

AEGEAN TENSION GREECE'S POLICY AND LEGAL DISTORTIONS

YÜCEL ACER

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SUMMARY

This analysis examines the reasons behind Greece's policy of escalating tension and whether that policy has any legal ground.

Despite a new negotiation process initiated between Türkiye and Greece in January 2021, there has been a remarkable increase in anti-Türkiye statements of high-level Greek government representatives, especially following the Russia-Ukraine War. The Greek Government tried to label Türkiye as a “revisionist”, “illegal” and “aggressive” and based these claims on some of Türkiye's statements and practices regarding especially the disputed issues in the Aegean Sea. A legal analysis shows that there has been no change in Türkiye's current statements and actions relative to those that have been made for many years, and that Türkiye's statements and practices are mainly based on clearly expressed legal grounds. It is clear that the statements and attempts of Greece to present Türkiye as a “state that violates the law” and to create an anti-Türkiye perception are of a political nature rather than a legal one.

INTRODUCTION

As the intense tension between Türkiye and Greece over the delimitation of the continental shelf in the Eastern Mediterranean Sea eased towards the end of 2020, the long lasting exploratory talks of 2002-2016 have been resumed in January 2021 under the name of “consultative meetings”. The delegations have been able to meet three times in a single year in 2021.

Whilst the latest process of negotiation has been ongoing, Greece intensified its accusations on Türkiye, especially following the Russia’s attack on Ukraine on February 24, 2022. It should therefore be questioned why process of tension has been initiated with such strong statements to clarify whether Greece is justified in its accusations of Türkiye’s so called “illegal and aggressive acts”.

To do so, the reasoning Greece uses to argue that Türkiye acts illegally in the Aegean Sea should be examined against the relevant rules of international law as well as the historical developments over the bilateral disputes in the Aegean Sea.

BILATERAL DISPUTES IN THE AEGEAN SEA

Despite the well-known Greek “single-dispute” approach in the Aegean Sea refusing to acknowledge any other issue rather than the dispute over continental shelf delimitation,¹ there exist major disagreements between the two countries concerning the Aegean islands, sea areas and airspace yet to be solved.

One of these disputes with a long past is the militarization of the Eastern Aegean islands, whose status was put on demilitarization permanently by the Lausanne Peace Treaty of 1923 and the Paris Peace Treaty of 1947. When Greece first started arming Rhodes and Kos, two of the South East Aegean islands, Türkiye sent official notes to Greece on 29 June 1964 and then on 2 April 1969 for its activities in the island of Lemnos in the North East Aegean. Türkiye requested halt of militarization as such acts were against the conventional rules.² In its replies on 1 July 1964 and 10 May 1969, Greece stated that it respected the relevant international agreements and did not fortify the islands in question, labelling the work being done as for civil aviation needs.³

There was however a major shift in the Greece’s stance in 1970’s as it admitted that it militarized the islands, basing its actions on

1 “Foreign Minister Nikos Dendias’s Interview with CNN Greece”, Hellenic Republic-Ministry of Foreign Affairs, 8 April 2022, <https://www.mfa.gr/en/current-affairs/statements-speeches/minister-of-foreign-affairsnikos-dendias-interview-with-cnn-greece-08042022.html>, (Access Date: 17 June 2022).

2 Şükrü Gürel, *Tarihsel Boyut İçinde Türk-Yunan İlişkileri (1821-1993)*, (Ümit Yayıncılık, Ankara: 1993), p. 69; Hüseyin Pazarıcı, *Doğu Ege Adalarının Askerden Arındırılmış Statüsü*, (Turhan Kitapevi, Ankara: 1992), p. 53-54.

3 Gürel, *Tarihsel Boyut İçinde Türk-Yunan İlişkileri (1821-1993)*, p. 69; Kamuran Gürün, *Dış İlişkiler ve Türk Politikası (1939’dan Günümüze Kadar)*, (Ankara Üniversitesi Siyasal Bilgiler Fakültesi Yayınları, Ankara: 1983), p. 438, 446, 453.

some “justifications”.⁴ Since than Greece continues to act in this way while Türkiye raises objections with ever increasing tone,⁵ as will be seen below.

The width of the Greek national airspace is another problem having origins in some past regulations. Greece fixed the width of its territorial waters at 6 nautical miles with the 1936 Territorial Waters Law No. 230. It continues, however, to apply 10 miles of national airspace, as was promulgated by a Presidential Decree in 1931, thus 4 miles wider than its territorial waters, covering the mainland and all its islands in the Aegean Sea.

By declaring that this situation is clearly contrary to the relevant rules of international law and that it does not recognize the wider application of the Greek national airspace than the territorial sea, Türkiye acts in a way show its non-recognition by conducting military flights within the said extra 4-mile spaces.⁶

Another problem with Aegean airspace arises from Greece's approach to the flight information zone (FIR). The boundary defining the FIR over the Aegean Sea starts from Turkish territorial waters and covers the entire Aegean airspace. FIR responsibility over was assumed by Greece in 1952. Türkiye objects to attitudes of Greece, stating that Greece deliberately mis-

interpreted and misused FIR responsibility⁷ to prevent Turkish warplanes from flying in international airspace in the Aegean. The Greek approach to the search and rescue areas (SAR) is also a matter of objection by Türkiye. It is the Turkish position that Greece treats these regions as if they are areas of national sovereignty and does not coordinate with Türkiye in the overlapping search and rescue areas.⁸

Türkiye and Greece are also in dispute concerning the delimitation of the continental shelf in the Aegean Sea.

The two States are also in dispute concerning the delimitation of the continental shelf in the Aegean Sea. Greece objected to the licensed areas given by Türkiye in late 1973, and applied to both the UN Security Council and the International Court of Justice (ICJ). While the UN Security Council advised Türkiye and Greece to resolve the dispute through direct negotiations or other peaceful means,⁹ the ICJ decided that it could not hear the case on the grounds that it lacked jurisdiction.¹⁰

Negotiations in the 1970s and 1980s for the solution of dispute over the continental shelf did not yield a result. In accordance with the Bern Declaration accepted by the two countries on 11 November 1976, they declared to refrain from any act or escalating attitudes regarding the Aegean continental shelf. Both countries mostly observed the Declaration except in some excep-

⁴ “Letter Dated 13 July 2021 from the Permanent Representative of Turkey to the United Nations Addressed to the Secretary-General”, United Nation, 14 July 2021, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/191/06/PDF/N2119106.pdf?OpenElement>, (Access Date: 17 June 2022); See also, Hüseyin Pazarcı, “Ege Adalarının Hukuksal Statüsü”, Ankara Üniversitesi SBF Journal, Volume: 43, Issue: 3, (2015).

⁵ “Letter Dated 13 July 2021 from the Permanent Representative of Turkey to the United Nations Addressed to the Secretary-General”, United Nation, 14 July 2021, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/191/06/PDF/N2119106.pdf?OpenElement>, (Access Date: 17 June 2022); “Letter Dated 30 September 2021 from the Permanent Representative of Turkey to the United Nations Addressed to the Secretary-General”, United Nation, 5 October 2021, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/275/89/PDF/N2127589.pdf?OpenElement>, (Access Date: 17 June 2022).

⁶ “Başlıca Ege Denizi Sorunları”, Türkiye Cumhuriyeti Dışişleri Bakanlığı, 13 June 2022, <https://www.mfa.gov.tr/baslica-ege-denizi-sorunlari.tr.mfa>, (Access Date: 17 June 2022).

⁷ See. www.mfa.gov.tr/baslica-ege-denizi-sorunlari.tr.mfa, (Access Date: 13 June 2022).

⁸ See. www.mfa.gov.tr/baslica-ege-denizi-sorunlari.tr.mfa, (Access Date: 13 June 2022).

⁹ See. The Security Council Resolution 395 (25 August 1976).

¹⁰ Aegean Sea Continental Shelf, Judgment, (I.C.J. Reports: 1978), p. 3.

tional periods. The March 1987 crisis (March Crisis) was one of such exceptional periods which brought the two countries to the brink of war.¹¹ As the crisis was defused, a new process of dialogue was initiated and the Bern commitments were renewed.¹²

Another major dispute concerns sovereignty over some islets in the eastern Aegean Sea, as has first been demonstrated by the dispute over Kardak (İkizce-imia) Rocks in 1995. When a Turkish-registered ship ran aground on the Kardak Cliffs on 25 December 1995, the crew of the ship refused to receive help from the Greek rescuers on the ground that they belonged to Türkiye,¹³ a statement approved by Türkiye immediately.¹⁴ With Greece's opposition to this, it has become clear that there is a sovereignty problem that needs to be resolved over some islets of similar nature in the Aegean Sea.

The most significant dispute in the Aegean Sea, at least for Türkiye, concerns the possible extent of the territorial waters of Greece. With its national regulation in 1936, Greece determined its territorial waters as 6 nautical miles.¹⁵ Greece later changed its approach and declared that it would extend to 12 miles especially during and following the Third UN Conference on the Law of the Sea. Greece cites Article 3 of the United Nations Convention on the Law of the Sea (UNCLOS) which entered into force on 14 November 1994 and was ratified by Greece on 1 June 1995. The Greek Parliament empowered the Government in 1995¹⁶ to extend the territo-

rial seas to 12 nautical miles. The Government occasionally declares that it would do so when it is deemed "appropriate and beneficial for the national interest".¹⁷

Türkiye, upon these developments, intensified its objections to prevent any actual move¹⁸ and continued to frequently state that the expansion of the territorial waters in the Aegean Sea would not be acceptable under any circumstances.¹⁹ The Turkish Grand National Assembly (TGNA) unanimously decided to give on 8 June 1995 all powers including those deemed necessary in the military field, to the Turkish Government "for the protection and defence of Türkiye's vital interests" in case of Greece's possible attempt to expand its territorial waters.²⁰

IMPORTANT NEGOTIATION PROCESSES

The solution of the disputes summarized above constitutes the indispensable condition for ending the contentious periods experienced from time to time between Türkiye and Greece. In fact, they have been able to conduct dialogue processes several times, some of which were more promising. Especially in the period from 1999 onwards, many positive steps were taken. Mutual official visits by the Greek and Türkiye's foreign ministers in January and February 2000 enabled the signing of important agreements in areas that would improve rapprochement and cooperation although no solution to the disputes was achieved.

11 R. East, *Keesing's Contemporary Archives*, (FT Pharmaceuticals, London: 1987), p. 35129.

12 East, *Keesing's Contemporary Archives*, p. 35683, 36117.

13 East, *Keesing's Contemporary Archives*, p. 40923.

14 *The Report on Limnia-Imia Islets, 2nd Edition*, (Institute of Neohelonic Research of the National Research Foundation, Athens: 1996), p. 5.

15 F. Durante, W. Rodino, (eds), *Western Europe and the Development of the Law of the Sea*, (Oceana Publications: New York: 1983), p. 15.

16 See. BBC SWB, EE/2320 B/3, 3 June 1995.

17 "The Remarks Made by A. Venizelos, the Press Minister and the Greek Government Spokesman", ET-1 TV, Athens, (Keesing's Contemporary Archives: 1995), p. 40617.

18 East, *Keesing's Contemporary Archives*, p. 34636.

19 "Statements by Turkish Foreign Minister Erdal İnönü", BBC SWB, EE/2415 B/7, 22 September 1995.

20 BBC SWB, EE/2326 B/7, (Keesing's Contemporary Archives:1995), p. 40617.

Demanding a “fair, permanent and comprehensive” solution to Aegean disputes through dialogue, Türkiye was involved in a negotiation process with Greece, which started on 12 March 2002 under the name of “exploratory talks” and lasted until 2016. During this period, various mechanisms such as the High-Level Cooperation Council (HLCC) were also developed and an increase in high-level visits was observed. The first HLCC meeting was held in Athens on May 14-15, 2010, the followings were in Istanbul (March 4, 2013), in Athens (December 6, 2014) and in Izmir (March 8, 2016). During the HLCC process, a total of 54 documents have been signed and business forum meetings have also been held within this framework.

President Recep Tayyip Erdoğan made an official visit to Athens and Gümülcine (Komotini) on 7-8 December 2017, making it the first official visit between the two countries at the Presidential level since 1952. Greek Prime Minister Alexis Tsipras paid a working visit to Türkiye on 5 February 2019. Greek Foreign Minister Yorgos Katrugalos paid a working visit to Antalya on 21 March 2019 and met with Turkish Foreign Minister Mevlüt Çavuşoğlu. Regular political consultations were held between the Ministries of Foreign Affairs of the two countries at the level of Deputy Minister/Secretary General, and the last political consultations were held in Athens on 12 April 2019.

The tension between the two countries in the Eastern Mediterranean in 2019-2020 was alleviated and they restarted the negotiation process after 5 year-interval with the meeting held in Istanbul on January 25, 2021. The next meeting was held in Athens on 16 March 2021 and the last round was in Ankara on 6 October 2021. While neither side made an official statement about what issues were discussed in

the meetings, Greece makes indirect statements that only maritime delimitation issues are discussed on the basis of the traditional “one problem” approach.²¹

Despite the latest and promising process of dialogue, the harsh statements and some adverse initiatives from the Greek side seem to have spoiled the atmosphere. Both countries have eventually involved in reciprocal strong statements and even some actual conducts creating yet another tension in the Aegean Sea.

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GREECE'S TENSION POLICY

While the consultative talks that started in early 2021 was on process, Greek Prime Minister Kiriakos Miçotakis and Foreign Minister Nikos Dendias made official statements and gave interviews to present Türkiye as a country “behaving illegally”, “acting to create tension” and “using cohesion force on Greece”. Especially following the Russia's attack on Ukraine on February 24, 2022, an increase in the tone of these official statements about Türkiye was obvious. Statements frequently mentioned “violations of Greek national airspace”, “threats to Greece”, “illegal acts”, “revisionism” as well as “behaviours contrary to EU and NATO goals” by Türkiye.

²¹ Hasan Göğüş, “İstikşafı Görüşmeler Türk-Yunan Sorunlarını Çözer mi?”, Yetkin Report, 28 January 2021, <https://yetkinreport.com/2021/01/28/istikşafı-gorushmeler-turk-yunan-sorunlarini-cozer-mi>, (Access date: 17 June 2022).

In recent months, and especially in April, Greece has frequently accused Türkiye of making airspace violations over inhabited islands. Foreign Ministry spokesman Aleksandros Papayoannu stated in a statement on May 4 that 168 violations and 42 overflights were carried out on April 27, over some populated islands like Rhodes, Kos, Kalymnos and Samos.²² Another statement by the Greek Ministry of Foreign Affairs claimed that Turkish warplanes violated Greek national airspace by passing 2.5 miles from Dedeğaç (Alexandroupoli).²³

Greek Prime Minister Miçotakis visited the USA in later days and claimed in his speech to the US Congress on May 19 that Türkiye had violated the Greek airspace and asked the US Congress to consider these situations in the possible arm sales to Türkiye, implying the possible sale of F-16s to Türkiye.²⁴

Greece has further argued that it sees Türkiye's "strengthening of its military elements" as a threat since Türkiye "openly considered a possible Greek move on extending its territorial waters as a reason for war against Greece". The Greek Foreign Minister Dendias stated on 12th May that since Türkiye had threatened to use force against Greece and violated its legal obligations, Greece was against Germany's submarine sale

to Türkiye.²⁵ Dendias argued in another recent statement that since Türkiye repeatedly threatened Greece, they would not be pleased with Türkiye's armament as these weapons "could be used against Greece".²⁶ When a journalist asked what the new German government's approach would be towards Türkiye, Dendias stated that they expected Germany to take a position against Türkiye's "aggression".²⁷

The argument that Türkiye is a "threat" has been based on the rhetoric that Türkiye is a "revisionist State" and follows a policy of "neo-Ottomanism" so as to create a threat not only to Greece but to the whole region. Greek Foreign Minister Dendias claimed that Türkiye had been following a neo-Ottomanism policy for a long time, referring to Türkiye's activities in Libya and "expansionist policies in Africa for the last 20 years".²⁸ In his speech at the Greek Parliament, Dendias similarly argued that they were facing with an "expansionist" neighbour, as "evidenced by the concepts of 'Ottoman ideology' and 'blue homeland'".²⁹

22 "Briefing of Diplomatic Correspondents by Ministry of Foreign Affairs Spokesperson Alexandros Papaioannou", 4 May 2022, <https://www.mfa.gr/en/current-affairs/press-briefings/briefing-of-diplomatic-correspondents-by-ministry-of-foreign-affairs-spokesperson-alexandros-papaioannou-04052022.html>, (Access Date: 17 June 2022).

23 "Statement by the Ministry of Foreign Affairs Regarding the Unprecedented Violation of Greece's National Sovereignty by Turkish Fighter Aircraft Near Alexandroupolis", 20 May 2022, <https://www.mfa.gr/en/current-affairs/statements-speeches/statement-by-the-ministry-of-foreign-affairs-regarding-the-unprecedented-violation-of-greeces-national-sovereignty-by-turkish-fighter-aircraft-nearalexandroupolis-20052022.html>, (Access Date: 17 June 2022).

24 "Bize F-35 Satın, Türkiye'ye F-16 Vermeyin: Miçotakis'in ABD Ziyaretinin Hedefleri Neydi?", Euronews Türkçe, 19 May 2022.

25 "Minister of Foreign Affairs, Nikos Dendias' Speech at the Plenary Session of the Hellenic Parliament on the Draft Law of the Ministry of Foreign Affairs Ratification of the Second Protocol of Amendment to the MDCA", 12 May 2022, <https://www.mfa.gr/en/current-affairs/top-story/minister-of-foreign-affairs-nikos-dendias-speech-at-the-plenary-session-of-the-hellenic-parliament-on-the-draft-law-of-the-ministry-of-foreign-affairs-ratification-of-the-second-protocol-of-amendment-to-the-mdca-12052022.html>, (Access Date: 17 June 2022).

26 "Minister of Foreign Affairs Nikos Dendias' Remarks at the Delphi Economic Forum VII and the Session Europe After Ukraine", 9 April 2022, <https://www.mfa.gr/en/current-affairs/statements-speeches/minister-of-foreign-affairs-nikos-dendias-remarks-at-the-delphi-economic-forum-vii-and-the-session-europe-after-ukraine-09-04-2022.html>, (Access Date: 17 June 2022).

27 "Minister of Foreign Affairs Nikos Dendias' Interview with 'Naftemporiki' Newspaper and Journalist Michalis Psilos", 22 November 2021, <https://www.mfa.gr/en/current-affairs/statements-speeches/minister-of-foreign-affairs-nikos-dendias-interview-with-naftemporiki-newspaper-and-journalist-michalis-psilos-22112021.html>, (Access Date: 17 June 2022).

28 "Minister of Foreign Affairs Nikos Dendias' Interview with 'Naftemporiki' Newspaper and Journalist Michalis Psilos".

29 "Minister of Foreign Affairs Nikos Dendias' Speech During the Parliamentary Debate on the 2022 Budget", 17 November 2021, <https://www.mfa.gr/en/current-affairs/top-story/minister-of-foreign-affairs-nikos-dendias-speech-during-the-parliamentary-debate-on-the-2022-budget-athens-17122021.html>, (Access Date: 17 June 2022).

Another frequently repeated claim of Greece is that Türkiye is a “tyrannical state that acts against Greece by disregarding international law”. In a recent statement, Foreign Minister Dendias continued his efforts commenting that Russia’s attack on Ukraine shows how important the principles of international law on the protection of peace were, and that they “communicated this situation to the Turkish authorities”, making an impression Türkiye needs to understand the importance of international law.³⁰

Türkiye has also been presented by Greece that Türkiye adopts and executes approaches that are incompatible with the EU and NATO goals. Spokesperson of the Ministry of Foreign Affairs Papayoannu stated in a recent statement that they thought that Türkiye, as a candidate country for full membership, should have joined the EU’s sanctions against Russia.³¹

Immediately after emphasizing that Sweden and Finland were very keen on their possible NATO membership, Foreign Minister Dendias stated that Türkiye’s attitude towards these two countries was of a “huge impression”, without mentioning the justifications for Türkiye’s objection.³² Dendias

argued in his statement following his visit to the United States that Türkiye challenged not only Greece but also the unity and future of the Alliance by displaying “revisionist tendencies and adopting an ambiguous stance within NATO.”³³ He also labelled Türkiye as a “strange” partner, displaying “illegal activities and revisionist tendencies.”³⁴

All these accusations against Türkiye has also been used to justify the ongoing Greek armament policies. The Greek Deputy Foreign Minister Miltiadis Varvitsiotis stated that the Greek government was carrying out a determined armament program trying to be practically ready due to the “permanent Türkiye threat to Greece”.³⁵ Greece has depended its militarization on the Eastern Aegean islands on the argument that these islands were under the threat of Türkiye.³⁶

Such strong and accusative rhetoric of Greece eventually led to a very striking statement by the Türkiye’s President Recep Tayyip Erdogan on June 1 in which he announced that the bilateral talks, including the High-Level

30 “Minister of Foreign Affairs Nikos Dendias’ Interview with ‘CNN Greece’, 8 April 2022, <https://www.mfa.gr/en/current-affairs/statements-speeches/minister-of-foreign-affairs-nikos-dendias-interview-with-cnn-greece-08042022.html>, (Access Date: 17 June 2022); “Briefing of Diplomatic Correspondents by Ministry of Foreign Affairs Spokesperson Alexandros Papaioannou”, 30 March 2022, <https://www.mfa.gr/en/current-affairs/press-briefings/briefing-of-diplomatic-correspondents-by-ministry-of-foreign-affairs-spokesperson-alexandros-papaioannou-30032022.html>, (Access Date: 17 June 2022); “Minister of Foreign Affairs Nikos Dendias’ Interview with ‘Real News’ Newspaper and Journalist Giorgos Siadimas”, 27 March 2022, <https://www.mfa.gr/en/current-affairs/statements-speeches/minister-of-foreign-affairs-nikos-dendias-interview-with-real-news-newspaper-and-journalist-giorgos-siadimas-27032022.html>, (Access Date: 17 June 2022).

31 “Briefing of Diplomatic Correspondents by Ministry of Foreign Affairs Spokesperson Alexandros Papaioannou”, 30 March 2022, <https://www.mfa.gr/en/current-affairs/press-briefings/briefing-of-diplomatic-correspondents-by-ministry-of-foreign-affairs-spokesperson-alexandros-papaioannou-30032022.html>, (Access Date: 17 June 2022).

32 “Minister of Foreign Affairs Nikos Dendias Interview with STAR TV’s Prime Time News and Journalist Mara Zacharea”, 18 May 2022, <https://www.mfa.gr/en/current-affairs/statements-speeches/minister-of-foreign-affairs-nikos-dendias-interview-with-star-tvs-prime-time-news-and-journalist-mara-zacharea-athens-18052022.html>, (Access Date: 17 June 2022).

33 “Minister of Foreign Affairs Nikos Dendias’ Interview with ‘Real News’ Newspaper and Journalist Giorgos Siadimas”, 22 May 2022, <https://www.mfa.gr/en/current-affairs/statements-speeches/minister-of-foreign-affairs-nikos-dendias-interview-with-real-news-newspaper-and-journalist-giorgos-siadimas-22052022.html>, (Access Date: 17 June 2022).

34 “Minister of Foreign Affairs Nikos Dendias’ Interview with ‘Real News’ Newspaper and Journalist Giorgos Siadimas”, 22 May 2022, <https://www.mfa.gr/en/current-affairs/statements-speeches/minister-of-foreign-affairs-nikos-dendias-interview-with-real-news-newspaper-and-journalist-giorgos-siadimas-22052022.html>, (Access Date: 17 June 2022).

35 “Alternate Minister of Foreign Affairs Miltiadis Varvitsiotis’ Remarks on SKAI TV’s Morning Show ‘SIMERA’ with Journalists Dimitris Oikonomou and Maria Anastasopoulou”, 12 January 2022, <https://www.mfa.gr/en/current-affairs/statements-speeches/alternate-minister-of-foreign-affairs-miltiadis-varvitsiotis-remarks-on-skai-tvsmorning-show-simera-with-journalists-dimitris-oikonomou-and-mariaanastasopoulou-athens-12012022.html>, (Access Date: 17 June 2022).

36 “Alternate Minister of Foreign Affairs Miltiadis Varvitsiotis’ Interview with ‘Parapolitika 90.1’ Radio Station and Journalists Christina Korai and Dimitris Takis”, 11 January 2022, <https://www.mfa.gr/en/current-affairs/statements-speeches/alternateminister-of-foreign-affairs-miltiadis-varvitsiotis-interview-with-parapolitika-901-radio-station-and-journalists-christina-korai-and-dimitris-takis-11012022.html>, (Access Date: 17 June 2022).

Cooperation Council were all terminated, and that the talks would not be resumed without Greece's "sincere and serious" intention to meet and negotiate.³⁷

The visit of Greek Prime Minister Miçotakis to the Eastern Aegean Islands immediately after this statement was seen as a new "provocative attitude" and President Erdoğan, in his speech during his visit to the Ephesus 2022 Exercise in the Aegean said that "We invite Greece to stop arming the islands with non-military status. We invite you to act in accordance with international agreements. I'm not joking, I'm speaking seriously,"³⁸ and emphasized once again that Türkiye was determined to defend Türkiye's rights. These statements were taken to be reflected by the Greek Government and the press as a sign of "threat of Türkiye".³⁹

Greece frequently clam that Türkiye poses a "threat" against both Greece and the whole region.

The Greek statements summarized above demonstrate that Greece acted intentionally to create a tension by choosing accusatory and harsh rhetoric by seizing all possible occasions probably to achieve some political gains in their domestic policies in the context of the elections to be held within a one-year period and as well as to get the support of some major States against Türkiye.

37 "Erdoğan: Yunanistan ile Yüksek Düzeyli Stratejik Konsey Anlaşmamızı Bozduk", Euronews Türkçe, 1 June 2022.

38 "Cumhurbaşkanı Erdoğan; Yunanistan'ı Aklını Başına Alması Konusunda İkaz Ediyoruz", Anadolu Ajansı, 9 June 2022.

39 Stelyo Berberakis, "Erdoğan'ın 'Adalar' Çıkışı Yunanistan'da Nasıl Yankı Buldu?", BBC News Türkçe, 9 June 2022.

LEGAL EVALUATIONS ON GREEK ALLEGATIONS

As put forward in details above, Greece has been accusing Türkiye with being "revisionist", "neo-Ottomanist" and "aggressive" by describing Türkiye's claims and acts in the Aegean Sea as "violations of international law". Considering Türkiye's attitudes and acts as violation of law and aggressive, Greece frequently clam that Türkiye poses a "threat" against both Greece and the whole region.

Is Türkiye really "aggressive" and "threatening" by acting contrary to international law? Is Greece justified to refer to some acts of Türkiye over the issues of the Aegean as violations of relevant rules of international law? Even a general overview of the concrete stances of Türkiye with reference to relevant rules of international law reveals quite a different picture.

It is quite common that Greece refers to "frequent violations of the Greek national airspace by Türkiye".⁴⁰ In fact, Türkiye does not, as clarified above, recognize the relevant Greek regulations and their application, which provide 10 miles of national airspace while the territorial waters are fixed at 6 miles. Accordingly, Türkiye carries out military flights for many years in the said 4-mile areas to show its non-recognition with actual practices. Contrary to Greece's recent statements and attempts therefore, these flights are not new at all and have legal bases, rather than being unjustifiable illegal acts.

The flights over some Greek islands, which Greece describes as "over-flights", are incidental situations that occur as aerial manoeuvres due to the harassment of Greek warplanes. On this

40 "Briefing of Diplomatic Correspondents by Ministry of Foreign Affairs Spokesperson Alexandros Papaioannou", 4 May 2022, <https://www.mfa.gr/en/current-affairs/pressbriefings/briefing-of-diplomatic-correspondents-by-ministry-of-foreign-affairs-spokesperson-alexandros-papaioannou-04052022.html>, (Access Date: 17 June 2022).

basis, the Turkish Ministry of Foreign Affairs rejected the claims that the Greek national airspace was violated by Türkiye and revealed that the said actions were responses to the flights of Greek warplanes. Foreign Ministry Spokesperson Tanju Bilgiç said in a statement that “The Greek Air Force carried out provocative flights near the coasts of our country and violated our country’s airspace many times. Our Air Force responded to these provocative flights in accordance with the rules of engagement.”⁴¹

Greece’s statements to portray Türkiye as an aggressor State also refer to the decision taken by the Turkish Grand National Assembly (TGNA) in 1995. This argument seems similarly without legal basis. Türkiye has been giving specific legal justifications that Greece is not entitled to extend the territorial waters beyond the existing 6 miles. The justifications include, among many others, the persistent objector status to 12-miles limit in the Aegean Sea as granted by international law. The said decision of the TGNA authorizes the government to take all measures necessary to prevent any actual extension of the territorial waters by Greece. This decision has therefore been taken with a sole purpose: to protect the rights of Türkiye over the territorial waters in the Aegean Sea, rather than to threaten Greece with the use of force. As a matter of fact, the TGNA does not have the authority to declare war in violation of international law as clarified by Article 92 of the Constitution of the Republic of Türkiye.

Despite all these clear statements and legal justifications by Türkiye, Greece chooses to label Türkiye and the decision of TGNA as “aggressive”. To the contrary, Greece seems to be in a very illegitimate stance since it refuses to accept even the very existence of a territorial

waters dispute and do not negotiate it, leaving Türkiye with no option but to take practical measures to protect Türkiye’s rights. Instead of negotiating the issue, Greece chooses to issue statements that it would increase its territorial waters to 12 miles in the Aegean, whenever it deems appropriate.

Another dispute in the Aegean over which Greece tries to present Türkiye as aggressor State is its own act of militarizing the East Aegean islands, which are demilitarized by the 1923 Lausanne Peace Treaty and the 1947 Paris Peace Treaty. Despite such clear international regulations, Greece militarize these islands since 1960s and tries to accuse Türkiye being aggressor on the very same issue, when Türkiye refers to the Article 60 of the Vienna Convention on the Law of Treaties to question the validity of the articles giving Greece title to these islands.

Türkiye and Greece are both parties to the Vienna Convention on the Law of Treaties. Article 60 of the Conventions states that in the event of a material breach of either a bilateral treaty or a multilateral treaty, the injured party has the right to suspend or terminate the validity of the Treaty in whole or in part against the violating State.

When article 60 of the Convention is applied to the Greek case over the militarization of the islands, Türkiye seems to be much more justified State than being an aggressor. The treaties ceding the Eastern Aegean Islands to Greece provides for the demilitarization of these islands, as explained above. Article 13 of the Lausanne Peace Treaty on the disarmament of the islands clearly associates disarmament with the “preservation of peace”.⁴² It is understood from the relevant regulations in

41 “Türkiye ile Yunanistan Arasında ‘Hava Sahası’ Gerginliği”, DW Türkçe, 28 April 2022.

42 Teoman Ertuğrul Tulun, “Lozan Barış Antlaşmasının Esaslı İhlalinin Sonuçları”, OSFPREPRINTS, 22 February 2022, <https://osf.io/cxpd7>, (Access Date: 17 June 2022).

question that the non-disarming clause is an important condition for the transfer of the islands to Greece.

Therefore, the violation by Greece of the rules on disarmament can be interpreted as giving Türkiye the right to terminate the articles of the Lausanne Peace Treaty regulating sovereignty over the islands. Although Türkiye is not a party to the Paris Peace Treaty, there is no rule in international law to prevent a State especially those whose rights and benefits are directly affected from demanding the proper application of an international treaty just like the 1947 Paris Peace Treaty that creates “objective regime”.

CONCLUSION

Greece has recently made a series of statements and attempts that has eventually created tension with Türkiye over the Aegean issues. While the statements contain strong accusations towards Türkiye, the attempts have been made through such accusations to establish a block of States that would be expected to put pressure on Türkiye in the bilateral issues between Türkiye and Greece.

The statements made by the representatives of the Greek government focus on the existing bilateral disputes through some legal distortions to argue that Türkiye violates international law on bilateral issues, acts aggressively and poses, therefore, a threat not only to Greece but to entire region.

A legal overview demonstrates that Türkiye’s statements and activities concerning the Aegean disputes simply aim at protecting, through legitimate methods, the rights granted to Türkiye by international law. Both Greece’s 10-mile-wide national airspace and the arming of the Eastern Aegean Islands are practices that Türkiye has constantly been objecting to for many years, declaring such practices as illegal and non-recognizable. Türkiye has also showed its non-recognition acting accordingly to show it in its practice.

Contrary to Greece’s arguments therefore, there is no shift in Türkiye’s long-lasting and well-established legal stance over the Aegean disputes when compared to the past stance. As these statements and practices are essentially based on clearly expressed legal grounds, they should and could not be considered as signs of aggression or threat directed towards Greece or any other country.

AEGEAN TENSION GREECE'S POLICY AND LEGAL DISTORTIONS

YÜCEL ACER

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Despite a new negotiation process initiated between Türkiye and Greece in January 2021, there has been a remarkable increase in anti-Türkiye statements of high-level Greek government representatives, especially following the Russia-Ukraine War. The Greek Government tried to label Türkiye as a “revisionist”, “illegal” and “aggressive” and based these claims on some of Türkiye’s statements and practices regarding especially the disputed issues in the Aegean Sea. A legal analysis shows that there has been no change in Türkiye’s current statements and actions relative to those that have been made for many years, and that Türkiye’s statements and practices are mainly based on clearly expressed legal grounds. It is clear that the statements and attempts of Greece to present Türkiye as a “state that violates the law” and to create an anti-Türkiye perception are of a political nature rather than a legal one.

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