"Hydrocarbon Exploration Activities in the Eastern Mediterranean" - Legal and Political Framework

Turkey’s Views and Opinions

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Eastern Mediterranean

Turkey’s and TRNC’s Off-Shore Activities
Turkish Flagged Drillship **FATİH** launched off-shore drilling operations on 3 May 2019

The drilling area (Finike-1) lies:
- 75 km (42 nm) off the west coast of the Island of Cyprus,
- within the TURKISH CONTINENTAL SHELF notified to UN
- within the licence areas granted to TP by the Turkish Government, published in the Turkish Official Gazette in 2009-2012

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Turkish Flagged Drillship **YAVUZ** launched off-shore drilling operations on 7 July 2019

The drilling area (Karpaz-1) lies:
- 20 km (11 nm) off the south of Karpaz Peninsula (TRNC)
- within TRNC territorial sea
- within the licence areas granted to TP by the TRNC Government in 2011
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TURKEY & TRNC & GC OFF-SHORE LICENCE AREAS

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OVERLAPPING MARITIME CLAIMS
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Turkey’s CS/EEZ

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Greek Cypriot CS/EEZ Claim
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Greek CS/EEZ Claim

How did it start?
Unilateral actions of GCs before the settlement of Cyprus Issue violating Turkey’s and TCs rights

2003 Delimitation Agreement with Egypt
- violated Turkey’s CS rights
- CYPRUS Issue violated TCs rights

2007 Delimitation Agreement with Lebanon
- CYPRUS Issue violated TCs rights

2010 Delimitation Agreement with Israel
- CYPRUS Issue violated TCs rights
A MARITIME BOUNDARY DELIMITATION AGREEMENT BETWEEN THE TWO STATES SHOULD NOT VIOLATE THE RIGHTS AND INTERESTS OF A 3RD STATE

The delimitation line in the agreement should be ended before it reaches the area of overlapping potential claim of a third state.

How did it start?

2003 Egypt-GC EEZ Agreement VIOLATED Turkey’s rights

2010 Israel-GC EEZ Agreement VIOLATED Lebanon’s rights
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**How did it start?**

**2006-2007**
Launched 2D-3D Seismic Surveys

**2007**
Draw off-shore blocks
Announced first licencing round

19 September **2011**
Started off-shore drilling

Turkey & TRNC objected all of these unilateral actions and asked GCs to cease their off-shore activities until the comprehensive settlement.

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**Turkey & TRNC reaction**

**TURKEY-TRNC**
CS Delimitation Agreement
21 September 2011

**TRNC**
Draw off-shore blocks - Licenced TP
22 September 2011
Turkey & TRNC reaction

TRNC COOPERATION
24 SEPTEMBER 2011

- Off-shore activities of TCs & GCs be ceased simultaneously until the settlement
- OR both sides should determine jointly the future course of off-shore oil/gas activities, including revenue sharing and funding of a possible settlement.

R/V Piri Reis conducted 2D Seismic Survey 27 Sept.-1 Nov 2011.
We express grave concern over Turkey’s announced intention to carry out drilling activities within the exclusive economic zone of Cyprus. This is an illegal action.

EU Statement - 5 May 2019
Turkish Drilling in Cypriot-Claimed Waters
.....offshore drilling operations in an area claimed by the Republic of Cyprus as its EEZ.....
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EU’s BIASED POSITION

Greek & GC Claim of EU marine waters

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attempt to make national claims as EU claims

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Does EU has any competence in delimiting maritime boundaries?

Can EU qualify Turkey’s off-shore activities illegal under international law?

What is the EU position vis-a-vis overlapping maritime jurisdiction claims between its members?

Can EU take the boundary claim of one side and try to impose it to the other?

The issue is about Maritime Boundary Delimitation in international law.

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EU solidarity to support national boundary claims ???

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17.09.2019
Turkey didn’t sign the 1982 LOS Convention.

- Aegean Sea was the primary reason for Turkey’s non-party status.
- UNCLOS does not secure adequately the right of coastal states in enclosed or semi-enclosed seas where special circumstances prevail.
- Article 3, 33 and 121 are the most problematic provisions of UNCLOS for Turkey.
- Turkey is a persistent objector to 12 NM territorial sea breadth in such seas.
- Many other provisions of the Convention constitute the customary international law and implemented by Turkey.
- UNCLOS does not allow a reservation system – Take it or Leave it approach.
### Maritime Zones

<table>
<thead>
<tr>
<th>COMPARISON</th>
<th>CONTINENTAL SHELF</th>
<th>EXCLUSIVE ECONOMIC ZONE</th>
</tr>
</thead>
<tbody>
<tr>
<td>LIMITS</td>
<td>200nm (350 nm)</td>
<td>200 nm</td>
</tr>
<tr>
<td>SOVEREIGN RIGHTS</td>
<td>Exploration and Exploitation of natural resources of Sea Bed &amp; Subsoil</td>
<td>Exploration and Exploitation of natural resources of Sea Bed &amp; Subsoil</td>
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<tr>
<td></td>
<td></td>
<td>Conserving &amp; Managing natural resources in the WATER COLUMN</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Energy Production (Wind, Current, Water)</td>
</tr>
<tr>
<td>NEED PROCLAMATION</td>
<td>NO (as initiates process)</td>
<td>YES</td>
</tr>
<tr>
<td>ARTIFICIAL ISLANDS, INSTALLATIONS AND STRUCTURES</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>FREEDOM OF NAVIGATION &amp; OVERLIGHT</td>
<td>✓ (Except for exploration and drilling vessels)</td>
<td>✓ (Except for exploration and drilling vessels)</td>
</tr>
<tr>
<td>RELAY OF LINES TO Landlocked (or biographically disadvantaged) States</td>
<td>X</td>
<td>✓</td>
</tr>
</tbody>
</table>

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### How to settle overlapping maritime claims

**What are the legal means of maritime boundary delimitation?**

**UN Charter – Article 33**

- Negotiation leading to treaty.
  - Conciliation
  - Arbitration.
- Adjudication at an international court or tribunal.

**Joint Development**

May be devised in the absence of agreed boundaries.
1. The delimitation of the exclusive economic zone between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.

2. If no agreement can be reached within a reasonable period of time, the States concerned shall resort to the procedures provided for in Part XV.

3. Pending agreement as provided for in paragraph 1, the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a practical nature and, during this transitional period, to facilitate or punctuate the final agreement. Such arrangements shall be without prejudice to the final delimitation.

4. Where there is an agreement in force between the States concerned, questions relating to the delimitation of the exclusive economic zone shall be determined in accordance with the provisions of that agreement.

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WHAT ARE THE FACTORS TO ASSESS WHETHER A MARITIME DELIMITATION LINE IS EQUITABLE OR NOT?

- A number factors may be taken into account. In bilatereal negotiations, there is no limit to the factors which States may take into account.

- As for the Courts, not all factors may be taken into consideration.

- Courts tend to take into consideration factors or circumstances which they have a direct bearing or directly relevant to the delimitation.
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jurisprudence on Maritime Boundary Delimitation

SPECIAL/RELEVANT CIRCUMSTANCES

GEOGRAPHICAL CIRCUMSTANCES
• Regional Geography ✔
  (including general characteristics and particular features of the region — ocean, enclosed, semi-enclosed sea etc.)
• Configuration of the Coasts ✔
  (including adjacency and oppositeness, direction comparative lengths, concave or convex shape)
• Basepoints ✔
  (including presence of ports, roadsteads, bays, river mouths, low tide elevations, reefs)
• The presence of Islands and rocks ✔
  (including their size and position in the context of general geographic configuration)

NON-GEOGRAPHIC CIRCUMSTANCES
• Geological and geomorphological factors ❓
• Economic factors ❓
  (hydrocarbon resources, fisheries)
• Navigation ❓
• Socio-economic and demographic factors ❌
• Defence and security ❓
• Environment ❓
• Historical rights ✔
• Presence of Third States ✔

OTHER FACTORS AFFECTING DELIMITATION
* Proportionality ✔
* Proximity ✔

The Role of Islands in Maritime Boundary Delimitation
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Treatment of Islands in Maritime Boundary Delimitation

Entitlement of Islands to CS/EEZ Areas and their effect to Maritime Boundary Delimitation are two different issues.

Islands in delimitation may be given no weight if they have distortive effect on equity.
In maritime boundary delimitation, islands may receive

- full effect
- partial effect (partial enclave)
- no effect (full enclave)

either through state practice or in international jurisprudence.

In delimitation cases, involving islands competing with mainland coasts, equitable delimitation takes into account non-encroachment, avoidance of cut-off effects, and the avoidance of disproportionate results.

There has been a sustained trend in international jurisprudence towards awarding islands a reduced effect in maritime boundary delimitation.

This has proved to be especially the case where such islands are located at a considerable distance offshore and opposed to mainland coasts as they would create a disproportionate impact.
Treatment of Islands in Maritime Boundary Delimitation

Some examples of jurisprudence and state practice where islands have received

a reduced effect or been partially or wholly enclaved or even completely ignored.

Cases - 1977-78 UK-France
CASES – 1982 Tunisia-Libya

CASES - 1985 Libya-Malta
CASES – 1992 Canada-France (St Pierre and Miquelon)

CASES – 1993 Denmark-Norway (Jan Mayen)
CASES – 1999 Yemen-Eritrea – Mixed

CASES – Qatar-Bahrain 2001
CASES – 2007 Nicaragua–Honduras

Cases – 2009 Romania-Ukraine
Cases – 2012 Nicaragua-Colombia

State Practice – 1969 Iran-Qatar Agreement
State Practice – 1971 Tunisia-Italy Agreement

State Practice – 1973 Canada-Denmark (Greenland)
State Practice – 1988 USSR-Sweden Agreement

Australian Islands as close as few miles to Papua New Guinea lying on the “wrong side”

SOLUTION

1978 Torres Strait Treaty
STATE PRACTICE – 1978 Papua New Guinea and Australia

- TS and CS boundary established
- Territorial sea limit fixed for 3NM
- Islands lying on the wrong side encalved
- Agreed on joint fisheries management
- Established a Joint Protection Zone

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Treatment of Islands in Maritime Boundary Delimitation

CONCLUSION
According to international law, as supported by these examples, there is no automaticity in claiming that islands generate full maritime jurisdiction areas.

Islands are ignored or given limited effect in maritime boundary delimitation if their location distorts equitable delimitation or if there are other special / relevant circumstances.

Based on international law, Turkey has made its position clear since 2004 and registered it in the UN.

Turkey is of the legal opinion that the Island of Cyprus in the west and the Greek Islands in the area including Castellozito cannot generate full EEZ/CS under international law as they distort the equitable delimitation.
Turkey’s CS/EEZ

Coastal Lengths:
- Turkey: 1,792 km
- Egypt: 1,062 km (Total)

Turkey: 969 km, Egypt: 850 km (West of Cyprus)
Does EU has any competence in delimiting maritime boundaries? **NO**

Can EU qualify Turkey’s off-shore activities illegal under international law? **NO**

Can EU take the boundary claim of one side and try to impose it to the other? **NO**

What is the EU position vis-a-vis overlapping maritime jurisdiction claims between its members? **Neutrality**

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**EU’s BIASED POSITION**

**EU solidarity to support national boundary claims??**

- Spain-France
- Slovenia-Croatia
- Malta-Italy
Maritime claims of EU members, violating the legitimate rights of 3rd countries cannot be portrayed as the external borders of the EU. That’s indeed the gross violation of international law.

Final maritime boundaries can only be determined through agreements (not violating 3rd parties’ possible boundaries) or through litigation. Overlapping maritime claims prevail in the absence of a settlement.

Greece’s &GC maritime claims are maximalist. They are based on the entitlement of islands to EEZ/CS.

Entitlement & Delimitation are not the same thing.

Islands may be ignored or given reduced EEZ/CS if their presence distorts equitable delimitation. This is a fundamental international law principle.

THE WAY AHEAD

- Overlapping Claims Agree to Disagree
- Bilateral MBD Agreements
- Joint Management Joint Development
- Third Party Solutions ICJ – Arbitration
Turkey is ready to launch maritime boundary delimitation talks with all the neighbouring countries except the Greek Cypriots.

Delimitation in the west of the Island should be effected after the comprehensive settlement of the Cyprus issue (Federal, Confederal or 2 state solution).

TCs’ equal rights as co-owners of the Island should be guaranteed NOW.

TCs’ 13 July 2019 cooperation proposal is on the table and a good basis for a solution.

DOĞU AKDENİZ

Joint Committee under UN auspices & facilitation – EU as observer
(2 reps + consensus + upon request of each side) + 2 independent experts

contractual rights of the oil companies shall be protected

agree on a revenue sharing percentage on all licence areas
joint decision on all future activities

JOINT HYDROCARBON TRUST FUND

TP to cease its activities on overlapping TC & GC licence areas unless agreed otherwise
TP will continue its survey and drilling activities in Turkey’s continental shelf.

TP will continue its survey and drilling activities in Turkey’s continental shelf unless the Turkish Cypriots’ equal rights over the off-shore resources are guaranteed.
Thank You