial seas of Greece were extended to twelve nautical miles, Turkey would need to pass through the Greek territorial seas to enjoy high seas freedom because the vast majority of the Aegean high seas would turn into the Greek territorial seas. Nonetheless, Turkey would

benefit from the innocent passage through the Greek territorial seas. Yet, innocent passage through the territorial seas of another State is subjected to suspension in times of war or emergency, and does not allow submarines to pass in a submerged position or planes to overfly (UNCLOS, Articles 17-21). In addition, extension of the Greek territorial seas in the Aegean to twelve nautical miles would entitle Greece to extend its national airspace from ten to twelve-nautical-miles which would further prejudice Turkey's overflight freedom.

Dispute over the breadth of the territorial seas influenced political relations between Turkey and Greece notably especially after Greece ratified UNCLOS in 1995. Nonetheless, relations between the two countries were already tense in the period subsequent to the failure of the Davos Process in 1989. Rapprochement could not be restored even when PASOK led by A. Papandreou returned to power in 1993. Domestically, death of Özal in early 1993 who wholeheartedly advocated rapprochement accounts to some extent for the lack of willingness from the Turkish side for the resumption of rapprochement (Ker-Lindsay, 2007: 28). In addition to that, Greece and Southern Cyprus concluded a joint defence pact for the coordination of military strategy, exercises and equipment in November 1993 (*Milliyet*, 1993). The joint defence pact strained relations between the two countries to the extent that Turkey announced that it would provide TRNC with the same level of support (Ker-Lindsay, 2007: 28).

Relations further deteriorated in 1994 when Greece blocked final implementation of the Customs Union between Turkey and the EU (Ker-Lindsay, 2007: 28). The prospect of establishing a Customs Union between Turkey and the EU provided Greece with the opportunity to upload its national interests to the EU level. Therefore, Greece agreed to drop its veto conditionally. For Greece, the EU had to commit itself to confirm the eligibility of Southern Cyprus for full membership six months after the July 1996 Intergovernmental Conference (IGC) which was to review the 1992 Maastricht Treaty (Hale, 2000: 237; Veremis, 2001: 44). The EU accepted the condition put forward by Greece, and the Customs Union between Turkey and the EU could be established on 6 March 1995. In response to the commitment of the EU to start accession negotiations with Southern Cyprus, Turkey and TRNC announced in December 1995 an agreement for the integration of the two countries (*Milliyet*, 1995).

Dispute over the breadth of the territorial seas came to the fore when the Greek Parliament ratified the UNCLOS on 23 April 1995. After ratification, Greece announced that it was entitled to extend territorial seas of its mainland and islands from six to twelve nautical miles (Van Dyke, 2005: 83). In response, the Turkish Grand National Assembly (TGNA) declared that the unilateral extension of the breadth of the territorial seas from six to twelve nautical miles would be a *casus belli*. The *casus belli* was not withdrawn by

Turkey despite the continuing rapprochement and ‘exploratory talks’ between the two countries.

VII. Dispute over the Sovereignty of Certain Islands, Islets and Rocks in the Aegean

Politically, the dispute over the sovereignty of certain islands and islets in the Aegean is important because it has implications for the other aspects of the Aegean dispute. For instance, sovereignty must be precise for the establishment of baselines to delimit the continental shelf and the breadth of the territorial seas (Syrigos, 2001: 284).

The ownership of certain islands and islets in the Aegean Sea has been contested by Turkey and Greece since the mid-90s. The fact that some islands and islets in the Aegean Sea have not been ceded explicitly to the either side by the governing Treaties – treaties through which islands and islets in the Aegean Sea were transferred to the either side – makes the two countries contest inevitably their ownership. In other words, the dispute between Turkey and Greece over the ownership of certain islands and islets stems from the fact that certain small islands and islets were disregarded by these Treaties at the time of their transfer (Van Dyke, 2005: 69).

Another reason behind their differences is the ambiguous language embedded in the governing Treaties (Denk, 1999: 132; Gündüz, 2001: 91). Actually, there are several Treaties in place that paved the way for the transfer of these islands and islets. Certain aspects of these Treaties are noteworthy to understand the nature of the dispute.

The 1913 London Treaty is the first relevant document for the transfer of islands and islets in the Aegean Sea to either Turkey or Greece. The 1913 London Treaty stipulated the transfer of certain islands in the Aegean Sea from the Ottoman Empire to Greece. The Ottoman Empire renounced all its rights over the island of Crete (Girit) in favour of Greece, and accepted that the then six great powers of Europe – Germany, Austria-Hungary, France, Great Britain, Italy and Russia – decide on the future of the islands in the Eastern Aegean, namely Lemnos (Limni), Samothrace (Semadirek), Lesvos (Midilli), Chios (Sakız), Samos (Sisam) and Ikaria (Ahikerya) (London Treaty, Articles 4-5). Thus, those six great powers of Europe ruled in 1913 that the aforementioned islands in the Eastern Aegean be ceded to Greece and that Gökçeada, Bozcaada and the island of Castellorizo (Meis) in the Mediterranean be left to the Ottoman Empire. The decision was communicated to Greece in 1914 and therefore it is commonly called as the 1914 Decision. The decision of the six great powers of Europe was further confirmed by the 1923 Lausanne Peace Treaty (Lausanne Peace Treaty, Article 12).

Thus, the 1923 Lausanne Peace Treaty explicitly recognized the Turkish sovereignty over the islands of Bozcaada, Gökçeada and Rabbit Islands

and the Greek sovereignty over the islands of Lemnos (Limni), Samothrace (Semadirek), Lesvos (Midilli), Chios (Sakız), Samos (Sisam) and Ikaria (Ahikerya). In addition to that, the 1923 Lausanne Peace Treaty states: "... in the absence of provisions to the contrary, in the present Treaty, islands and islets lying within three miles of the coast are included within the frontier of the coastal State" (Lausanne Peace Treaty, Article 6). Hence, those islands and islets that were not ceded to the either side by the 1923 Lausanne Peace Treaty and that are situated within three miles of the Turkish coast – then territorial seas of Turkey and Greece had been fixed at three nautical miles in relation to each other – are left to Turkey. As a corollary, it can be argued that those islands and islets that were not ceded explicitly to the either side by the relevant Treaties and that remain in the territorial seas of the either side should belong to the Coastal State (Van Dyke, 2005: 71).

While the aforementioned islands and islets were left to Greece, the Dodecanese Islands and the Mediterranean island of Castellorizo (Meis) were ceded to Italy by Turkey by the 1923 Lausanne Peace Treaty which states:

Turkey renounces in favour of Italy all rights and title over the following islands: Stampalia [İstanbulya], Rhodes [Rodos], Kharki [Herke], Karpathos [Kerpe], Kasos [Çoban], Tilos [İlyaki], Misiros [İncirli], Kalimnos [Kilimli], Leros [Leryoz], Patmos [Batnoz], Lipsos [Lipso], Symi [Sömbeki], and Cos [İstanköy], which are now occupied by Italy, and the islets dependent thereon, and also over the island of Castellorizo [Meis] (Lausanne Peace Treaty, Article 15).

The expression 'islets dependent thereon' is noteworthy because it is considerably different from the language used in the 1947 Paris Peace Treaty that transferred the same islands from Italy to Greece. In addition to the 1923 Lausanne Peace Treaty, Turkey and Italy signed the January 1932 Ankara Agreement with a view to resolving the maritime boundary dispute between the then Italian island of Castellorizo (Meis) and the Turkish coast (Denk, 1999: 143; İnan and P. Gözen, 2009: 179-180). The parties to the agreement also decided to set up a joint technical committee with the intention of delimiting the rest of the maritime boundary between the Dodecanese Islands and the Turkish coast (Athanasopoulos, 2001: 76). Consequently, the joint technical committee prepared a nonbinding protocol and submitted it to the parties in December 1932. Thereby, 37 pairs of reference points were fixed to divide the maritime boundary between Turkey and the then Italian Dodecanese Islands (Denk, 1999: 142-143; Athanasopoulos, 2001: 76). The thirtieth point is relevant for the dispute over the Kardak Rocks because it introduced that the maritime boundary north of the island of Kalimnos would be at a median distance between the Kardak Rocks on the Italian side and Çavuş Island on the Turkish side (Athanasopoulos, 2001: 76). Thus, the Kardak Rocks were referred to as belonging to Italy by the nonbinding protocol. It is nonbinding because it has never been ratified by the TGNA contrary to the January 1932 Ankara

Agreement that was ratified by the TGNA in January 1933. Therefore, irrespective of the January 1932 Ankara Agreement, the protocol of December 1932 is not binding either for Turkey or Italy - and Greece as its successor.

Italian sovereignty over the Dodecanese Islands was terminated by the 1947 Paris Peace Treaty which transferred these islands to Greece by stating:

Italy hereby cedes to Greece in full sovereignty the Dodecanese Islands indicated hereafter, namely Stampalia [İstanbulya], Rhodes [Rodos], Kharki [Herke], Karpathos [Kerpe], Kasos [Çoban], Tilos [İlyaki], Misiros [İncirli], Kalimnos [Kilimli], Leros [Leryoz], Patmos [Batnoz], Lipsos [Lipso], Symi [Sömbeki], and Cos [İstanköy] and Castellorizo [Meis], as well as the adjacent islets (Paris Peace Treaty, Article 14.1).

The ambiguity of languages arises from the fact that while Article 15 of the 1923 Lausanne Peace Treaty referred to 'the islets dependent thereon', Article 14.1 of the 1947 Paris Peace Treaty referred to 'adjacent islets'. Actually, the meanings attributed to the terms 'adjacency' and 'dependency' are considerably different. Physical adjacency is about distance whereas dependency refers to a relationship, a linkage in terms of being conditioned by another. Thus, it is clear that adjacency is rather an unambiguous term because it refers to geographic contiguity while dependency is abstract, lacking clarity of meaning.

In the view of Greece, the Kardak rocks are 'dependent' islands of Kalimnos because they are 5.5 nautical miles from it - and 1.9 nautical miles southeast of the Greek claimed islet of Kalolimnos (Van Dyke, 2005: 69). However, the island of Kalolimnos was not named in any of the Treaties that provided for the transfer of islands in the Aegean from Turkey to Greece. Therefore, it can be regarded as 'adjacent' to Kalimnos (Van Dyke, 2005: 69). In addition to that, Greece claims that the December 1932 protocol is an integral part of the January 1932 Ankara Agreement and therefore a separate ratification process is not needed for it (Kurumahmut, 2000: 114; İnan and Acer, 2004: 129). Hence, Greece asserts that the rocks were transferred to Italy by the January 1932 Ankara Agreement. Thus, they belong to Greece because it succeeded to Italy by the 1947 Paris Peace Treaty. Another argument put forward by Greece is that it placed a trigonometric marker on the larger of the rocks and that it included them in environmental activities conducted by the European Community (EC) in the 1980s which in the view of Greece attest in a way to the Greek sovereignty (Heraclides, 2010: 211).

For Turkey, they belong to Turkey because they are not covered by any of the Treaties that provided for the transfer of islands and islets in the Aegean Sea to the either side and they are within its territorial seas (İnan and Acer, 2004: 130). In addition to that, Turkey claims that the rocks are more 'adjacent' to Turkey because they are only 3.8 nautical miles from the Turkish coast and 2.2 nautical miles from the Çavuş Island (Van Dyke, 2005: 69). Turkey also puts forward that a title deed of the Kardak rocks is registered on

the Karakaya village of the city of Muğla (Denk, 1999: 135; İnan and Acer, 2004: 129). Apart from that, Turkey notes that the December 1932 protocol has not been ratified by TGNA and not registered with the League of Nations (Denk, 1999: 145).

The most known dispute between Turkey and Greece over the ownership of certain islands and islets in the Aegean Sea is over the Kardak rocks. These rocks are situated in the Eastern Aegean Sea near the Turkish coast. The dispute over the Kardak rocks raised the issue of grey areas in the Aegean (Athanasopoulou, 1997: 86). Grey areas refer to “islets and rocks in the Eastern Aegean whose status as to sovereignty was undetermined” (Heraclides, 2010: 209).

The dispute broke out on 26 December 1995 when the Turkish bulk carrier called Figen Akat ran aground on the rocks. The captain of the bulk carrier did not want to be assisted by the Greek authorities saying that the accident had happened in an area under the Turkish sovereignty. Therefore, the bulk carrier was taken to the nearest Turkish port by the Greek ships. On 29 December 1995, Turkey issued a memorandum to Greece through which it stated that the Kardak rocks were indeed under the Turkish sovereignty (Kurumahmut, 2000: 109). Greece opposed to the memorandum and stated that the Kardak Rocks were under the Greek sovereignty (Kurumahmut, 2000: 109; Kut, 2001: 259). Eventually, the issue became public with wide coverage by the media of both countries. Following that, local authorities from Greece and journalists from Turkey arrived in the rocks to place their respective national flags. Later on, Greece ordered a contingent of soldiers to the rocks (*Milliyet*, 1996). On 29 January 1996, Turkey restated the unquestionable Turkish sovereignty over the Kardak rocks (*Milliyet*, 1996). In addition to that, Turkey made clear its readiness to negotiate the regime of the islands and islets in the Aegean Sea together with asking for the withdrawal of the Greek commando force and symbols of sovereignty from the rocks (Raftopoulos, 1997: 431). In the face of the apathy of Greece to withdraw its commando force and symbols of sovereignty, Turkey ordered its naval forces to the area for patrolling. Greece reacted to the act of Turkey through dispatching its additional forces to the area to support its existing commando force (Valvo, 2000: 117). On 31 January 1996, Turkey landed a commando force on the smaller one of the rocks. Nonetheless, the two countries did not end up fighting each other mainly because the USA acted as an intermediary to ease the tension between the two countries (*Milliyet*, 1996).

However, Greece blocked the forthcoming meeting of the Turkey-EU Association Council, and did not fulfil its commitment to drop its veto against the releasing of the Fourth Financial Protocol to Turkey in response to the crisis (Syrigos, 2001: 280). Also, the European Parliament (EP) adopted a resolution on 4 March 1996 which stated: “...the islet of Imia [Kardak] belongs to the Dodecanese group of islands...” and “Greece's borders are also part of the

external borders of the European Union” (European Parliament, 1996: 1). The resolution of the EP illustrates national projection/uploading by Greece of its national interests to the EU level, as well. In the end, Turkey and Greece agreed on an “agreement of disentanglement” mediated by the USA and withdrew gradually their forces from the rocks (Raftopoulos, 1997: 431). However, the two countries have not still agreed on the ownership of the Kardak Rocks although their “disentanglement” continues.

VIII. Conclusion

This article attempted to portray the high resilience of the Aegean dispute in Turkish Foreign Policy (TFP) and its implications for Turkey’s relations with the EU and Greece. To that end, political and legal dimensions of the dispute have been discussed in detail with special reference to the contested provisions of the governing treaties.

In this respect, it has been pointed out that resolution of the Aegean dispute is essential for Turkey’s accession to the EU as evidenced by the fact that it was referred to in the Presidency Conclusions of the 1999 Helsinki European Council (European Council, 1999a: Par. 4). Moreover, previous crises and failed attempts at rapprochement between Turkey and Greece that were sparked by the two countries’ bilateral differences over the Aegean have been mentioned to show how the involvement of the EU in the current rapprochement has impacted on the process.

Nonetheless, the dispute over the Kardak rocks has been the last serious confrontation between the two countries over the Aegean. It may be argued that the dispute over the rocks as well as other incidents that the two countries experienced in their relations thereafter became the stimulus behind the current rapprochement.

Resources

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