

THE AEGEAN DISPUTES TOWARDS A COMPREHENSIVE SETTLEMENT

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ÖZET

Türkiye ve Yunanistan'ın Ege Denizi'nde karşılıklı haklarını ve çıkarların konu alan Ege sorunları yaklaşık otuz yıldır çözülmeyi bekliyor. Geçmişte, bu sorunların çözümlene umutlarının arttığı dönemler yaşanmıştır. Son üç yılda, hem Türk Yunan ilişkilerinde hem de Türkiye Avrupa Birliği ilişkilerinde yaşanan çok önemli gelişmeler, Ege sorunlarına kapsamlı çözüm bulunması umutlarını yeniden canlandırdı. İki ülke arasındaki ilişkiler sıcaklaşırken, iki ülke toplumunun birbirleri ile olan münasebetleri artmış ve canlılık kazanmıştır. Öte yandan, Türkiye Avrupa Birliği'ne üye olması beklenen aday ülkeler arasına dahil edilmiş ve bu doğrultuda Türkiye'den ikili sorunlarını da çözmesi talep edilmiştir. Şüphesiz ki bunun Ege sorunlarının çözümüne yansımaları önemli olacaktır. Bu çalışma, bu gelişmeleri analiz ederek, Ege sorunlarının çözümüne ilişkin beklentilerin ne derecede güçlü olduğunu anlamlandırmaya çalışmaktadır.

Anahtar Kelimeler: Ege Sorunları, Helsinki Zirvesi, AB-Türkiye İlişkileri, Türk-Yunan İlişkileri

INTRODUCTION

For many decades, the Aegean Sea has been in the centre of tense controversies in the relations between Greece and Turkey. The related disputes bear upon many respective rights and interests, which are regarded as highly political. Although there are merits in this perception, this is to dangerously disguise the real essence as the disputed issues fundamentally relate to legal rules and principles in their conception.

On the other hand, it should not be quite right to indulge into a discussion whether the Aegean disputes are of political or legal nature. As in every civilized

community, almost every interest is regulated by a corresponding legal rule in international community. An issue which appears to be political has in fact been based on a legal foundation in the final account.¹

When the Aegean disputes are classified according to their legal nature, it becomes clear that some of them concern primarily the sovereignty and jurisdictional matters. The application of certain regulations which have been previously concluded to regulate the status of the Aegean Sea appears to be a characteristic which is common to all these disputes. In this context, one side disputes the other's way of understanding and implementing the related regulations. These are the disputes over the demilitarized status of the eastern Aegean islands, the determination of the sovereignty over some islands and islets, and the control on the civil aviation over the Aegean Sea.

The other group of disputes concerns the issues which directly relate to maritime matters. One issue in this context is the dispute over the territorial waters and the related matters like the baselines and the breadth of the Greek national airspace. The other major issue is the delimitation of the Aegean continental shelf areas together with the delimitation of the possible exclusive economic zone (EEZ) areas. The common characteristic is that these matters have not been settled previously in any binding accord and the two sides disagree how to settle them.

Recent years have witnessed some developments concerning the Aegean disputes which have emerge either between the two countries or in the general political framework surrounding the disputes. Therefore, a need emerges to revisit the Aegean disputes to see whether the two sides have altered their traditional approaches towards the settlements of the disputes. One group of developments has been witnessed in the relations between both the two States and their peoples. The second group of developments has been with regard to Turkey's aim of becoming a full member of the European Union (EU) which could have some positive consequences for the Aegean disputes.

The aim here is to review the Aegean disputes with a view to understanding their current status with regard to possibilities of settling them. For this purpose, the existing political environment will be described to clarify how the current approaches to the Aegean disputes stand in the context.

¹ For the discussion on this issue, see, A. Gündüz, 'Greek-Turkish Disputes, How to Resolve Them', in D. Kerides and D. Triantaphyllou, *Greek-Turkish Relations in the Era of Globalisation*, (Virginia: the Institute for Foreign Policy Analysis, Inc., Brassey's, 2001), pp. 81-101, at 84-86.

1. TRADITIONAL APPROACHES TO THE SETTLEMENT

The stances of the two sides over the settlement differ fundamentally in two respects. Firstly, the two sides disagree about how many controversies are truly 'in dispute'.² Greece considers that delimitation of the Aegean continental shelf is the only dispute in the Aegean Sea. According to the Greek view, any issues other than the delimitation of the continental shelf which are regarded as disputes by Turkey are raised unilaterally by Turkey in order to undermine the Greek rights in the Aegean Sea.³

On the other hand, Turkey purports that there are many disputes in the Aegean Sea that need to be solved one way or another. According to the Turkish view, the major issues that need to be settled are as follows: the Greek intention to extend its territorial sea from 6 miles to 12 miles in the Aegean Sea; 10 miles Greek national airspace while its territorial sea is 6 miles; the need to determine the sovereignty over certain Aegean Sea islands or islets; miniaturization of the Eastern Aegean islands by Greece contrary to the relevant international agreements and delimitation of the continental shelf of the Aegean Sea.⁴

The second major disagreement over the settlement concerns the means of settling the Aegean disputes. Greece has always refused to conduct dialogue on any disputed matters of the Aegean Sea as it does not approve the existence of disputes other than the continental shelf delimitation. Turkey, on the other hand, opposes the submission of the disputes to the ICJ before conducting substantial dialogue on them. Considering that Turkey has to secure the acceptance of the disputes other than the continental shelf delimitation by Greece, it is inevitable that negotiations should be conducted initially.⁵ Moreover, there seems to be a belief on the Turkish side that dialogue is the best way to protect Turkey's rights and interests, as the Aegean disputes are considered as closely related to each other.

² For a review of the issue, see J. M. Van Dyke, 'The Interconnected Aegean Disputes' in B. Öztürk (ed), *Problems of Regional Seas 2001, Proceedings of the International Symposium on the Problems of the Regional Seas* (12-14 May 2001) (İstanbul: Turkish Marine Research Foundation, 2001), pp. 172-205.

³ See for instance, a Statement from the Greek Media and Information Office at London, 19 May 1976, *Keesing's*, 1976, p. 27987. See also, A. Gündüz, 'A Tentative Proposal for Dealing with the Aegean Disputes', in B. Öztürk (ed), *The Aegean Sea 2000* (İstanbul: Turkish Marine Research Foundation, 2000), pp. 139-151.

⁴ There are countless statements by Turkish officials, especially by the Turkish Foreign Ministry since 1970s that covers such views of Turkey. For a general idea, see, a Statement from the Turkish Foreign Ministry, *Keesing's*, 1976, p. 27987. For later periods, see, the Press Statement of the Turkish Foreign Minister of Turkey İ. Cem, 8 October 1997; The *Note Verbale* Given to the Greek Ambassador to Ankara, 11 March 1998. 11. The Turkish Peace Initiative of 11 March 1998 for the Settlement of the Aegean Disputes; The Press Information Note on the Peace Initiative of 11 March 1998. 12 March 1998.

⁵ Y. Acer, 'Ege'de Diyalogla Çözüm Yakın mı?' *Liberal Düşünce*, vol. 23, 2001, pp. 145-163.

The fundamental reason behind the disagreements over the settlement seems to be the historically rooted adverse sentiments between the two nations which lead to uncompromising stances of the two sides. The existing disputes have worsen this situation.⁶ The Cyprus dispute in 1960s and the 1970s and the territorial sea and continental shelf disputes in 1970s and 1980s brought the sides to the brink of war several times. As a result, the changing political environment has always effected the Parties' approaches to the Aegean disputes. This is the reason to revisit the Aegean disputes as the surrounding political environment changes constantly.

2. RECENT DEVELOPMENTS

2.a. *Developments between the Peoples and the Governments*

A major earthquake in Turkey in August 1999 caused an enormous loss of life and damage to property. The result for the Greek-Turkish relations is ironically positive. In the following years, the relations increased in various areas. The relations between the journalists of the two countries started to enhance.⁷ The relations have also increased between the elites of two countries. Mutual visits and joint concerts have become almost a familiar events in the last two years. The cooperation in the fields of economy and tourism has also been developed considerably.⁸

These developments demonstrate that noticeable steps have been taken to eradicate the historical distrust and hostility between the two nations, which have always been a significant element in the approaches to the Aegean disputes. Moreover, these have also created echoes in the relations between the governments. It now seems that the cooperation between the governments on bilateral and other issues have, at least in later stages, gained an independent dynamic of their own. The two sides have started to conduct negotiations since mid-1999. The Foreign Ministers of the two governments met in New York on 30 June 1999 and established a common approach according to which the high-ranking officials from

⁶ Ibid., p. 146-150; T. Bahçeli, 'Turkish-Greek Approaches to Resolving the Aegean Disputes' in, B. Öztürk, *Problems of...*, pp. 249-257.

⁷ The journalists have established an organization which is named as 'the Turkish-Greek Press Council' and started to convene regularly. They have convened for the first time between 5-6 February 2000 in Athens and for the second time between 8-10 October 2000 in Istanbul with the participation of 63 Greek and 78 Turkish journalists. The journalists emphasized in the announcements made after these meetings that the journalists of the two countries should set themselves free from the influence of the politicians and contribute more to the development of the relations between the two countries. For the second meeting of the Turkish-Greek Press Council, see, *Hürriyet* Newspaper, 8 October 2000.

⁸ For instance a computer company named as '*Index Bilgisayar*' has been established with a joint investment and opened to shareholders at the Turkish Stock Exchange (İMKB). See, *Milliyet* Newspaper 20 October 2000. Moreover, the Greek and Turkish peoples have started to visit each other's countries quite frequently.

both sides would have talks on trade, regional cooperation, tourism, culture, environment, organized crimes, drug smuggling, illegal migration and terrorism.⁹

As planned, the representatives from both sides met in Ankara on 26 July 1999. The pre-determined issues were discussed in the meeting.¹⁰ The following meeting was held in Athens in early September and the issues which are noted above were discussed. Some high-ranking officials of the two sides met in Ankara for the third time between 15-16 September. In this meeting, all of the above motioned subjects were discussed.¹¹

Another significant development that took place is the Greece support at the Helsinki Summit for Turkey's candidacy for full EU membership.¹² Thus, the already started friendship and cooperation between Turkey and Greece gained a further momentum.

In the following month, the Foreign Minister of Greece, G. Papandreou, paid a visit to Turkey between 19-22 January 2000. As a result of the talks held, the two States signed several agreements of cooperation on the above mentioned issues.¹³ Moreover, the Foreign Minister of Turkey, İ. Cem, returned the visit to Greece at the beginning of February. As a result of these talks and mutual visits, ten separate cooperation agreements on the pre-determined issues of trade, tourism, culture, environment, organized crimes, drug smuggling, illegal migration, and terrorism have been signed.

Developments have shown that Greece is more determined than ever to apply such agreements of cooperation. This has been shown with the new Greek approach towards the application of the confidence building measures (CBMs),¹⁴ which were prepared previously¹⁵ but could not be applied due to the Greek hesitance. Within the talks held during this latest period, the two States took up again the application of these measures. As a result, some military staff of both countries have unprecedentedly visited each other's countries. Moreover, they have even deployed their soldiers in each other's country during some NATO military maneuvers.¹⁶

⁹ See, the Press Release of the Foreign Ministry of Turkey, 22 July 1999.

¹⁰ *Sabah* Newspaper, 27 July 1999.

¹¹ See the Joint Statement presented to the Press by the Foreign Ministry of Turkey on 16 September 1999.

¹² The Helsinki European Council: Presidency Conclusions, Preparing for Enlargement, the Enlargement Process. Press Release, Brussels, No. 00300/99, 11.12.1999.

¹³ See, *Hürriyet* Newspaper, 21 January 2000.

¹⁴ This attitude of Greece has been emphasized by the Greek Foreign Minister G. Papandreou. For the comments of Papandreou on this subject, see, *Sabah* Newspaper, 21 January 2000; *Hürriyet* Newspaper, 21 January 2000.

¹⁵ In May 1988, Greece accepted to apply the CBMs. Turkey and Greece thus accepted the CBMs proposed by the Secretary-General of NATO during the NATO Summit in Luxembourg between 28-29 May 1988. For the details of CBMs, see, the Press Release of the Foreign Ministry of Turkey on the CBMs. 05 June 1988.

¹⁶ During the NATO's Dynamic Mix military maneuver held in May 2000, some Turkish military aircrafts were deployed on a Greek island in the Aegean Sea. During another NATO military maneuver *Destined*

The positive developments continued to take place in the following months despite some minor crises that have been encountered especially during some daily activates in the Aegean airspace. The Foreign Ministers of the two Governments met on 18 September 2000 during the United Nations General Assembly's 55th Session in New York. The most significant result of the meeting was that they declared a sincere will to continue dialogue.¹⁷ Moreover, the Greek Foreign Minister G. Papandreou declared once again that he supported the CBMs proposed by the Turkish Foreign Minister. The set of CBMs contained measures such as military flights without weapons over the Aegean Sea, joint military maneuvers in the Aegean and the Mediterranean, the reduction of number, area and extent of the military maneuvers of Turkey and Greece, and mutual visits by the military personnel of the two States. Apart from these measures, joint exploration and exploitation of the possible oil reserves in the Aegean Sea was also proposed.¹⁸

Despite some occasional adverse developments, top officials of the two countries still continue to meet each other. Top official of the two countries continue to meet each other on every appropriate occasions. Although these meetings have not been prearranged, they clearly show that there is a continuing will to promote cooperation and dialogue between the two countries.¹⁹

2.b. Turkey's Prospective EU Membership: The Helsinki Summit

The relations between Turkey and the European Union have started officially in 1963 when the Association Agreement, also known as the 'Ankara Agreement', was signed between Turkey and the EEC Council on 12 September 1963.²⁰ Generally speaking, the Agreement established an 'association' between the EU and Turkey and aimed at establishing a 'customs union' and 'integration' consequently.²¹ The

Glory in October 2000, 16 Greek military aircrafts were deployed for first time in 28 years in Balıkesir and Eskişehir airbases, Turkey. There have also been some mutual visits of high-ranking military staff. See for instance, *Sabah* Newspaper, 17 September 2000.

¹⁷ It was decided that officials from the Foreign Ministries of the two States would meet 29 September 2000. See, *Sabah* Newspaper, 19. 09. 2000. Moreover, it was also declared that the Foreign Ministers of the two States would meet first in Marmaris on 15 October 2000 and shortly after in Rhodes to discuss the common issues.

¹⁸ See, *Sabah* Newspaper, 19 September 2000.

¹⁹ For instance, the Greek Assembly which suspended during the troubled NATO military manoeuvre the endorsement of the agreements of cooperation signed between Greece and Turkey, has decided to continue endorsing these agreements. See, *Milliyet* Newspaper, 2 November 2000.

²⁰ Turkey made its first application to be a full member of the EEC on 31 July 1959. Following the application, the 1963 Association Agreement was signed on 12 September 1963 and came into force on 1 December 1964. For the text, see, *OJEC*, L 217, 29 December 1963.

²¹ Therefore, the Agreement devised a framework for the Turkey's full EU membership.

customs union was put into practice on 31 December 1995. As far as the full membership is concerned, the process was deadlocked so as to force Turkey to make a fresh application for full membership in 1987. However, until the end of 1999, the Union did not even consider Turkey among the possible member States in the foreseeable future.

The EU Council at its Helsinki summit, however, officially accepted Turkey as one of the candidate States for full membership. It is certainly a turning point for Turkey's policy towards this end. It is, on the other hand, equally a major development for the Greek-Turkish relations in general and for the approaches to the Aegean disputes in particular.

After noting that 'the candidate States are participating in the accession process on an equal footing', the EU Council pointed out in its decision at Helsinki that:

*'They must share the values and objectives of the European Union as set out in the Treaties. In this respect the European Council stresses the principle of peaceful settlement of disputes in accordance with the United Nations Charter and urges candidate States to make every effort to resolve any outstanding border and other related issues. Failing this they should within a reasonable time bring the disputes to the International Court of Justice. The European Council will review the situation relating to any outstanding disputes, in particular concerning repercussions on the accession process and in order to promote their settlement through the International Court of Justice, at the latest by the end of 2004.'*²²

The provision is likely to cause controversy as regards the interpretation due to some obscurities in the wording. There are however clear points which demonstrate that the decision of the Council has been a significant development as far as the Aegean disputes are concerned.

Firstly, the Council made a particular emphasis on 'any outstanding border and related issues'. There should be no doubt that the Aegean disputes especially those related to the maritime issues are mostly boundary matters. Issues such as the sovereignty over certain small islands and the Greek intention to extend its territorial sea should at least be considered as related to the boundary matters. Obviously, the Council's condition has a clear bearing on all the major Aegean disputes.

Secondly, as far as the settlement of such disputes is concerned, the decision repeats the well-known principle which is embodied into Article 2 (3) of the UN Char-

²² The Helsinki European Council: Presidency Conclusions, Preparing For Enlargement, the Enlargement Process. Press Release, Brussels, 11.12.1999, No. 00300/99.

ter that all the disputes between the States must be solved through peaceful means.²³ The candidate States including Turkey should resolve their differences through any of these means in the course of becoming a full member of the EU.

Finally, the provision specifies that if the disputing States fail to solve their differences 'within a reasonable time' through the negotiations or any other peaceful means, they should submit them to the ICJ. The 'reasonable time' is fixed as the end of 2004 when the European Council will review the situation relating to any outstanding disputes in order to promote their settlement through the ICJ.

Clearly, Turkey should solve its major differences with Greece until the end of year 2004. If the disputes could not be solved within this period, the Council will review the situation and promote recourse to the ICJ for the settlement. The decision seems to give the priority to dialogue. Therefore, it is particularly significant in terms of settlement through dialogue. However, due to the reference to the settlement through the ICJ, the Council's decision is also a significant development for adjudication of the Aegean disputes.

3. THE CURRENT APPROACHES AND PROSPECTS

The above review demonstrates that the developments that have been taking place in recent years seem to have started to establish a trust and friendship between the two nations. The possible contribution that these improvements could make to the settlement of the Aegean disputes should be obvious when the adverse role of distrust in the bilateral relations is considered. Secondly, the developments seem to establish basis for a process of dialogue or at least cooperation on the settlement of the disputes. Although the agreements of cooperation that have so far been concluded concerned only some relatively less important issues such as trade, tourism and cultural cooperation, the recent course of cooperation can eventually lead to a similar one on the Aegean issues.

However, there are reasons to think that real situation still seems to be not improved very much. Crises and hate expressions similar to those encountered in the past still continue to occur in the current relations. A recent event that has shown the existence of distrust took place during a NATO exercise called the 'Destined Glory'.²⁴ Contrary to the NATO's plan and despite the strong objections from Turkey, Greece used air corridors over the islands of Limnos and Ikaria for military

²³ These means are those enumerated in Article 33 (1) of the UN Charter.

²⁴ The NATO's military maneuver 'Destined Glory' is participated by Turkey, Greece, the USA, Germany, the Netherlands, Italy, and Spain and held between 9-25 October 2000 in the Eastern Aegean Sea and the Eastern Mediterranean.

flights during the exercise. Upon the further objections, Greece first announced that it would temporarily withdraw from the exercise and then declared that it cancelled its participation in the exercise.²⁵

So started confrontation has been carried on to the relations very soon. During the 'Nikiforos-Toksotis 2000', a military exercise that is regularly done by Greece and the Greek Cypriot Administration jointly, some military confrontations that were similar to those in previous years took place between the military aircrafts of Greece and Turkey.²⁶ As a result, the Defense Minister of Greece declared a set of new measures according to which they would get serious against Turkey, such as flying with weapons over the Aegean Sea and not participating any more in joint NATO exercises.²⁷

Apart from such military confrontations, there have been some political statements which could again be viewed as unfriendly. The Greek political parties which have representatives in the Greek Parliament announced that they would not endorse the nine agreements of cooperation that were, as mentioned above, signed by Greece and Turkey. Moreover, with the initiative of the Greek Foreign Minister, the ceremony of presenting the 'Peace Award' to the Foreign Ministers of Turkey and Greece that would take place as predetermined, has been postponed. This has certainly been a further sign of continuing distrust between the two countries.²⁸

The affect of developments concerning the Turkish-EU relations on the Aegean disputes seems similarly subdued. The Greek approach as to the settlement of the disputes still remains intact despite its open support to the Turkey's candidacy for EU membership. The Greek support at the Helsinki Summit should rather be seen as tactical rather than substantial as Greece seems to use the EU as a tool of pressure on Turkey towards the submission of the 'only' Aegean dispute of the continental shelf delimitation to the ICJ.²⁹ It is thus evident that the EU's emphasis on dialogue as a means of settlement until the end of year 2004 may not practically mean very much.

²⁵ See, the Press Release of the Foreign Ministry of Turkey, 23 October 2000. See moreover, *Milliyet* Newspaper, 17 October 2000; 23 October 2000.

²⁶ *Milliyet* Newspaper, 24 October 2000. For the views about the maneuvers, see, the Press Release of the Foreign Ministry of Turkey, 23 October 2000.

²⁷ *Milliyet* Newspaper, 24.10.2000.

²⁸ See, the Bulletin of the *Athens News Agency*, 25.10.2000.

²⁹ The Greek Foreign Minister Papandreou stated clearly that Turkey's attitudes against Greece would play significant role in the acceptance of Turkey to the EU as a full member. Especially the issues of human rights, referral to the ICJ and the Cyprus problem are such significant issues. See, the Interview given by the Greek Foreign Minister Papandreou to *To Vima* Newspaper on 5 December 1999. The latest proof of this has been the Greek efforts to put the Aegean issues and the Cyprus problem into the Accession Partnership Document about Turkey preconditions. See, the Statement of the Prime Minister B. Ecevit, 11 November 2000. See also Bahçeli, 'Turkish-Greek Approaches...', p. 252.

There is no indication that Turkey has altered the traditional approach which is clarified above. The Turkish National Programme, which has been prepared in 2001 towards the fulfilment of the conditions set by the EU's document on accession partnership, does not provide that Turkey would take the disputes to the International Court should negotiations fail to yield a settlement. In the document, Turkey still insists on dialogue as the means of settling the Aegean disputes.³⁰ This is despite the fact that, in the regular report prepared by the EU Commission in 2000 has clearly reiterated that the disputes relating to borders and related issues should be brought to the International Court of Justice if they are not settled in other ways.

Considering that becoming a full member of the EU is a major priority of the Turkish foreign policy, settlement through the ICJ will only be in the agenda after year 2004 when the EU is likely to start exerting pressure on Turkey at least by the Greek initiative.

Finally, the recent positive developments which are likely to stimulate improvements in the approaches towards the settlement of the Aegean disputes is severely tested by the Cyprus problem, which is regarded nearly as a precondition by Greece for the settlement of the Aegean dispute. A round of direct talks between the leaders of the two community in Cyprus a year ago has already proved how difficult is to find a mutually satisfying solution. Following the regular report by the EU Commission has been announced in December 2003, it has become clearer that the Cyprus problem could well be regarded by the EU as a precondition for Turkey's full membership to the EU.

CONCLUSIONS

The Aegean disputes, which have always been hurdles to an amicable relations between Greece and Turkey, are perceived as highly political considering that they bear upon vital rights and interests of the two States. Inevitably, political developments widely effect prospect for the settlement of the Aegean disputes.

In the contemporary political environment, the disputes stand better change to be settled either through dialogue or judicial means, considering the recent developments between the two countries and in the EU-Turkish relations. However, there still seem to be many impediments to be eradicated before purporting that the traditional approaches of the two sides, which have so far blocked the settlement, have so improved to pave way to settlement.

³⁰ In the Turkish National Program, it has been indicated in Introduction that: 'Turkey will continue to undertake initiatives and efforts towards the settlement of bilateral problems with Greece through dialogue.'