Policy Analysis

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Troubled Water in the Eastern Mediterranean. Turkey Challenges Greece and Cyprus Regarding Energy Resources

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Abstract: The conflict between Turkey on the one hand and Greece and Cyprus on the other was exacerbated when Turkey and Libya reached an agreement on the delimitation of maritime zones to explore and exploit energy resources in late 2019. The countries were on the brink of military confrontation. This was the latest climax of a longer period of conflict and mistrust, during which negative perceptions became more entrenched on all sides. Energy is globally high in demand but exploiting resources in the Mediterranean Sea at competitive prices is difficult. The international community has developed an ambitious Law of the Sea, but its interpretation is controversial. Compromises are needed to de-escalate. What might serve as a ‘bridge over troubled waters’ in the Eastern Mediterranean? The author comments on the available options.

Keywords: Turkey, Greece, energy resources, conflict, international law

Introduction

Energy resources are in great demand in the Eastern Mediterranean. Greece and Turkey have been at odds over this for more than 60 years, Cyprus and Turkey for around a decade. Other countries such as Libya, Israel and Egypt are also involved. Turkey does not hesitate to send its research vessels to undertake exploration work in maritime zones that are claimed by Greece or Cyprus. As Turkish exploration ships are escorted by warships, accidents or even the use of violence can no longer be ruled out. The situation recently became critical when Turkey and Libya concluded a memorandum on partitioning maritime zones, which conflicted with the boundary

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claims of Greece and Cyprus—the Greek navy was put on alert. The Turkish vice president, Fuat Oktay, has referred to the plan as a ‘casus belli’. While both Turkey and Greece are pursuing massive rearmament programmes, the Greek foreign minister, Nikos Dendias, has criticized Ankara for its strategy of ‘neo-Ottomanism’.

On the other hand, all actors involved in the stand-off have been sending signals of détente by expressing their willingness to initiate a dialogue. When the European Union (EU) discussed imposing sanctions on Turkey due to its activities and belligerent behaviour, Ankara ordered its seismic exploration vessel *Oruc Reis* to return to the port of Antalya: effectively playing cat and mouse with the EU. The question remains: What are the chances of settling the conflict peacefully and permanently? To be able to answer this, it is essential that we both take the historical background of this conflict into account and address the entrenched negative perceptions of the stakeholders. The provisions of the international Law of the Sea are important for both sides, but it comes as little surprise that interpretations differ significantly here. The irony could be that, ultimately, the energy resources in the Eastern Mediterranean prove to be of little value when not only economic and financial aspects but also initiatives to reduce greenhouse gas emissions are taken into consideration. The article concludes that strategies of deconflicting the opponents have the best chances of pacifying the situation.

Conflict History and Geopolitical Ambitions of an Isolated, but Combative Turkey

The current confrontation was triggered by two memoranda signed by Turkey and Libya on 27 November 2019.¹ The first memorandum demarcated the exclusive maritime zones of the two countries, while the second dealt with military cooperation, which, in essence, meant Turkish military assistance for the government of Libya. Once again, an old conflict was revived, which has its roots in the 1950s. On the one hand, the hostilities between the Greek and the Turkish communities in Cyprus have had a negative impact on the relationship between the ‘mother countries’ Greece and Turkey. On top of this, the exploitation of maritime resources also became an issue. In 1958, the United Nations convened in Geneva and concluded the Convention on the Continental Shelf. Greece ratified the treaty,

¹ Abdullah Bozkurt, Full Text of Turkey-Libya Maritime Agreement Revealed, *Nordic Monitor*, 5 December 2019, <https://www.nordicmonitor.com/2019/12/the-full-text-of-turkey-libya-maritime-agreement-revealed/>. The text of the agreement can be found here, too. All Internet references were accessed on 29 January 2021.

Turkey did not. In 1973, the Turkish government announced that it was going to start mineral oil exploration activities in the Aegean, which Greece claimed to belong to its own maritime zones. When Turkish ships began with their exploration work in 1974, Greece's armed forces were put on alert. The prospects of resolving the dispute with negotiations disintegrated when the Turkish army invaded Cyprus in 1974. This was the moment when the confrontation between Turkey, Greece and Cyprus over maritime rights in the Eastern Mediterranean became a permanent problem.

Returning now to the Turkish-Libyan memoranda: 'The Memorandum of Understanding between the Government of the Republic of Turkey and the Government of National Accord-State of Libya on Delimitation of the Maritime Jurisdiction Areas in the Mediterranean' defined the exclusive economic zones for each state. This provided the states with the exclusive right to exploit natural resources in these zones. Greece and Cyprus complained that the delimitation of the maritime zone was carried out at the expense of a third party, as, according to the memorandum, the maritime zones southeast of the Greek islands of Dodecanes and Crete were claimed by Turkey. Greece, however, argued that these regions belonged to its exclusive economic zone. Turkey had not consulted Greece and Cyprus, which it had been obliged to do as the borderlines overlapped.

The intercommunal conflict in Cyprus added another dimension of dispute and confrontation. In 2011, an agreement was reached between the leaders of the Turkish Cypriots and Turkey which empowered Turkey to carry out exploration work in the exclusive economic zone of Cyprus. This was rejected by the authorities of the Republic of Cyprus.² Nevertheless, Turkish vessels, escorted by warships, still started exploration activities.

Turkey's offensive should be seen as a reaction to the cooperation between several Mediterranean states. Greece, Cyprus, Israel, Lebanon and Egypt demarcated their exclusive economic zones in 2010, excluding Turkey. Based on this agreement, Cyprus authorized the U.S. company Noble Energy to start exploration activities in September 2011. The fact that Turkey was a 'latecomer' and isolated in the Mediterranean became evident when Greece, Cyprus, Israel, Egypt, Jordan and Palestine established the EastMed Gas Forum on 16 January 2020 with its headquarters located in Cairo. France officially requested to join, and the U.S. announced that it would be a permanent observer.³ In January 2020, Greece, Israel

² Cf. Heinz-Jürgen Axt, Zypern, in: Werner Weidenfeld / Wolfgang Wessels, eds, *Jahrbuch der europäischen Integration*, Baden-Baden 2012, 509–510.

³ Cf. France and US Request to Join East Mediterranean Gas Forum, *Middle East Monitor*, 17 January 2020, <https://www.middleeastmonitor.com/20200117-france-and-us-request-to-join-east-mediterranean-gas-forum/>.

and Cyprus signed a joint agreement to launch an East Mediterranean pipeline to pump gas to Europe, via the Eastern Mediterranean. Although it is questionable whether such a pipeline is a realistic project, it makes clear that Turkey is excluded from the increased collaboration between the Mediterranean states.

However, being isolated does not mean that Turkey abstains from having a geopolitical agenda. Quite the contrary, Turkey has an offensive agenda with two objectives. The first is to secure access to resources, even in maritime zones that are claimed by other states. The second is to establish Turkey as a regional power.

Turkey's objectives with respect to exclusive economic zones were made clear in the Turkish-Libyan memorandum on maritime zones. President Erdoğan revealed those objectives when he appeared in front of a map showing the so-called 'Blue Homeland' of Turkey, depicting nearly half of the Aegean Sea and an area that spread up to the eastern coast of Crete as belonging to Turkey. The photo was taken on 2 September 2019, a day on which Turkey was commemorating its victory in the war against Greece in 1922. The 'Blue Homeland' doctrine (*Mavi Vatan*) was first designed in June 2006 by admiral Ramazan Cem Gürdeniz, who was an advocate of an expansive, nationalist vision of Turkish power.⁴

The second memorandum between Turkey and Libya, dealing with military assistance, reveals that Turkey's ambitions go beyond relations with its direct neighbours to the west (Greece) and to the south (Cyprus). The northern parts of Syria and Iraq, as well as parts of Armenia/Azerbaijan and Georgia, are areas Turkey claims to have a major influence on. Furthermore, Turkish engagement in the Nagorno-Karabakh conflict is the latest example of a more provocative Turkish policy.⁵ Besides Russia, Turkey can also be called a 'winner' of that conflict.⁶ To define their geopolitical role, Turkish nationalists, but also their critics, use the term 'neo-Ottomanism', while others prefer the term 'regional power'.

The 'Memorandum of Understanding between the Government of the Republic of Turkey and the Government of National Accord-State of Libya on Security and Military Cooperation' can be seen as reciprocating Libya's support of Turkey's

⁴ Cf. Kareem Fahim, Amid Mediterranean Tensions, Retired Turkish Admiral Grabs the Spotlight Touting Supremacy at Sea, *Washington Post*, 27 September 2020, https://www.washingtonpost.com/world/middle_east/turkey-greece-blue-homeland/2020/09/26/15cf7afe-fc3b-11ea-830c-a160b331ca62_story.html.

⁵ Cf. Daria Isachenko, Türkei-Russland-Partnerschaft im Krieg um Bergkarabach. Militarisierte Friedensstiftung mit Folgen für die Konfliktrtransformation, Stiftung Wissenschaft und Politik, SWP-Aktuell no. 88, November 2020, https://www.swp-berlin.org/fileadmin/contents/products/aktuell/2020A88_Isachenko_BergKarabach_WEB.pdf.

⁶ Cf. Tomasz Koniecz, Die Hauptgewinner sind die Türkei und Russland, *Telepolis*, 14 November 2020, <https://www.heise.de/tp/features/Die-Hauptgewinner-sind-die-Tuerkei-und-Russland-4960342.html?seite=all>.

intentions to demarcate the maritime zones in the Mediterranean. Turkey's assistance for the government of prime minister Fayeز Mustafa al-Sarraj comprises military training, goods and services. In January 2020, the British newspaper *The Guardian* reported that Turkey had relocated 35 military advisers and 2,000 Syrian rebels to Libya to fight against field marshal Khalifa Belqasim Haftar, a warlord and the commander of the Tobruk-based Libyan National Army. According to the media coverage, Turkish support seems to have been successful: Haftar's assault on Libya's capital Tripoli collapsed.⁷

The Role of Enemy Stereotypes

In accord with the doctrine of 'Blue Homeland', the Turkish president issued statements revealing his support for a revisionist strategy. In a speech delivered in September 2016, Erdoğan called the 1923 Treaty of Lausanne a defeat for Turkey. This treaty ended the conflict between the Ottoman Empire and the allies and established today's border between Turkey and Greece. 'In Lausanne we gave away islands to Greece that were just (a) shout away. Is this victory? They tried to trick us into believing that Lausanne was a victory. Those who sat at that table did not do right by that treaty. Now we are suffering the consequences,' Erdoğan said.⁸ The president's words were welcomed by Turkish nationalists and especially by his coalition partner from the far-right Nationalist Movement Party (*Milliyetçi Hareket Partisi*). Erdoğan's intention, in light of the pressure he is under due to the weak Turkish economy, was to foster domestic consumption. The Turkish lira was devalued by 60 percent against the euro in the first 10 months of 2020.⁹ In any case, the outrage in the neighbouring countries was tremendous.

Statements like those made by the Turkish president should be interpreted with a view to mutual enemy stereotypes in Greece and Turkey. Greece's collective memory can be characterized as follows: Nation-building in modern Greece involved a battle against the Ottomans occupying Greek territory. When Constantinople was conquered by Sultan Mehmed II and his troops in 1453, the Byzantine Empire collapsed. What followed is perceived as four centuries of

7 Cf. Aidan Lewis, Down but Not Out, Haftar Still Looms over Libya Peace Process, *Reuters*, 24 September 2020, <https://www.reuters.com/article/uk-libya-security-analysis/down-but-not-out-haftar-still-looms-over-libya-peace-process-idUKKCN26F2VY>.

8 Quoted in Abdullah Bozkurt, Erdoğan's Secret Keeper Says Lausanne Treaty 'Expired'. Turkey Free to Grab Resources, *Nordic Monitor*, 24 February 2020, <https://www.nordicmonitor.com/2020/02/erdogans-secret-keeper-says-lausanne-treaty-invalid-turkey-free-to-grab-resources/>.

9 Cf. Rainer Hermann, Der Schwiegersohn als Sündenbock, *Frankfurter Allgemeine Zeitung*, 10 November 2020.

Ottoman bondage. For the Greeks, striving for freedom and national sovereignty meant fighting the Ottomans. However, something that is little known is that people on the Greek peninsula learnt to accommodate and adapt to the Ottoman rule, achieving limited autonomy, especially by creating arbitrators between the Ottoman rulers and the people.¹⁰ Since the textbooks in Greek schools concentrate on the ‘Ottoman slavery’, the spirit of the modern Greek state is permeated with anti-Ottoman and anti-Turkish sentiment. Media and academic circles addressing Greek-Turkish relations tend to adopt the ‘national perspective’, but the same can be said with respect to Turkey.

What is perceived as a struggle for freedom and independence on the Greek side is seen as a succession of defeats on the Turkish side.¹¹ The self-conception of modern Greece, i.e. a national identity that is based, to a large extent, on the Hellenic and Byzantine past in Asia Minor, puts the cat among the pigeons in Turkey. The successful struggle against the Ottoman yoke gave modern Greece the chance to expand its territory more and more. The modern Turkish Republic owes its existence, among other things, to a war of independence against Greek occupying troops in western and central Anatolia. The territorial expansion of modern Greece substantiated the ‘Great Idea’ (*Megali Idea*) as an irredentist concept to revive the Byzantine Empire. Greece annexed the Ionian Islands (Treaty of London, 1864), Thessaly (Convention of Constantinople, 1881), Macedonia, Crete, (southern) Epirus and the Eastern Aegean Islands (Treaty of Bucharest, 1913), and Western Thrace (Treaty of Neuilly, 1920). Despite the end of the *Megali Idea* project in 1922, when the Turkish Republic was founded, the Greek state continued to expand. In 1947, the Dodecanese was attributed to Greece by the Treaty of Peace with Italy. Hence, the territorial expansion of modern Greece—especially in the Aegean—created the basis for Greece’s claims to exploit the resources up to the median line between the Eastern Greek islands and the Turkish coast. Additionally, the fact that the small island of Kastellorizo was handed over to Greece in 1947 legitimizes a further claim on a greater maritime zone south of Turkey (see Figure 1). While it would certainly be too simplistic to reduce the mistrust between Greece and Turkey to the collective memories sketched out here, there should be no doubt that negative images, reinforced in schools, by the media and academics in both countries, can be revived and political leaders persuaded to employ them to consolidate their position.

¹⁰ Cf. the classic by Keith Legg, *Politics in Modern Greece*, Stanford 1969.

¹¹ Cf. Heinz Kramer, *A Changing Turkey. The Challenge to Europe and the United States*, Washington/D.C. 2000, 163–165.

Energy in the Eastern Mediterranean – Worthless Resources?

In December 2011, the U.S. company Noble Energy discovered some seven trillion cubic feet of natural gas southwest of Cyprus. It was predicted that this would provide Cyprus with electricity for about two hundred years and the EU would also benefit from the new source of energy, at the same time reducing its dependency on Russian gas.¹² A report issued by the U.S. Geological Survey (USGS) in 2010 estimated that the Levant Basin offers a mean of 1.7 barrels of recoverable oil and 122 trillion cubic feet of recoverable gas.¹³ However, resources are not the same as reserves. *Resources* are defined as quantities of gas and oil which exist, but cannot (yet) be exploited by the available technical means or are not (yet) economically exploitable. *Reserves* are sources which can be exploited under the existing technical and economic conditions. Taking this distinction into account, there is considerable evidence that the aforementioned assumed quantities of gas and oil in the Mediterranean should be defined as resources rather than as reserves.

The limitations of exploiting gas and oil resources became evident when in 2015 the French company Total and the Italian ENI did not detect the sources of natural gas they had hoped to find. The U.S. enterprise Noble Energy discovered a deposit but was forced to acknowledge that exploitation would not be profitable. The liquefied natural gas (LNG) project was abandoned. All in all, there are at least four obstacles to exploiting gas and oil in the Mediterranean: *First*, if conflicts between the Mediterranean states prevail, investment is regarded as too risky. Companies plan energy projects for decades, not years, and their investment needs stable conditions, both from a political and legal perspective. Conflicting states, challenging warships and military aircraft, and perhaps even the use of weapons discourages business. *Second*, it is questionable whether the price for oil and gas from the Eastern Mediterranean will be competitive. As long as there is a lack of competitiveness, it does not make sense to start exploitation, even if technical challenges turn out to be surmountable. The experiences of Total (France), ENI (Italy) and Noble Energy (U.S.) questioned economic feasibility and thus made enterprises more reluctant to start investing. *Third*, the production of gas and oil in the Eastern Mediterranean will be more profitable if Cyprus and Greece are not the

¹² Cf. Julia Damianova, The Coming Mediterranean Energy War, *The National Interest*, 13 February 2012, <https://nationalinterest.org/commentary/new-energy-the-eastern-mediterranean-6494>.

¹³ Cf. Christopher J. Schenk et al., Assessment of Undiscovered Oil and Gas Resources of the Levant Basin Province, Eastern Mediterranean, U.S. Geological Survey Fact Sheet 2010–3014, 12 March 2010, <https://pubs.usgs.gov/fs/2010/3014/>.

only consumers, but if energy is sold on markets across Europe. However, it is doubtful whether consumption in Europe will increase and whether there will be demand for new fossil energy, especially in light of the EU's climate targets. With the 2030 Climate Target Plan, the Commission aims to reduce greenhouse gas emissions by 2030 to at least 55 percent below 1990 levels.¹⁴ Policymakers and investors are warned not to start with investments as the utilization of fossil energy sources will be reduced significantly in the near future. *Fourth*, two alternatives are under discussion when it comes to supplying Europe with this energy: either transport of LNG or use of pipelines—but both LNG and pipelines would result in higher prices than current imports from Russia. Today, Europe has diversified supplies, receiving most of its gas through pipelines from Russia, Norway, Algeria and Libya and by LNG from Qatar, Nigeria, the U.S. and elsewhere. Energy security is no longer considered to be a problem within the EU. Two new gas pipelines are about to be completed, Nord Stream 2 from Russia to Germany and TurkStream 2 from Russia through Turkey to Southeastern Europe. Additionally, Russia's Gazprom offers its gas at prices that Eastern Mediterranean gas cannot compete with, even remaining profitable when prices drop. Therefore, as Charles Ellinas concludes, the 'signing of the EastMed gas pipeline inter-governmental agreement is undoubtedly a major political success story. But market and price developments make it difficult for the EastMed to compete and secure gas sales to Europe. It may yet prove to be more of a pipedream than a pipeline.'¹⁵

The International Law of the Sea

The community of states developed international law with respect to the exploitation of maritime resources with the 1958 Convention on the Continental Shelf and the 1982 United Nations Convention on the Law of the Sea (UNCLOS III). Four issues are of importance in regard to the conflict in the Eastern Mediterranean: the definition of the continental shelf, the delimitation of the exclusive economic zones, special regulations concerning the islands and the principle of the median line. Additionally, procedures must be taken into account when states' aspirations are at odds.

¹⁴ Cf. European Commission, 2030 Climate Target Plan, https://ec.europa.eu/clima/policies/eu-climate-action/2030_ctp_en.

¹⁵ Charles Ellinas, Changing Priorities Threatens Viability of EastMed Gas Pipeline, *Cyprus Mail*, 6 January 2020, <https://cyprus-mail.com/2020/01/06/changing-priorities-threatens-viability-of-eastmed-gas-pipeline/>.

The ‘continental shelf’ is defined by the respective Convention as follows: The term is used

‘referring (a) to the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 m or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas; (b) to the seabed and subsoil of similar submarine areas adjacent to the coasts of islands [...]. The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.’¹⁶

The 1982 UNCLOS III confirmed what had been stipulated by the 1958 Convention.¹⁷ Greece is a contracting state of both conventions, but Turkey neither signed nor ratified these treaties.

The right of a state to exploit maritime resources is regulated by UNCLOS III. Here, the delimitation of the *exclusive economic zone* is of importance. In this zone, the coastal state has sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources. Referring to Article 57, the ‘exclusive economic zone shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured’. As mentioned earlier, the delimitation of exclusive economic zones divides Greece and Turkey, on the one hand, and Cyprus and Turkey, on the other. Sometimes the exclusive economic zone is confused with the term ‘territorial sea’. The difference is that the territorial water confers full sovereignty over the waters, whereas the exclusive economic zone refers to the coastal state’s rights below the surface of the sea. Here, Greece and Turkey are at odds too, as Greece has delimited its territorial sea to six miles around its islands but reserves the right to extend this to 12 miles. Article 3 of UNCLOS III gives every state ‘the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines determined in accordance with this Convention’. If Greece were to extend its territorial waters to 12 miles, it would be a ‘casus belli’ for the Turkish side, as the Aegean would become a ‘Greek sea’. Turkish ships would have to pass Greek territorial waters if they wanted to enter the Mediterranean, and Turkish warships would no longer be able to exercise in international waters without passing Greece’s territorial waters first.¹⁸

¹⁶ United Nations on the Law of the Convention on the Continental Shelf, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XXI-4&chapter=21&clang=_en.

¹⁷ Cf. Article 77 of the United Nations Convention on the Law of the Sea of 10 December 1982, https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf.

¹⁸ Cf. in detail, Heinz-Jürgen Axt / Heinz Kramer, *Entspannung im Ägäiskonflikt? Griechisch-türkische Beziehungen nach Davos, Baden-Baden 1990*, 24–27.

As far as the rights of *islands* are concerned, here too the positions occupied by Greece and Turkey come into conflict. Greece argues that islands have the same rights as mainland territory. Therefore, Greece's exclusive economic zones are fixed between the Greek islands in the East of the Aegean and the Turkish mainland territory. Turkey disagrees with this, arguing that even though UNCLOS III in principle allocates the same rights to islands as to mainland territory, these rights cannot be claimed in the extraordinary situation of the Eastern Mediterranean. The Greek islands as well as the island of Cyprus cannot have the same exclusive economic zones as land territory, as they are based on the continental shelf of the Anatolian mainland. The rights of islands are clearly defined in UNCLOS III: 'Except as provided for in paragraph 3, the territorial sea, 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.'

The last item addresses the delimitation of the continental shelf between states with opposite or adjacent coasts. This is highly relevant for the situation in the Aegean, but also for the delimitation stipulated in the Turkish-Libyan Memorandum. Article 6 of the Convention on the Continental Shelf sets out that in such a situation the principle of the *median line* should be applied. In cases when states do not agree by contract, 'the boundary line is the median line, every point of which is equidistant from the nearest point of the baselines from which the breadth of the territorial sea of each State is measured'. The Continental Shelf Convention as well as UNCLOS III obligate states with opposite or adjacent coasts to conclude an agreement on the basis of international law. The intention is to achieve an *equitable* solution. Article 59 of UNCLOS III stipulates:

'In cases where this Convention does not attribute rights or jurisdiction to the coastal State or to other States within the exclusive economic zone, and a conflict arises between the interests of the coastal State and any other State or States, the conflict should be resolved on the basis of equity and in the light of all the relevant circumstances, taking into account the respective importance of the interests involved to the parties as well as to the international community as a whole.'

Obviously, the Law of the Sea allows various interpretations. From the Greek perspective, the principle of a median line is favoured to justify the delimitation of exclusive economic zones between the Greek islands in the Eastern Aegean and the Turkish mainland. Greece also argues that Turkey applied the median line principle when it concluded the memorandum on maritime zones with Libya. On the other hand, Turkey attaches importance to an equitable solution and argues that the Greek interpretation of maritime zones ignores the fact that Turkey, as the

country with the longest coastline of the Eastern Mediterranean, is disadvantaged by the Greek delimitation of exclusive economic zones.

As Turkey did not sign UNCLOS III and continues to be a persistent objector against the principles of that convention, an argument regularly used by the Turkish government is that Turkey is not bound by the rules of UNCLOS III to delimit maritime zones.¹⁹ The contradictory position is that Turkey used the median line principle when it unilaterally proclaimed a 200 sea mile exclusive economic zone in the Black Sea at the end of 1986, when it concluded the continental shelf delimitation agreement with Northern Cyprus in September 2011, and when it signed the memorandum with Libya in November 2019.²⁰ Consequently, Turkey is bound by customary law.

Turkey, Kastellorizo and Cyprus

From the Turkish perspective, it is unacceptable for Greek islands west and south of the Turkish mainland to have a continental shelf and exclusive economic zones of their own, as it limits Turkey's opportunities to exploit natural resources. The tiny Greek island of Kastellorizo is located just 3 km south of Turkey's coastline, while the nearest Greek territory, the island of Rhodes, is 125 km away. The permanent population of Kastellorizo comprises 300, predominantly Greek inhabitants. The island was conquered by the Ottomans in 1512, assigned to Italy in 1921 and came under Greek administration in 1947 (Treaty of Paris), when the victors of the Second World War effected territorial changes: Greece was among the victorious powers, Turkey was not.²¹

As shown in Figure 1, the Greek island of Kastellorizo has considerable influence when it comes to delimitating the Turkish exclusive economic zone, at

19 Cf. Riza Türmen, *Whose Sea? A Turkish International Law Perspective on the Greek-Turkish Disputes*, Institut Montaigne Blog, 19 October 2020, <https://www.institutmontaigne.org/en/blog/whose-sea-turkish-international-law-perspective-greek-turkish-disputes>.

20 Cf. Petros Siousiouras / Georgios Chrysochou, *The Aegean Dispute in the Context of Contemporary Judicial Decisions on Maritime Delimitation*, *Laws* 3, no. 1 (2014), 12–49, <https://doi.org/10.3390/laws3010012>. Cf. also the statement of Nele Matz-Lück, director of the Walther Schücking Institute for International Law at the University of Kiel, in Panagiotis Kouparanis, *Wie legitim sind türkische Ansprüche im Mittelmeer?*, *Deutsche Welle*, 20 July 2020, <https://www.dw.com/de/t%C3%BCrkei-griechenland-streit-um-seegebiete-%C3%B6lbohrungen-kreta-geopolitik/a-54248305?maca=de-EMail-sharing>.

21 Article 14 of the Paris Peace Treaty reads as follows: 'Italy hereby cedes to Greece in full sovereignty the Dodecanese Islands [...] and Castellorizo, as well as the adjacent islets. These islands shall be and shall remain demilitarised.' The text of the Treaty of Peace with Italy can be found at <https://www.loc.gov/law/help/us-treaties/bevans/m-ust000004-0311.pdf>.

least seen from the Greek point of view. First, Kastellorizo cuts Turkey's exclusive economic zone in half, securing an exclusive economic zone of 40,000 square kilometres for Greece. Second, the island affiliates Greece's exclusive economic zone to the Cypriot one. This is seen to be of importance from an economic viewpoint but at the same time also has a security facet.²² It cannot be ruled out that, in the event of a military conflict, Turkey would occupy Kastellorizo and use it as a bargaining chip in subsequent negotiations. It must be borne in mind that President Erdoğan questions the sovereignty of some Greek islands and refers to 'grey zones' in the Aegean: there are still old scores to settle in the Eastern Mediterranean.

Figure 1: Solid line: Exclusive Economic Zone as claimed by Greece. Dashed line: Exclusive Economic Zone as claimed by Turkey ('Blue Homeland').

Source: Courtesy of the author.

For negotiations and compromises to have any prospect of success at all, both parties have to rescind their maximalist positions. Turkey has to stop making

²² Cf. Jack Dulgarian, Kastellorizo Is the Key to Turkish & Greek Ambitions in the Eastern Mediterranean, *Global Security Review*, 29 July 2020, <https://globalsecurityreview.com/kastellorizo-key-to-turkish-greek-ambitions-eastern-mediterranean/>; Niels Kadritzke, Eskalation im östlichen Mittelmeer, *Le Monde Diplomatique*, Blog Griechenland, 11 September 2020, https://monde-diplomatique.de/shop_content.php?coID=100162.

revisionist statements and should refrain from concluding agreements with third parties that exclude Greek islands such as Crete from having a continental shelf and an exclusive economic zone, as was the case when Turkey signed the memorandum with Libya in 2019. On the other hand, Greece should acknowledge that Turkey, as the country with the longest coastline in the Eastern Mediterranean, should have a maritime zone commensurate with its coastline. Athens should cease its claim that the tiny island of Kastellorizo deprives Turkey from having an adequate exclusive economic zone. The aforementioned principle of equity, as described in Article 59 of UNCLOS III, should be respected.

The disagreement between Greece and Turkey cannot be understood without including Cyprus in the equation. Turkish research vessels undertake exploration work in areas southwest of the island which are declared to belong to the exclusive economic zone of the Republic of Cyprus. Cyprus and Greece have responded to this by jointly condemning Turkey's research activity as 'illegal', and both Athens and Nicosia are urging their partners in the EU to take action against Turkey and impose sanctions. When, in summer 2011, the Republic of Cyprus announced that it had approved the U.S. company Noble Energy to start exploration activity in an area south of the island, Turkey reacted by concluding an agreement and starting exploration on behalf of the Turkish Cypriots.²³ The agreement stipulated an original continental shelf and an exclusive economic zone of 200 miles for Northern Cyprus. Turkish warships were sent into the disputed area. Turkey argued that it was acting in the interest of the Turkish Cypriots as long as there was no agreement between Greek and Turkish Cypriots on the apportionment of profits from natural resources. In November 2020, Turkey presented a proposal to the Cypriot government to organise an Eastern Mediterranean conference with the participation of the Turkish Cypriots. This proposal as well as the idea of an intercommunal contract to apportion profits from the maritime resources was rejected by the authorities of the Republic of Cyprus, as they claim to legitimately represent the whole of the island as the only government that is diplomatically recognized by the community of states.²⁴ The distribution of profits from resources in maritime zones should be deferred to a point in the future when the two communities are reunited within a common state. As a result, disputes over natural resources in the Eastern Mediterranean have been exacerbated by the unresolved Cyprus question.

²³ Cf. Axt, Zypern.

²⁴ Cf. Heinz-Jürgen Axt, Cyprus. Conflict Resolution through Europeanization? Most Recent Experiences and Perspectives, *The Cyprus Review* 21, no. 2 (2009), 69–89.

Scenarios of Conflict Resolution

Scenarios of a potential conflict resolution must bear in mind that Turkey prefers political negotiations, whereas Greece insists on legal principles. Compromise was acknowledged as inevitable, so experts from both countries held numerous meetings and detailed discussions about what the essence of a compromise could be. Instead of recapitulating these discussions, I focus here on which procedures would be appropriate. As members of the EU, Greece and Cyprus have been insistently urging the Union to impose sanctions on Turkey. On 11 December 2020, the European Council considered the situation in the Eastern Mediterranean and criticized Turkey for engaging in unilateral actions and provocations as well as escalating its rhetoric against the EU. Given the EU's strategic interest in the development of a cooperative relationship with Turkey, it offered a positive EU-Turkey agenda which could cover the areas of economy and trade, people-to-people contacts, high-level contacts and continued cooperation on migration issues. The substantive decisions regarding Turkey, which Greece and Cyprus had expected, were postponed. Without using the term 'sanction', 'restrictive measures' were announced for discussion at the Summit of Heads of States and Governments in March 2021. It was agreed that 'additional listings' would be imposed should Turkey continue with unauthorized drilling activities in the Eastern Mediterranean. Since February 2020, the vice-president of the Turkish Petroleum Corporation and the deputy director of its exploration department have been on an EU sanctions list. Individuals and companies involved in planning and implementing the gas exploration could be penalized with travel bans into the EU and asset freezes,²⁵ but the EU did not consider tougher sanctions in economic sectors such as tourism, or an arms embargo. Erdoğan reacted by stating 'that any decision to impose sanctions against Turkey won't be of great concern'.²⁶ So what are the pros and cons of sanctions? And what are the alternatives?

On the one hand, EU sanctions intend to stop Turkey continuing provocative activities in the disputed maritime zones, which could result in the use of military action. On the other hand, such sanctions must be based on clear-cut objectives. Sanctions that would initiate negotiations and lead to a substantial compromise would be welcomed but are seen as rather optimistic. It became evident that the EU had not made the decision regarding sanctions as one homogeneous entity. Greece

²⁵ Cf. European Council, European Council Meeting (10 and 11 December 2020) – Conclusions, Brussels, 11 December 2020, 11, <https://www.consilium.europa.eu/en/press/press-releases/2020/12/11/european-council-conclusions-10-11-december-2020/#>.

²⁶ Cf. EU Leaders Back Sanctions on Turkey over Gas Drilling, *Deutsche Welle*, 11 December 2020, <https://www.dw.com/en/eu-leaders-back-sanctions-on-turkey-over-gas-drilling/a-55900747>.

and Cyprus, supported by France, Luxembourg, Ireland, the Czech Republic, and Austria, were emphatic about imposing sanctions on Turkey. Cyprus had even threatened to veto sanctions on Belarus should sanctions on Turkey not be approved. All seven of the parliamentary groups in the European Parliament supported strict measures, including prohibiting the export of military hardware and suspending the customs union with Turkey. On the other side, however, countries like Germany, Italy, the Netherlands, Sweden, Finland, and Spain played a more balanced role, wanted to give diplomacy a chance and avoid escalating the conflict. Although it must be conceded that the EU does not follow a long-term strategy with regard to Turkey, the channels for managing issues with it should be kept open. It was reported that German Chancellor Angela Merkel tried to dissuade the French president from imposing strict sanctions on Turkey as she felt it would push Turkey even closer to Russia and China.²⁷ Merkel had telephone conversations with the Turkish president Erdoğan and the Greek prime minister Kyriakos Mitsotakis, and it was reported that both were willing to start negotiations. Therefore, in July 2020, diplomatic advisers from Germany, Greece and Turkey held a confidential meeting in Berlin. However, when Greece concluded an agreement with Egypt on maritime zones in August 2020, Erdoğan announced that he was no longer willing to participate in the process.²⁸

As a consensus is needed to approve sanctions, the heterogeneous positions of the member states weakened the EU's impact on Turkey. Proposals that the EU should suspend the accession process with Turkey, as put forward by France and Austria, did not find sufficient support. Although there is no prospect of Turkish accession within a predictable timeframe, both the EU and Turkey find the accession-based framework politically convenient for managing issues such as migration, trade and security.²⁹ Although the EU cannot ignore Turkey challenging two of its member states, it would like to avoid long-term alienation. While the EU feels obliged to demonstrate solidarity with Greece and Cyprus, it does not want to

27 Cf. PM Notes Steps Taken Amid Macron Turn, *ekathimerini.com*, 12 December 2020, <https://www.ekathimerini.com/260201/article/ekathimerini/news/pm-notes-steps-taken-amid-macron-turn>.

28 Cf. George N. Tzogopoulos, It Is Hard to Envisage a Shared Future for the Eastern Mediterranean without a Solution to the Cyprus Question, in: From Escalation to Normalisation, Konrad-Adenauer-Stiftung Policy Paper, September 2020, 2–5, https://www.kas.de/documents/283907/10194850/KAS_PolicyPaper_From+escalation+to+normalisation.pdf/66856988-a717-cbb9-5cfb-44af31512a35?version=1.0&t=1601118414539.

29 Cf. Max Hoffmann / Michael Werz, The Effects of a Suspension of Turkey's EU-Accession Process, study commissioned by the Stiftung Mercator, September 2019, https://www.stiftung-mercator.de/media/downloads/3_Publikationen/2019/2019_09/The_effects_of_a_suspension_of_turkey_s_EU_accession_process_study.pdf.

be drawn into the conflict with Turkey. The conviction that not only Turkey, but also Greece and Cyprus must follow concessionary policies is widely held in the EU. If the EU backs Greece and Cyprus, it might have a positive impact on people in both countries by strengthening the feeling of security and the readiness to enter into negotiations with Turkey.

The impact of the sanctions is limited to symbolic nature. Sanctions manifest solidarity among member states, but do not weaken the Turkish economy. They are also unlikely to result in detrimental economic effects on the EU. It is hard to predict whether the sanctions will achieve the desired objectives and persuade Turkey to refrain from belligerent rhetoric as well as exploration in the disputed areas in the future. And it is even harder to answer the question whether the EU will make use of stricter sanctions if the current measures do not achieve their objectives. As argued earlier, it seems unlikely that the EU will discontinue Turkey's accession process. Finally, the EU must take into account what the potential domestic reactions in Turkey could be: In view of the prevailing Euroscepticism in Turkey, it cannot be excluded that the position of the Turkish government would become more intransigent, especially in times when the economy is weak.

As carrots and sticks are frequently used in the realm of politics, the question arises as to which incentives could complement the sanctions. Measures such as deepening the customs union or granting visa-free travel for Turkish citizens to Europe would be appreciated by Turkey, but would be disliked by most EU member states. A pledge to speed up the accession process would neither find support among EU members, nor would Turkey trust such a promise. As polls have shown, nearly 75 percent of Turkish citizens do not believe that Turkey is going to become an EU member state in the next few decades.³⁰

To sum up: There are reasonable arguments supporting the belief that sanctions miss the objective of correcting the attitude of a state and that, on the contrary, they can in fact lead to the situation becoming more entrenched. The German minister for economic affairs and energy, Peter Altmaier, stated recently that no case is known to him of sanctions having achieved the intended target.³¹ But this is only half the truth. Two dimensions need to be distinguished here: the internal and the external one. As far as the *internal* function of sanctions is concerned, the EU had to react to Turkey's provocations even though it is not obliged to follow the legal argumentation of its members in every respect. However, the EU

³⁰ Cf. Hüseyin Bağcı, Turkey Relies on Germany as a 'Balancer', in: Konrad-Adenauer-Stiftung, From Escalation to Normalisation.

³¹ Minister Peter Altmaier, quoted in EU Threatens Turkey with Sanctions over Mediterranean Drilling, *Deutsche Welle*, 28 August 2020, <https://www.dw.com/en/eu-turkey-sanctions-mediterranean/a-54746538>.

should also take arguments that Turkey should have a fair share of maritime zones in the Eastern Mediterranean into consideration, as this view is based on the legal principle of equity. This must not weaken the idea of solidarity, as it is one of the core values of the EU, and member states ought to be able to rely on that principle. A second argument should be taken into account: The EU has to send a signal about what is acceptable and what is not. This is important both for external actors but also for citizens within the EU, especially since the EU treaties established a Union citizenship.

Looking at the *external* dimension: sanctions do indeed have limited effectiveness in terms of achieving what the intended objectives are. A government sanctioned by the EU will not only consider demands of the Union but must also take into account the reactions of its own citizens, of political competitors, of the media, of the economy, and so forth. In cases where nationalist sentiments play an important role, governments can easily be accused of ‘national betrayal’. This applies to the case of the disputes in the Eastern Mediterranean. As a result, the sanctions not only fail to meet their target but become even counterproductive, as they reinforce the unwanted behaviour of the addressee of the sanctions. In the case of the Mediterranean dispute, all Turkish parties except the pro-Kurdish Peoples’ Democratic Party (*Halkların Demokratik Partisi*, HDP) rally around president Erdoğan. Obviously, using sanctions means being caught between a rock and a hard place. The dilemma led to the EU considering sanctions on Turkey but ultimately opting for rather weak ones. Whether the U.S. sanctions on Turkey due to the purchase of the Russian S-400 air-defence system will have a bigger impact remains to be seen.³²

The fact that the EU held discussions regarding sanctions on Turkey had consequences. Ankara sent a signal that it was willing to improve relations with the EU and to start bilateral discussions with Greece. Exploratory contacts (not negotiations) between Greek and Turkish experts resumed on 25 January 2021 in Istanbul. Contacts had been discontinued in 2016 after 60 rounds of talks. The next meeting has been scheduled for March 2021 in Athens.³³ Already at the very start of the contacts, both Greece and Turkey emphasized their insistence on maintaining long-standing antagonistic positions. Greece demanded that the demarcation of maritime zones be the only matter up for discussion, while Turkey

³² Cf. The United States Sanctions Turkey Under CAATSA 231, U.S. Department of State, Press Statement of Michael Pompeo, Secretary of State, 14 December 2020, <https://www.state.gov/the-united-states-sanctions-turkey-under-caatsa-231/>.

³³ Cf. Costis P. Papadiochos, Exploratory Contacts Resume with Low Expectations, *ekathimerini.com*, 24 January 2021, <https://www.ekathimerini.com/261593/article/ekathimerini/news/exploratory-contacts-resume-with-low-expectations>.

wanted a whole range of issues on the table, including maritime zones, territorial waters, airspace, jurisdiction, demilitarization of Greek islands, ‘grey zones’ (islands in the Aegean with disputed ownership) and even the rights of Greece’s Muslim minority in Thrace. Turkey’s willingness to start discussions with Greece and to create a ‘positive atmosphere’ with the EU was undoubtedly motivated by the consideration that the EU and the U.S. would not ‘punish’ a country that is formally engaged in a process of contacts and, in future, perhaps even negotiations with Greece. Athens, on the other hand, prepared a bill for the extension of Greece’s territorial waters to 12 nautical miles in the Ionian Sea and made it clear that they also envisaged an extension to the sea east of Crete, which, as mentioned, would be a ‘casus belli’ for Turkey.³⁴ If Ankara insists on its ‘expanded’ agenda, then the talks will be on thin ice. Both countries made it clear that there would be a long process of discussions if any compromises at all are to be reached.

To settle the disputes over maritime zones, alternatives to sanctions might be to appeal to the International Court of Justice (ICJ) in The Hague, to jointly exploit resources in the Eastern Aegean, or to deconflict the situation. Taking legal action through the ICJ would certainly be the preferred option for those stakeholders who want to reach a substantial and lasting settlement of the maritime conflict. Greece advocates taking the case to court but wants to have an exclusive ruling over the continental shelf and the exclusive economic zones, whereas Turkey prefers political negotiations. Beyond this, initiating legal proceedings is not an easy path to take, as first of all, the Court will only become active if both adversaries opt for legal action. So far this has failed, mainly due to Turkey’s position, but there are also voices on the Greek side pointing out the risk of such a step, as the Court’s decision might also ultimately be based on and favour the principle of equity. For the latter, the aforementioned issue of the island of Kastellorizo is at stake. Second, Turkey does not only want the question of maritime zones to be legally scrutinized but wants to add the issues of the extent of territorial waters and airspace, as well as the demilitarization of Greece’s East Aegean islands (Lemnos, Samothrace, Lesbos, Chios, Samos and Ikaria) to the agenda, too. Turkey sees all these questions as interlinked and believes that one cannot be settled without solving the others.³⁵ This, in fact, also puts the 1923 Treaty of Lausanne and the Convention of Straits annexed to the Lausanne Peace Treaty on the agenda and would demand an

³⁴ Cf. FM: Extension of Waters Also Concerns East Crete, *ekathimerini.com*, 20 January 2021, <https://www.ekathimerini.com/261419/article/ekathimerini/news/fm-extension-of-waters-also-concerns-east-crete>.

³⁵ Cf. Axt / Kramer, *Entspannung im Ägäiskonflikt?*

extremely complex jurisdiction. Finally, it is evident that the Cyprus question cannot be excluded either.

A rather innovative idea would be to *exploit* the maritime resources by Greece, Turkey, and Cyprus *jointly*, a strategy that could result in a win-win constellation.³⁶ It would frame the disputes in a totally different way, as it would concentrate on achievable gains and not on political or judicial differences. Exploitation could be done by international companies on behalf of the Mediterranean countries, but jointly exploiting resources would still constitute a highly ambitious project. Among all the objections to this proposal, the most important one could be that it requires legal certainty to convince companies to become active. Investments are planned for decades or more, and unsettled conflicts, as is characteristic of the Eastern Mediterranean, are highly counterproductive. There is no rational argumentation to be voiced against the idea as such, but it is nothing that could be executed at short notice. To share the profits on a transitory basis without titles on the disputed maritime zones may be easier to handle, but remains disputable.

Deconflicting is the least ambitious, but most pragmatic and promising approach not to settle the conflict, but to reduce the probability of it escalating to the point that military means are used. Adversaries learn to live with the unsettled conflict and avoid severe clashes. Collisions of warships or military aeroplanes occur but stay within the scope of sporadic incidents which both opponents know how to handle. Deconfliction is neither peacekeeping nor peacemaking. Both terms imply that, at a given point in time, peace does not exist and it should either be secured (by a third party) or should be enforced (by intervention forces). These Eastern Mediterranean states are not at war with each other, neither currently nor in the recent past. Greece and Turkey are allies in NATO, and it was the latter's secretary general, Jens Stoltenberg, who acted as a mediator when the differences flared up in late 2019. Stoltenberg had meetings with heads of state Erdoğan and Mitsotakis and convinced both sides to keep the confrontation under control. He succeeded in re-establishing a direct telephone line between Athens and Ankara, which had been severed by Turkey after the coup d'état against its government in July 2016. In the best-case scenario, technical discussions would be the first step towards political negotiations. 'We have set up a de-escalation mechanism between Greece and Turkey, a line of communication between the two allies and the cancellation of specific military exercises,' Stoltenberg said after a virtual

³⁶ This proposal was made by expert on international law Nele Matz-Lück, cf. Kouparanis, *Wie legitim sind türkische Ansprüche im Mittelmeer?*

meeting of NATO foreign ministers.³⁷ Deconfliction may be the *modus vivendi* in the Eastern Mediterranean for the foreseeable future. The 'bridge over troubled water' may thus be fixed for some time, but nevertheless remains unstable.

Bionote

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³⁷ Cf. Stoltenberg Vows to Boost Greece-Turkey Deconfliction Mechanism, *ekathimerini.com*, 1 December 2020, <https://www.ekathimerini.com/259793/article/ekathimerini/news/stoltenberg-vows-to-boost-greece-turkey-deconfliction-mechanism>.