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Root Causes of the Eastern Mediterranean Dispute: Approaches of the Main Actors

SERTAÇ HAMI BAŞEREN

Ankara University, Turkey

ORCID No: 0000-0003-1449-8543

ABSTRACT *The Eastern Mediterranean region is said to host five percent of the world's known natural gas reserves. That stimulates tension when coupled with the aspirations of some states to claim these resources and control their transport to the markets. The claims of Greece and the Greek Administration of Southern Cyprus (GASC), which has always acted as if it were the sole representative of the island, seem to be extreme, given the relevant the rules of international law. In order to achieve its aspirations over Libya, France has recently intervened in regional developments on the side of Greece. Turkey has declared that its continental shelf in the Eastern Mediterranean extends up to 28° E longitude and that the western boundary of the Turkish continental shelf to the west of this longitude shall be drawn through equitable agreements with all concerned states. Turkey has also taken certain preventive measures to protect its rights and interests by making particular references to the relevant rules of international law. The present commentary examines the real motivations behind the acts of all sides and reviews their justifications with reference to international law, with particular reference to Turkey's actions.*

Keywords: Eastern Mediterranean, Maritime Disputes, Natural Resources, Maritime Delimitation Law, France, Turkey

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Introduction

The world's total natural gas reserves are said to be about 196 trillion cubic meters, five percent of which are located in the Eastern Mediterranean. Thus, it is safe to say that there are approximately 9.8 trillion cubic meters of natural gas in the Eastern Mediterranean. The United States Geological Survey (USGS) estimates that 3.6 trillion cubic meters of natural gas in the Eastern Mediterranean are located in the Levant basin and 6.3 trillion in the Nile delta basin. Although these figures are smaller than the world's total natural gas reserves, they are quite critical figures considering that the Turkish Republic of Northern Cyprus (TRNC), the Greek Administration of Southern Cyprus (GASC), Greece and Israel have relatively small economies.

The desire to benefit from the natural gas wealth in the Eastern Mediterranean has deepened the existing conflicts among the coastal states and created additional disputes. However, today's drilling crisis in the Eastern Mediterranean did not emerge overnight. The drilling crisis in the Eastern Mediterranean seems to have been caused by the GASC and Greece's longstanding ambitions to own the natural gas wealth in the region and control the transfer routes of the gas to the markets.

These ambitions have also affected the European Union (EU). The EU currently depends on the natural gas of the Russian Federation, so the EU's wish to diversify its sources is under-

standable. The EU probably plans to supply some of its natural gas needs from the Eastern Mediterranean and therefore finds it appropriate to support the theses of GASC and Greece. For these purposes, new projects have been brought to the agenda, such as the EastMed Pipeline Project, which proposes to bring natural gas from the Eastern Mediterranean to EU markets via pipelines to be laid under the sea. However, in the process of materializing these projects, Turkey is left aside in the matter of transferring the Eastern Mediterranean's natural gas to the EU.

It is technically difficult and relatively expensive to lay and implement pipelines on the Mediterranean seabed, as the route is deep and geologically active and the reserve is small. Ignoring this reality shows that the projects in question reflect not only economic but also political preferences. The decline in natural gas prices due to the increase in shale gas production, the globalization of Liquefied Natural Gas trade, and easy access to alternative gas resources may further weaken this preference. Addressing the developments and the legal framework concerning the present disputes will be useful in order to gain a better understanding of the issues in the Eastern Mediterranean.

The Disputes over the Maritime Areas in the Eastern Mediterranean

Efforts to establish sovereign rights over possible natural gas resources

in the Eastern Mediterranean are reflected in international law as disputes over the delimitation of the continental shelf and exclusive economic zones (EEZ). An EEZ is a maritime zone/jurisdiction legally acquired upon declaration by a coastal state. Turkey and Greece have not declared their EEZs; therefore, neither state has an EEZ in the region. Although it lacks the authority to do so, the GASC declared an EEZ in 2004, as if it were the sole representative of the whole island of Cyprus. This declaration is unlawful and therefore invalid. With that said, it should be noted that since coastal states, due to their nature, are included in international law *ab initio* (from the inception) and *ipso facto* (naturally), they have continental shelves without a declaration.

Turkey has a wide continental shelf proportional to its long coastline in the Eastern Mediterranean. Contrary to international law, GASC and Greece lay claim to Turkey's continental shelf in the region. Their motivation appears to be their will to capture as big a share as possible in the estimated natural gas wealth of the region. Unlawful claims of the GASC and Greece have gone too far. Eventually, the disputes caused by the claims of the GASC-Greece have come to a critical point in terms of creating regional tension.

The Rules of International Law Concerning the Delimitation of Maritime Areas

International law has three different sets of rules regarding the delimita-

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tion of a continental shelf: The 1958 Geneva Convention on the Continental Shelf, the 1982 United Nations Convention on the Law of the Sea (UNCLOS), and the rules of customary law. All three sets of rules stipulate that the delimitation of a continental shelf should be made fairly. In principle, international treaties are binding for their parties, and the rules of customary law are binding for everyone. Turkey is not a party to the 1958 and 1982 conventions. Hence, technically, customary law should be applied in the delimitation of the Turkish continental shelf. In this context, international law stipulates that the continental shelf delimitation should be made through equitable treaties. Equitable delimitation can be summarized as delimitation based on the principle of 'superiority of geography,' meaning that it shall not change the long continental shelves of long coasts and the small continental shelves of short coasts. The methods of delimitation that give rise to this result, prescribed by equity, are also consented to as the appropriate methods of delimitation.

International law acknowledges that islands will also have continental

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shelves; however, it takes into account their geographical location, whether or not they are inhabited and whether they have their own economy, and then either grants no continental shelf to an island or grants it in a limited area. The established jurisprudence of international courts gives restricted maritime areas or no maritime areas beyond the territorial waters to islands on the opposite side of a median line between the mainlands of two states.

Arguments of the Actors

Greece, argues that the median line between the islands of Rhodes (*Rodos*) and Kastellorizo (*Meis*) and the Turkish coast forms the boundary of the continental shelf in the region. These borders, claimed by the Greek Administration of Southern Cyprus and Greece, intersect off the Gulf of Antalya and form a common border between these two states. Thus, the Turkish continental shelf is disconnected from the continental shelf areas of the African coast. When the claims of the GASC and Greece are evaluated, it is seen that the duo is trying to confine Turkey to a narrow space in the open sea of the Gulf of Antalya.

The Claims of Greece

Equitable delimitation seeks proportionality between the lengths of the coasts, subject to delimitation, and the relevant continental shelf areas that the coasts will have. This is a corollary of the principle of the superiority of geography in continental shelf delimitation. With the short coasts of Kastellorizo Island, Greece is trying to cut the access of Turkey's coasts, which are at least ten times longer, to the Mediterranean's offshore. In this connection, with reference to Article 121 of the 1982 Convention, Greece first advocates that islands should have continental shelves just as mainlands do. Second, Greece bases its position on the method of median lines in delimitation, asserting that the Turkish-Greek continental shelf boundary should follow the median line between the coasts of the Anatolian and the Greek islands within the closest proximity to it.

Turkey has clearly indicated through the Maritime Boundary Treaty with Libya in November 2019 that it does not and will not recognize Greece's claims. For its part, Greece signed an EEZ delimitation agreement with Egypt on August 6, 2020, to render the Turkey-Libya boundary ineffective. Moreover, Greece's objections over the area in which Turkey's MTA (*General Directorate of Mineral Research and Exploration / Maden Teknik Arama*) Oruç Reis research vessel is conducting operations recently found an echo in one of the EU's leading countries: France. However, the French support is not motivated by the aim of justifying Greece's claims. As may be seen



below, the reasons behind France's support for Greece's claims lie in Libya.

First of all, the Greek claims overlook the established jurisprudence of international courts that grant either less or no continental shelf to islands on the other side of a median line that is drawn by looking at the mainlands of the states concerned in the delimitation of a continental shelf. In this case, the relevant Greek islands are located on the opposite side of the median line that is drawn based on the Turkish and Greek mainlands and therefore sits on the Turkish continental shelf. Considering their geographic locations, then, the Greek islands will not have a continental shelf.

With that said, the median line delimitation method has no value by itself. The method can only be applied if it serves the principle of equity. That is, it can be applied if it gives narrow continental shelf areas to short coasts and wide continental shelf areas to long coasts. If median lines

do not serve fairness, other methods of delimitation must be applied. One of these methods is the method of enclavement.

In a possible Turkish-Greek continental shelf delimitation, the median line between the coasts of Turkey and the Greek islands obviously would not serve equity. While it would give wide continental shelf areas to the short coasts of the islands, it would almost prevent the long Anatolian coasts from having a continental shelf. This would not be a delimitation that satisfies equity. What needs to be done, according to international law, is to enclave the Greek islands with territorial waters on the Turkish continental shelf by the enclavement method.

The Claims and Practices of the GASC

GASC has made EEZ delimitation agreements with Egypt, Lebanon, and

Oruç Reis, Turkey's domestically built seismic research vessel, sets sail from the port of Antalya in Turkey, to conduct studies in the Eastern Mediterranean, on December 23, 2020.

BEKİR BEKTAŞ / AA

Israel to the East and South of Cyprus Island as if it were the sole representative of the whole island. The GASC has declared license parcels and issued licenses within the boundaries drawn by these unjust treaties, and these licenses have finally started to invade Turkey's continental shelf. With these violations, the GASC endangers stability in the region by spreading the Cyprus dispute over the whole sea.

The GASC does not have the authority to make claims on behalf of the entire island of Cyprus, nor to make treaties, declare license areas for the natural wealth of the island, or issue licenses. The GASC's unauthorized and therefore unlawful acts violate the rights of the Turkish Cypriots and their state, the TRNC. These licenses have finally started to invade Turkey's continental shelf. Companies operating in the region by acting on the unlawful licenses granted by the Greek Administration of Southern Cyprus have also violated the rights of the Turkish Cypriot people and the TRNC by participating in this unlawfulness.

The Approach of France

Former French President Nicolas Sarkozy initially supported the Arab autocrats. He made an official visit to Tripoli in July 2007 and mended ties with Libyan leader Moammar Qaddafi. Seyf al-Islam Qaddafi, the son of Qaddafi, in a statement to the French daily *Le Figaro* a few days after this meeting, stated that Libya would purchase €3 billion worth of Airbuses, nuclear plants, and military equipment; that the leaders had conversed

about Rafale aircrafts; that French companies would be given opportunities, such as the construction of a new seaport in Tripoli; that they had signed critical agreements with Veolia and Suez firms; that the talks over Thales and Sagem would continue and that Libya would purchase Milan anti-tank missiles worth €100 million.

But things did not go as planned. No progress was made in the talks over Rafale and the proposed nuclear plants. Michele Alliot-Marie, former Minister of State, Minister of Foreign Affairs, and Minister of European Affairs, offered assistance to the Zine al-Abidine Ben Ali regime in Tunisia to quell the protests. Arab countries in particular sternly reacted against France. About 600,000 Tunisian immigrants in France took sides in opposition. Michele Alliot-Marie had to resign. Supporting dictators had become a high-cost preference that yields no return. Sarkozy quickly changed course and started to support the opposition in Libya, and France took the lead in the Libya intervention.

Sidney Blumenthal, adviser to former U.S. Secretary of State Hillary Clinton, revealing his talk with French intelligence officers, exposed the real reasons behind Sarkozy's eagerness to intervene in Libya: to have a greater share of Libya's oil production, increase French influence in North Africa, strengthen his position in French internal politics, provide an opportunity to the French army to show its place in the world and to

dispel the concerns of his advisers with respect to Qaddafi's long-term plans to displace France as the sovereign power in Francophone Africa.¹ The third reason is closely related to Sarkozy's personal interests; the remaining four represent the national interests of France.² It would not be wrong to consider that these motives are still valid today.

France publicly expressed support for the Government of National Accord (GNA) in Libya, which is officially recognized by the international community, and Prime Minister Fayez al-Sarraj; but in order to reach its goals, France, in reality, supported Khalifa Haftar who was at Tripoli's doorstep. For France, keeping a foot in both camps seemed the right thing to do for the sake of safeguarding its own interests. However, things became complicated when Russia started to pursue its interests through Haftar as well.

Encouraged by his superiority in the field, Haftar launched an operation to seize Tripoli on April 4, 2019. He refused the ceasefire attempts, but things did not go as he had thought. Turkey-backed GNA forces took over the Watiyya Military Air Base and the city of Tarhuna. The GNA forces headed toward Sirte and the oil region Jufra, one of Libya's most valuable hydrocarbon regions. Sirte is the exit gate of this precious basin to international markets; it also controls the ports of Sidre, Ras Lanuf, Marsa el-Brega, and Zuwaytina, where oil and natural gas pipelines from Libya's hydrocarbon regions meet the

France is also attempting to abolish the Marine Jurisdiction Treaty signed between Turkey and Libya in order to end Turkey's presence in Libya because this presence conflicts with France's national interests

sea. This is exactly what extremely disturbs France. The French national interests in Libya are in danger. To protect these interests, France has tried to ward off the maritime boundary treaty signed between Turkey and Libya, particularly since the treaty is one of the justifications for Turkey's presence in Libya. France has attempted to call upon NATO in order to counter the Turkey's acts but has failed.

With the success of Sarraj, nothing was yet over in Libya. The Russians pulled the mercenaries of the Wagner group, who have been in Libya since 2018, to Beni Walid and Sirte. Russian jets at Jufra Air Base, pointing to strategic targets in Libya, increase the security worries of the U.S. and NATO, and France found itself on the same side with the Russians in Libya, which strengthens Turkey's hand as it stands along with the U.S. and NATO. NATO has disregarded the allegations that France's frigate, Courbet, was harassed by the Gökçeada, Gökova, and Oruç Reis frigates affiliated with the Turkish Naval Forces Command on June 10, 2020. Only eight out of 30 al-

Turkish President Recep Tayyip Erdoğan (R) and Fayez al-Sarraj (L), Chairman of the Presidential Council of Libya's Government of National Accord (GNA) meeting at Dolmabahçe Palace in İstanbul, Turkey on February 20, 2020.

MURAT ÇETİNMÜHÜRDAĞ / AA



lies supported France during NATO's Ministerial Meeting; the U.S. and UK were not among the supporters. So France was left alone in NATO in this regard and withdrew from Operation Sea Guardian (OSG). With few other means of achieving its aims, then, France has opted to support the unlawful Greek continental shelf claims based on Kastellorizo, which resurfaced due to concern over the Oruç Reis' research field.

Contrary to its political stance, France is a country that adopts legal approaches overlapping with the theses of Turkey with respect to maritime boundary delimitations. The Channel continental shelf dispute between France and Great Britain was resolved in 1978 by the decision of the Court of Arbitration to use the

method of enclavement for the British islands just a few miles off the French coasts, thus located on the opposite side of its median line. Turkey, similarly, argues that, according to international law, the Greek islands on the opposite side of the median line should be enclaved. Therefore, when France supports the Greek arguments and objects to the Turkish acts, it in fact contradicts its well-known legal stances, as demonstrated in the Channel continental shelf dispute with Britain.

As a result, France knows what is in accord with international law but is instead doing what is necessary for the pursuit of its own interests, and therefore supports wrongful Greece against Turkey. France is also attempting to abolish the Marine Juris-

diction Treaty signed between Turkey and Libya in order to end Turkey's presence in Libya because this presence conflicts with France's national interests.

The Approaches of Turkey and the TRNC

In a diplomatic note given to Greece in the spring of 2019 and published by the United Nations, Turkey declared that its continental shelf in the Eastern Mediterranean extends up to 28° E longitude and that the western boundary of the Turkish continental shelf to the West of this longitude shall be drawn by equitable agreements to be signed with all concerned states by taking into consideration the boundary from the Aegean Sea as well. This statement maintains the possibility of the delimitation of a continental shelf between Turkey and Libya. According to international law, the islands of Kastellorizo (*Meis*), Rhodes (*Rodos*), Larger Karpathos (*Büyük Kerpe*), and Smaller Karpathos (*Küçük Kerpe*) must be enclaved and limited by their territorial waters.

Turkey and the TRNC have protested the Greek Administration of Southern Cyprus and Greece's flouting of international law at every opportunity. Companies operating in the region by obtaining a license from the GASC have been warned via statements of the unlawfulness in which they are participating. Through these measures, Turkey and the TRNC have reserved their violated rights. Turkey and the TRNC have reported

Whether the Greek Administration of Southern Cyprus accepts it or not, the Turkish Cypriot people and the State of the Turkish Cypriot people, the Turkish Republic of Northern Cyprus, do exist on the island

that the GASC and Greece's dispositions against international law will not bear legal consequences and that they cannot be put forward against Turkey and the TRNC.

By exercising their own continental shelf rights, Turkey and the TRNC have shown that they are the owners of these rights. Turkey has issued licenses in its own continental shelf and carried out seismic surveys and drilling practices. Some of these seismic surveys and drillings are still underway. The TRNC has followed the same path. It has granted licenses in the continental shelf areas belonging to the island of Cyprus and has conducted seismic surveys in these areas. These activities were carried out by the TRNC in response to the GASC's unlawful activities conducted as if it represents the whole island of Cyprus. In this respect, criticizing the TRNC seems inappropriate.

The GASC adopts the attitude and claim of being the only legitimate government of the island of Cyprus

The unlawful actions of the GASC, endangering the stability of the region, have been overlooked. These unlawful actions, carried on for years, have created the crisis of today

and the sole representative of the whole island. These claims do not comply with the relevant rules of international law. GASC is not the sole representative of the island. Whether the Greek Administration of Southern Cyprus accepts it or not, the Turkish Cypriot people and the State of the Turkish Cypriot people, the Turkish Republic of Northern Cyprus, do exist on the island. According to the constitution of the Republic of Cyprus, Turkish Cypriots and Greek Cypriots have equal rights to the land, seas, and air of the island; in other words, they have equal rights to every single point of the island and all of its wealth.

The GASC, again acting if it were the only representative of the island of Cyprus, claims that the median line between Cyprus Island and Anatolia, on the North and West of the island, should be the continental shelf/EEZ boundary. This claim is legally unfounded. As a matter of fact, Turkey and the TRNC have drawn the boundaries of their own continental shelves on the North of the island by

signing an agreement and applying a method other than the median line.

A median line between Anatolia and the island of Cyprus, without any legal basis, violates the Turkish continental shelf in a wide area in the West of the island (including the area where the Fatih ship was drilling). The coasts of Cyprus adjacent to these maritime areas are very short. In contrast, the coasts of Turkey adjacent to the same maritime areas are relatively quite long. Delimitation that would block the maximum access of the long Anatolian coasts to the Mediterranean open sea by leaving a very large sea area to the very short Western shores of Cyprus Island would not be equitable.

In accordance with international law, in this delimitation area in the West of the island of Cyprus, the Western coast of Cyprus Island must also be enclaved by its territorial waters. According to international law, the boundary in this region starts in the North, at 32°16'18" longitude from the western tip of the Turkey-TRNC continental shelf and, where relevant, follows the outer limit of the territorial waters of Cyprus Island and stretches to the Turkey-Egypt median line.

Conclusion

Today's drilling crisis in the Eastern Mediterranean has not emerged overnight. The years-long protests of Turkey and the TRNC refusing injustice, and the licenses they have

granted in the continental shelf of which they are the rightful owners, have been ignored. The unlawful actions of the GASC, endangering the stability of the region, have been overlooked. These unlawful actions, carried on for years, have created the crisis of today.

The GASC has concluded EEZ delimitation agreements with Egypt, Lebanon, and Israel as if it were the sole representative of the whole island, although the GASC has no authority to make legal acts on behalf of the entire island of Cyprus, such as making treaties or declaring license areas for the natural resources of the island.

Greece, on the other hand, first advocates that islands have continental shelves just as mainlands do. Greece bases all of its approach on the method of median lines in delimitation. Based on this method, Greece asserts that the Turkish-Greek continental shelf boundary should follow the median line between the coasts of Anatolia and the Greek islands within the closest proximity to it. This is to say that Greece is trying to cut the access of Turkey's at least ten-times-longer coasts to the Mediterranean's offshore.

France has, in fact, some political and commercial aspirations in both Libya and the Mediterranean Sea motivating it to intervene in maritime matters to counter Turkey. Contrary to its political stance, France has actually advocated legal arguments almost identical to those of Turkey with respect to its own maritime boundary

delimitations. In the Channel continental shelf dispute between France and Britain, the method of enclavement for the British islands located near the French coast was argued by France and endorsed by the Tribunal in 1978 – a resolution just like the one Turkey is advocating for the Greek islands.

As expected, Turkey has concluded a delimitation agreement with the TRNC and with Libya and has begun seismic survey activities on its own continental shelf. As of today, Turkey grants licenses to the TPAO in the West and South-West of the island of Cyprus. Turkey simply argues that since the delimitation should result in an equitable result on the basis of equitable principles, the delimitation area to the West of the island of Cyprus, the western coast of Cyprus Island, and the islands of Greece in the region must be enclaved by their territorial waters in order to prevent the Turkish coasts, which are the much longer coastlines, from being cut off from the coastal waters and continental shelf.

Equitable delimitation, which is the requirement of international law, is a delimitation based on the principle of 'superiority of geography,' which favors longer coastlines over shorter ones. International law, moreover, acknowledges that certain islands have a continental shelf or EEZ; however, in the process of delimitation between two or more continental states, these islands should be given limited effect or be ignored altogether on the basis of equity by taking their specific

characteristics into account, including their geographical location.

In a possible Turkish-Greek continental shelf delimitation, establishing the median line between the coasts of Turkey and the Greek islands obviously would not achieve equity. While it would give wide continental shelf areas to the short coasts of the islands, it would almost prevent the long Anatolian coasts from having a

continental shelf. This would not be a delimitation that satisfies equity. ■

Endnotes

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