EVALUATION OF GREECE'S UNLAWFUL ACTIONS AGAINST THE AEGEAN ISLANDS

Selman ÖĞÜT[1]
Sümeyye DÜNDAR[2]

Atıf: Öğüt, S. and Dündar, S. (2022). Evaluation of Greece's unlawful actions against the aegean islands. *Hitit Journal of Social Sciences, 15*(2), 596-612. doi:10.17218/hititsbd.1200407

Abstract: There are several problems between Turkey and Greece that they can be examined under many separate headings. Problems such as continental shelf, territorial waters, airspace, and not least the Cyprus conflict, have become extremely difficult to deal with as both sides have their own legal arguments. These problems, which have been on the agenda especially since the 1970s, became political and diplomatic crises and continue to be so today as well. Even though it might be assumed that the existing problems have existed since the second half of the 20th century, the origins of these problems go back to the Ottoman Empire and the existence of Greece as an independent state. The main reason for this study is to shed light on the problem of the Aegean Islands—which are scattered in the form of islands, islets, and rocks right in front of the Turkish mainland in the Aegean Sea; remained under Turkish domination for 400 years; creates security concerns from a geopolitical standpoint and can be described as indispensable—and on Greece's attitude towards the existing problems that goes against international law.

Keywords: *Aegean islands, Aegean Sea, Turkey, Greece, international law.*

Yunanistan'ın Ege Adalarına Yönelik Uluslararası Hukuka Aykırı Eylemlerinin Değerlendirilmesi

Citation: Öğüt, S. ve Dündar, S. (2022). Yunanistan'ın Ege adalarına yönelik uluslararası hukuka aykırı eylemlerinin değerlendirilmesi. *Hitit Sosyal Bilimler Dergisi, 15*(2), 596-612. doi: 10.17218/hititsbd.1200407

Özet: Türkiye ve Yunanistan arasındaki sorunlar birçok ayrı başlık halinde incelenebilecek kadar çoktur. Kıbrıs başta olmak üzere kıta sahanlığı, karasuları ve hava sahası gibi sorunlar iki tarafın hukuksal dayanakları nedeniyle içinden çıkılamaz bir hale gelmiştir. Özellikle 1970'lerden itibaren gündemden düşmeyen bu sorunlar, siyaset ve diplomasi krizi haline gelerek günümüze kadar devam etmiştir. Var olan sorunların 20. yüzyılın ikinci yarısından itibaren varlık gösterdiği düşünülse bile bu sorunların kökenleri Osmanlı İmparatorluğu'na ve Yunanistan'ın bağımsız bir devlet olarak varlık göstermesine kadar uzanmaktadır. Bu çalışmanın yapılmasının ana sebebi ise Ege Denizi'nde Türkiye anakarasının önünde ada, adacık ve kayalık şeklinde dağılmış halde bulunan, 400 yıl süresince Türk hâkimiyetinde kalan, jeopolitik anlamda güvenlik endişesi yaratan ve vazgeçilemez olarak tarif edilebilecek Ege Adaları sorununun, Yunanistan'ın var olan problemlere yönelik uluslararası hukuka aykırı tavrının gözler önüne serilmesidir.

Anahtar Kelimeler: *Ege adaları, Ege Denizi, Türkiye, Yunanistan, uluslararası hukuk.*

1. INTRODUCTION

The Aegean Islands were under the rule of the Ottomans for about 400 years. With the independence of Greece in 1830, the Aegean Islands, which fell outside the borders of the Ottoman Empire, have become indispensable for many states, including the European Great Powers, for their geographical, strategic, economic, commercial, and military value. Especially with the independence of Greece, the

Research Article
Submitted: 13.11.2022 Accepted: 27.12.2022

[1]Corresponding Author, Assoc. Prof. Dr., Ankara Hacı Bayram Veli University, The Faculty of Economics and Administrative Sciences, Department of International Relations, selman.ogut@hbv.edu.tr, http://orcid.org/0000-0002-3730-1398
[2]Master Student, Pantheon-Sorbonne University, Sorbonne Law Schhol, sule_2006@hotmail.fr, http://orcid.org/0000-0002-1893-2338

problems escalated or followed a stagnant course in parallel with the changes in the international conjuncture.

In addition to the problems related to territorial waters, continental shelf, belonging, and armament of the islands on the Aegean Sea, the economic zone problem could not be resolved although it remained on the agenda, especially with the repeated actions of Greece against international law. For this reason, a necessity for a current study on the Aegean Issue about the Aegean Islands which occurred between riparian neighboring states, the Republic of Turkey and Greece, has emerged. The Aegean Issue has many different features in addition to the disputes regarding the delimitation of maritime jurisdiction areas that have been decided by the International Court of Justice until today (Toppare, 2006, p.1).

A concrete solution should be adopted for the Aegean Sea, which has unique historical and geographical characteristics, within the framework of international law rules, especially the general principles of law, taking into account its sui generis characteristics.

2. AIM AND METHOD

There are problems in the territorial waters, continental shelf, belonging and arming of these Islands, which are in the Aegean Sea and remained under Turkish rule for 400 years. Greece shows a different attitude towards international law regarding these problems. Due to this attitude, the economic problem of the region could not be solved. For this reason, it was important to conduct an up-to-date study on the Aegean Islands between the Republic of Turkey and Greece, whose coasts are neighbors. The problem must be resolved within the framework of international law. In addition, a fair stance and cooperation should be ensured in the solution of the Aegean Problem. Because the Greek claims on this issue are not appropriate according to international law. This study evaluates the illegal actions of Greece and states that the Greek allegations are against international law.

This study aims to examine about Greek claims on Aegean Isles, air space and EEZ, Greek-Turkish disagreements about Aegean Problem and proving the impropriety of Greek claims according to international law. For this purpose, a document analysis of international treaties both historical and current and analyzing details of those treaties in terms of international maritime law.

3. HISTORY OF AEGEAN ISLANDS

After the Turks conquered Istanbul in 1453, it was seen that the security of Istanbul was related to the security of the Dardanelles. As a result, the conquest of the Aegean Islands began in 1456to ensure the safety of Istanbul. Finally, with the annexation of Crete Island to the Ottoman lands in 1669, the Aegean Sea became the "Ottoman Inner Sea". However, when it came to April 24, 1830, with the efforts of the great powers of the period (such as England, Russia, and France), Greece gained independence, and the islands in "39 degrees north latitude north and 26 degrees east longitude" remained under the Ottoman Empire (Ak, 2014, pp.289-290).

After Greece became independent on April 24, 1830, its foreign policy was based on taking land from the Ottoman Empire. The basis of this policy of Greece is the idea of Megali Idea[3] (Greater Greece) (Karğın, 2010, p.10). Behind the idea of the Megali Idea, which Greece clings to, is the desire to create a national ideology (Yazan, 2012, p.194.).

The London Treaty, which ended the First Balkan War, was signed on 30 May 1913 between the Ottoman Empire and the Balkan states. Six states (Germany, France, England, Italy, Austria-Hungary,

[3]Megali Idea means Great Idea in English. The term was coined by Loannis Kolettis, a popular political figure who was appointed Prime Minister in Greece in 1844. Kolettis referred to the idea of the Greeks to annex and unite the Ottoman lands with the Megali Idea (Toppare, 2006, p.5).

Russia), which are party to the agreement, ceded Gökçeada, Bozcaada, and Meis Islands to the Ottoman State on 13 February 1914, in line with the fifth article of the London Agreement. The Eastern Aegean Islands, which were under Greek occupation, were left to Greece on the condition that they are disarmed and not used for military purposes (Keskin, 2018, p.18).

The 15th article of the Athens Treaty, signed between the Ottoman Empire and Greece on 14 November 1913, referred to the 5th article of the London Treaty, and the status of the islands was left to the decision of the mentioned states. With this agreement, Crete was absolutely left for Greece (Turan, 2016, p.75). In addition, the 12th and 13th articles of the Lausanne Peace Treaty, which will be explained below, have been reaffirmed with reference to the Athens and London Treaties.

With the end of the Turkish-Greek war in 1922, the Lausanne Peace Treaty was signed on July 24, 1923. This agreement is an important document as well as being an important step in Turkish-Greek relations (Toppare, 2006, pp.5-7). For a balance has been created between the two countries with this agreement.

In line with the 15th article of the Lausanne Peace Treaty, a regulation was introduced regarding the Eastern Aegean Islands, excluding the Dodecanese Islands. Imroz, Bozcaada and Tavsan Islands were left under Turkish rule. In addition, in Article 12, it is stated that the islands located in the region up to 3 miles from the Asian coast will remain under Turkish rule, unless otherwise stipulated in the treaty (Avar and Lın, 2019, pp. 63-64). Again, Article 15 of the Treaty regulates the transfer of Meis Island, Dodecanese Islands and their associated islets to Italy. Although Meis Island and Dodecanese Islands are listed by name and are also shown on the map number 2 in the annex of the Convention, there is no explanation about what can be understood from the expression "islets connected to them". In this context, it is worth noting that in the following process, the term "adjacent" would be used in article 14 of the Paris Agreement. Concept preference and interpretation are, of course, among the issues that are important and should be considered in terms of determining the belonging of the islands. The expression “adjacent” is a more concrete and determinant word that will facilitate the identification of the related islands compared to the expression “attached” (Öğüt, 2010, p.80).

Paragraph 2 of Article 6 of the Treaty of Lausanne is a concrete repetition of the general rule that, unless otherwise stipulated in the treaty (Güneş, 2017, p.306) the islands and islets in the region up to 3 nautical miles shall belong to the coastal state (Toppare, 2006, p.7). Considering these explanations, it does not comply with international law or the relevant articles of the Treaty of Lausanne to see the islands under Turkish rule as consisting only of the three islands mentioned and the islands 3 nautical miles behind the coast, and to think that the other islands that are not mentioned came out of Turkish domination. For all the islands, islets and rocks in the Aegean Sea were not the subject of the Treaty of Lausanne between Turkey and Greece, which included the fate of the Aegean Islands, and the Paris Peace Treaty of 1947. In this case, it is not legally possible to expand the scope of the said treaties, which constitute an exception, and to interpret the islands that are not included in the scope of the transfer as out of Turkish sovereignty. It would be against international law to extend international treaties against the sovereignty of states. As a result, it cannot be denied that around 150 islands, islets and rocks, excluding Gökçeada, Bozcaada, Tavşan Islands and the island up to 3 miles, are under Turkish rule.

Despite the ongoing situation in the form of friendly relations between Turkey and Greece in the 1930s, Greece increased its airspace from 3 miles to 10 miles with the 1931 Presidential Decree. In addition, Greece increased its territorial waters from 3 miles to 6 miles after the 1936 Montreux Convention. Here, there is a different interpretation of the Montreux Straits Convention by the two countries. While Turkey says that it aims to ensure the security of the straits with this contract signed

at its own request, Greece claims that it can change the disarmament conditions by referring to it as a continuation of the Lausanne Straits Convention (Turan, 2016, p.128).

The Dodecanese Islands occupied by Italy in 1912[4] were occupied by Germany this time with the surrender of Italy (1943) in the World War II, in which Turkey did not participate. After the surrender of Germany in 1945, the islands were occupied by Britain. Dodecanese Islands and Meis Island, which were ceded to Italy with the 15th article of Lausanne, thanks to the efforts of the United Kingdom as well as the United States, which have made serious efforts in this direction from the very beginning, were ceded to Greece on 10 February 1947 within the framework of Article 14[5] of the Paris Peace Treaty. As a result, 13 islands and "adjacent islets", which are counted as names, were transferred to Greece on condition of demilitarization. The crucial point here is that, unlike Italy, there were conditions for disarmament and demilitarization during the transfer to Greece. When viewed, it can be seen that the "Lausanne Balance" brought by the Treaty of Lausanne is one of the elements that must be meticulously protected in the Aegean Sea (Güneş, 2017, p.305).

Regarding the violation of demilitarization, Turkey's proximity to the islands in question causes security concerns. In addition, the Greek claim that Turkey has no say in cases of violation on the grounds that it is not a party to the Paris Peace Treaty, is utterly meaningless and lacks any legal basis. Today, in a world order in which states are in close cooperation on any probable issue, any state can expose these violations in matters concerning international peace and security. Therefore, it is an irrational and unreasonable approach to think that Turkey, which is the direct interlocutor in the issue and the undeniable sovereign actor of the region, should remain silent and ignore the violations.

According to TRT Haber's report, the Republic of Turkey protested the deployment of armored vehicles supplied by the USA to the demilitarized Aegean Islands in accordance with the existing international agreements before the USA and Greece. In addition, the Greek Ambassador to Ankara was invited to the Turkish Ministry of Foreign Affairs and was given a note in which it was reminded that international law should be respected. It was also stated that the deployment in question is a new violation of Greece's international obligations arising from the 1923 Lausanne and 1947 Paris Peace Treaties, and therefore a new violation of international law, and it was emphasized that the non-military status should be reinstated by putting an end to these violations ("Türkiye'den ABD ve Yunanistan'a", 2022).

In this context, it should not be forgotten that it is normal for states to have security concerns as a priority. However, these security concerns should not be abused by states with imperialistic goals. In this context, the statements of US State Department Spokesperson Ned Price are significant. A question was posed to US State Department Spokesperson Ned Price during the press release about arming the islands in violation of international law. Ned Price, on the other hand, tried to legitimize the illegal arms shipment by stating that Greece has full authority over the said islands as an independent state. In the same press statement, the ultimatum issued by the American Congress against Turkey not to use it in violation of the Greek Airspace was reminded, and in this context, it was asked whether there was any standard for the USA, which did not show any reaction about the arming of the islands by Greece. In response, Ned Price stated that the standard was in accordance with the American national interest (İleri and Gunerigok, 2022). This is exactly the point of this paper. Security

[4] Italy occupied the island of Istanbul on April 28, 1912, the Island of Rhodes on May 4, 1912, Herke on May 9, 1912, Kerpe, İlyaki, Leryoz, Batnoz and Kilimli on May 12, 1912, Lipso on May 16, 1912, Symi on May 19, 1912 and Kos on May 20, 1912 (Danişmend, 1972, p.386).

[5] In the first paragraph of Article 14 of the Paris Agreement, it is stated that Italy transfers the full sovereignty of the Dodecanese Islands to Greece from now on. The islands in question are: "Stampalia (Astropalia), Rhodes (Rhodos), Calki (Kharki), Scarpanto, Casos (Casso), Piscopis (Tilos), Misiros (Nisyros), Calimnos (Kalymnos), Leros, Patmos, Lipsos (Lipso), Simi (Symi), Cos (Kos) and Castellorizo plus adjacent islands." In paragraph 2, the provision that the aforementioned islands are demilitarized and remains demilitarized is as follows:"These islands shall be and shall remain demilitarised" ("Treaty of peace with Italy", 1947, p.4).

concerns cannot be violated solely on the basis of national interests with an opportunist approach, disregarding international law.

Regarding the historical course, the demilitarization condition of Porthmos Islands was introduced with the Lausanne Straits Convention in order to transfer the islands in return for demilitarization and to ensure safe passage through the Turkish Straits. However, Turkey's arming the straits could only be possible with the additional protocol of the Montreux Convention. It is not possible to understand and accept the decision to remove the islands such as Samos, which is located within the Turkish territorial waters and on the geographical and geological natural extension of the Turkish mainland, at a distance of 1 mile from the Turkish coast, Istanköy, which is 2 miles away, and the islands of Chios and Lesbos, which are 5 miles away (Kamalov, 2007, p.56) from Turkish sovereignty, even if it is in return for demilitarization.

Since 1960, Greece has been violating the demilitarization requirement, especially by arming the Eastern Aegean Islands. After Turkey gave a note against Greek military build-up attempts in Rhodes and Kos in 1964, Greece said that there was no such thing. However, in 1969, when Turkey gave a note for the arming of the island of Lemnos, Greece openly accepted the accusation. Greece then claimed that this act was recognized in the Montreux Convention (Eren, 2008, pp.68-69). In the 1970s, after Turkey established the Aegean Army, Greece started to take up arms, ignoring the disarmament provision of the Eastern Aegean Islands.

There has always been a balance in this region. It has been vital to reach an agreement and a state of balance in terms of economic, commercial, strategic, geopolitical, security and defense. The islands, which have special conditions (Toppare, 2006, pp.5-16) for the aforementioned balance, are close to each other and to the two neighboring riparian states of Turkey and Greece. Similarly, it is noteworthy that the islands in question are numerous, that the Greek Islands are located on the natural continental shelf and very close to Turkey (Güneş, 2017, p.305) and that they block the Turkish coast in a series. All these issues still require the establishment of peace and security through careful efforts. However, due to many violations by Greece, the ultimate solution is delayed.

As a result, while it is necessary to take steps to ensure a peaceful and safe environment between neighboring states, Greece's pursuit of an expansionist policy with its continuous claims of sovereignty by acting against international law threatens international peace and security. Similarly, moves such as Greece's will to extend its territorial waters to 12 miles (Siousiouras and Chrysochou, 2014, p.13) do nothing but compound the problem and negatively affect interstate relations (Kalkan, 2020, p.169), hence causing more crises to happen.

4. AN EVALUATION OF THE MUTUAL CLAIMS OF THE REPUBLIC OF TURKEY AND GREECE IN TERMS OF INTERNATIONAL LAW

As mentioned, the Aegean Islands, for which wars were waged and treaties signed throughout history, are important regions that states cannot give up and want to take under their full sovereignty. Greece, which has not given up on the Megali Idea and its expansionist policy, still aims to expand its sovereignty by reviving these plans. The fact that Greece mostly interprets international agreements against international law, inaccurately and only in favor of itself and tries to create a *defacto*[6] situation affects the relations between the two neighboring states negatively. These arbitrary and unlawful attitudes of Greece create tensions that might bring the two states to the brink of war.

[6]Being the only country in the world which declares that its national airspace is different from its territorial waters, Greece is a clear indication that it disregards international law and acts in a way devoid of any legal basis, but tries to create a *de facto* situation. Moreover, it is known that Greek warplanes harass Turkish warplanes, with Greeks claiming that their airspace, which is not legally valid and which it tries to manipulate in its favor, is allegedly violated by Turkish war planes. As a matter of fact, it is clear that Greece's acceptance of the width of its airspace as 6 miles as part of NATO agreements means that its only concern is to cause a *defacto* situation against Turkey consisting of arbitrariness (Karğın, 2010, pp.68-76).

In fact, the problem of belonging lies at the root of the Aegean Problem rather than the limitation of maritime jurisdiction areas (Vassalotti, 2011, p.389). This problem, which covers the islands, islets and reefs under the sovereignty of which state, is not fully resolved on the basis of international law. In this context, it is useful to remember the Kardak Rocks Crisis that broke out in 1996. These rocks, which are 3.8 miles from the Turkish coast and 5.5 miles from the Greek coast, have not been transferred to Italy or Greece by any treaty. Therefore, the incident, which took place in 1996 in Kardak Rocks (Siousiouras and Chrysochou, 2014, p.13; Kalkan, 2020, p.168) that belong to Turkey, which is called the Kardak Crisis (Mann, 2001, pp.30-31), broke out as a result of Greece's attitudes and actions against international law, and went down in history as an example of tension.

The Law of the Sea, like other fields of international law, is a discipline mostly formed by international customary rules. Based on the customary rules of maritime law applied by states, four Geneva Laws of the Sea Conventions were adopted as a result of the 1st Law of the Sea Conference, which was held as part of codification studies in order to respond to the needs of states in parallel with their development. The Second Conference on the Law of the Sea in 1960 was inconclusive, and as a result of the Third Conference on the Law of the Sea, which lasted for 9 years (1973-1982), the United Nations Convention on the Law of the Sea (UNCLOS) of 1982 was established, which contains new and amended provisions in addition to the customary rules and the compilation of the aforementioned conventions. Turkey, on the other hand, is not a party to this convention due to justified reasons.

4.1. Evaluation of the Territorial Sea Issue in Terms of International Law

The territorial sea is the maritime area that the coastal state dominates, starting from the baseline to be determined within the framework of international law up to the distance to be determined in accordance with international law (Kuran, 2014, pp. 349-358). In fact, although the idea of sovereignty was adopted in the 1958 Geneva Convention on the Terrestrial Waters and Contiguous Zone and the 1982 UNCLOS (see "United Nations convention" for further information, t.y.), it would not be appropriate to talk about sovereignty in an absolute sense, since the coastal state has certain rights such as the jurisdiction of the third states and the right of innocent passage (Kamalov, 2007, p.57).

The 3-mile territorial sea limit, which was established for Greece and Turkey, especially in the Treaty of Lausanne[7] was later increased to 6 miles by Greece in the 1930s, primarily as a result of actual practice. Greece projected the 6-mile application into the legislation with the law numbered 235, which it adopted in 1936 (Toppare, 2006, p.11).On the other hand, although Turkey expanded its territorial waters up to 6 miles with the Territorial Waters Law No. 476 in 1964 ("Karasuları Kanunu", 1964) this rule was put into practice only in geographically convenient places. Accordingly, it is understood that Turkey always acts by taking into account the special circumstances and conditions of the region.

In 1982, Turkey enacted the Territorial Waters Law No. 2674, which coincides with the general principles of international law, the customary rules of maritime law and the spirit of UNCLOS. According to the first article of the Law, the width of the territorial sea is set as 6 miles (Toppare, 2006, p.12). The legal regulations made by Turkey were formed by adopting the general principles of law, practices, old-dated maritime treaties, UNCLOS and all principles set forth by international arbitration and judicial bodies. Still, Greece openly expressed its intention to increase the width of its territorial sea area to 12 miles, based on the 1982 UNCLOS (Saltzman, p.1). Greece's desire to expand its territorial seas to 12 miles, however, is contrary to international law. Greece interprets the expression

[7]Unless there is a contrary provision in the treaty, since the islands, islets and rocks, which are up to 3 miles away, are considered to belong to the coastal state, the 3 miles territorial waters width criterion applied at that time was taken as a basis. In the Treaty of Lausanne, Article 6 states that "unless there is a provision contrary to this Agreement, the border includes the navy, and the island and islets three miles from the coast" and in Article 12, "inhabited islands at a distance of three miles from the Asian coast, contrary to this Treaty." Unless there is clear evidence, they will remain under Turkish rule ("Lozan sulh muahedenamesinin", 1931, pp.23-25).

"cannot exceed 12 miles" in UNCLOS article 3 literally, strictly and in a way contrary to the spirit of the article. For there is no obligation for the coastal state to extend its territorial waters to 12 miles, which is the maximum limit (Güneş, 2017, p.309) and there is no such general rule or established right (Saltzman, p.2).

From the very beginning, Turkey has made it clear that this attitude of Greece is unacceptable. Similarly, Turkey has warned that the implementation of this enlargement decision by Greece, which is against international law, is a reason for war (*casus belli*) (Kalkan, 2020, p.169) and that the necessary measures will be taken (Avar and Lın, 2019, p.62; Saltzman, p.1). In other words, since Greece's will to expand its territorial waters sovereignty area directly limits Turkey's sovereignty areas, it constitutes an intervention – it is a clear attack on Turkey's sovereignty and constitutes an international violation. In this regard, Greece's international responsibility is on the agenda. From the very beginning, Greece has been trying to ignore the existence of the Turkish State and clearly reveals its will to own the whole of the Aegean Sea. Therefore, the importance of the width of the territorial sea is based on security concerns rather than economic interests. At the same time, the problem of the width of the territorial sea directly concerns the national airspace. That is to say, according to international law, the width of a country's national airspace is as wide as its territorial waters (Avar and Lın, 2019, pp.61-62). However, Greece also acts in violation of international law regarding the Flight Information Region (FIR), causing violations. For even in the period when it implemented the width of the territorial waters as 3 miles, it implemented the national airspace as 10 miles since 1931 (Karğın, 2010, p.69). Today, the width of territorial waters in the Aegean Sea is considered to be 6 miles. The airspace above this border is neither recognized internationally nor by Turkey. As a result, airspace exceeding 6 miles in width is international airspace ("Background note on the Aegean dispute").

Another thesis Greece defends is on the basis of territorial integrity. However, the archipelago state must consist entirely of islands. Therefore, although it is clear that Greece is not an archipelago state, it is against international law that it defines itself as an archipelago state and draws a baseline by uniting the islands. When looked at, it is seen that Greece is trying to impose the argument that maritime jurisdiction areas should be determined in this way. In addition, it argues that the islands should be granted territorial waters of the same width as the mainland. However, among the UNCLOS provisions ("United Nations convention", p.137) on which Greece relies, there is no clear regulation that the width of the territorial sea valid for the mainland will also apply to the islands. Also, the Aegean Sea has special features (Güneş, 2017, p.303) that should be taken into account as a priority. Even if there is a clear regulation on the islands, as Greece claims, this rule will not be directly applicable. For the same reason, Greece will not be able to extend its mainland territorial waters to 12 miles. This fact is also stipulated by Article 300 of the 1982 UNCLOS, under the General Provisions Heading[8].

On the other hand, Greece, abuses the principle of equidistance that is based on the 1958 Geneva Convention on Territorial Waters and Contiguous Area and the 1982 UNDH2S, which it also attributes to customary rule. It is clearly against the principle of goodwill that Greece wants to apply the rule of equal distance between the islands located in the easternmost and closest to the Turkish coasts and insists on drawing the middle line between the two countries in this way. In particular, one of the special conditions of the Aegean Sea is that most of the Greek islands are located on the Turkish side, very close to the Turkish coasts. In other words, they remain on the "opposite side" of the midline.

[8] Article 300, "States Parties shall fulfil in good faith the obligations assumed under this Convention and shall exercise the rights, jurisdiction and freedoms recognized in this Convention in a manner which would not constitute an abuse of right." ("United Nations convention", p.137).

Even just looking at the discussion about the determination of the middle line, it is understood once again that for the Aegean Sea Issue, which has special characteristics, it is necessary to find a solution suitable for special conditions.

As we mentioned above, the expansion of Greece's territorial waters directly corresponds to the limitation of Turkey's maritime jurisdiction areas. This predicament has negative implications for Turkey's sovereignty. In addition, of course, a state cannot unilaterally change the provisions that concern more than one state to the detriment of the other state. It is also established by international court and arbitration decisions that maritime jurisdiction areas cannot be unilaterally limited or resolved. For example, we see similar explanations in the decision of the International Court of Justice dated 19.12.1951 in the Fisheries Case between England and Norway (for more information see: Johnson, 1952; Green, 1952) and in the decision dated 25.07.1974 in the Fishing Case to which England and Iceland were parties. The International Court of Justice stated in its decisions that the delimitation of maritime jurisdictions is based on an international basis. It has been stated that it is against international law for the coastal state to evaluate this limitation process, which has a fundamental international aspect, only in terms of its own domestic law ("Fisheries Jurisdiction", 1952).

To explain the expansionist policy of Greece in numbers, when Greece unilaterally increased the width of its territorial waters from 3 miles to 6 miles in 1936, it reduced the open sea area, which was 75% of the Aegean Sea, by 25%, and included it in its sovereignty. Currently, the territorial waters of Greece already correspond to about 45% of the Aegean Sea (Saltzman, p.1).If Greece increases the width of its territorial waters to 12 miles, this number will reach 70%. Thus, the territorial sea part of Turkey will only correspond to 10% of the Aegean Sea and the open sea area will decrease by up to 19%. It is obvious how disproportionate and unfair the drawn situation is and how it is against international law and general principles of law ("Başlıca Ege Denizi sorunları", t.y.).

In accordance with the principle of equitable solution and equity, it is possible to grant partial or no authorization to some islands based on the size of the island, its population, geographical situation and similar concrete features together. Moreover, it is not possible for geological formations that are not suitable for sustaining the economic and social life to have territorial waters and continental shelf. Among the territories that Greece wants to include in its maritime jurisdiction, about 100 of them are not inhabited (Toppare, 2006, p.19; Dyke, 2005, pp.64-69). In this respect, the most reasonable proposal for the two states seems to form a joint committee for the determination of formations that can be legally recognized as a maritime jurisdiction area and to make a decision and agree on them in good faith. For example, Turkey and Italy formed a commission after Italy made a broad interpretation of the 12th and 15th articles of the Treaty of Lausanne and tried to bring the islands 3 miles from the Turkish coast under their control. Thus, by signing an agreement in Ankara in 1932, the issue of belonging was easily brought to a conclusion[9].

While the aforementioned situation signals that the Aegean conflict is not caused by Turkey, it indicates that the main problem is Greece's reluctant attitude. It is essential to prefer peaceful negotiation ways and diplomatic means in order to maintain international relations in a stable, peaceful and secure manner. It is vital for states to convey their concerns, requests and suggestions to the other side about how to maintain international peace and security. As a matter of fact, when Greece applied to the Security Council in 1976 due to alleged security concerns, the Security Council reminded that the states in question could solve the problem by negotiating with each other and recommended mutual dialogue. Although the existence and functions of international organizations

[9] Italy and Turkey Convention for the Delimitation of the Territorial Waters between the Coasts of Anatolia and the Island of Castellorizo ("UN Treaty Collection", 1932-1934, p.243).

become more and more powerful in international law, what matters is the will of the states. Therefore, in the resolution of disputes, it is the will and sovereignty of the states that must be observed in the order first.

Nor does it make sense for Greece to base its insistent claim that the midline principle should be applied to the 1982 UNCLOS. Because, as we mentioned above, Turkey is not a party to the contract in question. Even by voting against it, it was in the position of a persistent objector state (Gündüzler, 2013, p.64). Greece puts forward the provisions of the aforementioned contract in an incomplete and unfair way in order to obtain results in its own favor. However, the last sentence of Article 15, which includes the midline principle, clearly states that the midline rule will not be applied in cases where special conditions require it (Saltzman, p.3).

As a result, it is seen that Turkey's justifications are based on justified legal grounds. When the international customary rules, general principles of law and international treaties are evaluated together, it is seen that Greece makes unfair claims. In contrast, Turkey's claims and proposals for a solution are in line with international law. It should be reminded that international treaties can be duly revised or duly repealed. States can always choose a new or renewed agreement based on their own will and taking into account the rights of each other. When conflicts arise between states, the main criterion recommended and adopted by international law is that states work out peaceful solutions.

Basically, the general principles of law must be observed and applied in all cases. In addition to the fact that the general principles of law are included in international regulations, international legal persons must always act by considering these principles while exercising their rights and fulfilling their obligations. In fact, goodwill and non-abuse of rights, which are among the most basic principles, are included in Article 300 (“United Nations convention”, p. 137) of UNCLOS(Saltzman, p. 3).

It is worth reminding again that the Aegean Sea is a semi-enclosed sea (Güneş, 2017, p. 303). Likewise, the definitions of closed and semi-enclosed seas are included in Article 122 of UNCLOS (“United Nations convention”, pp. 67-68). The obligation of “cooperation between states with coasts on semi-closed seas” stipulated in the next article coincides with the balance of Lausanne (Dyke, 2005, p. 84). Therefore, this article confirms Turkey's thesis from the very beginning that the riparian states cannot go to unilateral delimitation in a way that will harm the sovereignty of the opposing and neighboring riparian states, and that they should only reach an agreement in order to obtain a just solution within the framework of equity (Güneş, 2017, p.314).

4.1.1. An Evaluation of the Continental Shelf Problem from the Perspective of International Law

The continental shelf problem arose between the Republic of Turkey and Greece when Greece granted exploration licenses outside its territorial waters to oil exploration companies in order to carry out seismic surveys in 1961 (Toppare, 2006, p.16). On the other hand, in 1973, Turkey granted the Turkish Petroleum Corporation an oil exploration permits in the open sea areas outside the 6-mile territorial waters of the Greek Islands. However, Greece claimed that the area searched by Turkey was its continental shelf (Siousiouras and Chrysochou, 2014, p.14). Thereupon, as a result of intense exchange of notes between the two states in 1974-1975, it was agreed that the problem should be resolved through negotiation.

In this context, although a final solution was not achieved, it is seen that many talks between the two neighboring states focused on improving relations. The organization of the Bern summit, which resulted in the Bern agreement, in which the principles to avoid behaviors that would disrupt the

relations between the two states (Vassalotti, 2011, p.392) were adopted, was positive and important in terms of relations between the two neighboring riparian states (Saltzman, pp.4-5).

In the following period, Turkey commissioned the MTA Seismic A research vessel (for more information see: "MTA Sismik-1 Araştırma Gemisi", t.y) to conduct research activities in the open sea areas of the Aegean Sea. On the other hand, Greece applied to the International Court of Justice (ICJ) on 7 August 1976, and to the UN Security Council on 10 August, claiming that the research areas were on its continental shelf. The ICJ has given a decision of lack of jurisdiction regarding this application of Greece. One of the grounds on which the ICJ based its decision on non-jurisdiction was Greece's reservation in the General Act of 1928, on which Greece bases its claim that Turkey supposedly authorized the ICJ, not to recognize the Court's jurisdiction in terms of disputes regarding its "country status" ("Aegean Sea continental shelf").The Security Council, on the other hand, recommended in its decision dated 25.08.1976 and numbered 395 that the two states could resolve the dispute in question through mutual agreement("United Nations security council resolutions").

The continental shelf area, which is the natural extension of the land countries of the states, where the natural resources are most concentrated and which the states have *ab initio* and *ipso facto* without the need for an announcement, is one of the maritime jurisdiction areas where the sovereign functional rights of the states are recognized (Öğüt, 2010, pp.32-33). As it is known, the existence of a country in international law is one of the indispensable conditions among the elements of the state ("Montevideo convention on the rights"). However, the existence of a sea country depends on the existence of a land country. Yet the geographical size of both the land country and the maritime country is not important, nor is it important and compulsory whether it constitutes integrity or not. Therefore, it does not make any sense for Greece to talk about a territorial integrity between the land country and the islands under its sovereignty, to assert it as a mandatory condition, for example, based on the fact that it is divided by a so-called foreign sea area.

In short, the current situation and conditions confirm that the Aegean Sea has a *sui generis* structure (Güneş, 2017, p.303) due to its special conditions. Because of Greece's misinterpretation of the most fundamental sources of international law, there is no valid legal basis for the acceptance of territorial integrity and archipelago claims.

What is required in this issue is that the two states reach a solution through an agreement, as is the case with the territorial sea (Öğüt, 2010, p.33). As a matter of fact, although the Greek-dominated Eastern Aegean Islands are located on Turkey's continental shelf, Greece's efforts to expand its sovereignty lack any reasonable basis. Contrary to Greece's claim (Siousiouras and Chrysochou, 2014, p.13), there is no explicit rule of international law that the islands should have a continental shelf just like the land. Even if there were such a rule, it is obvious that it cannot be applied unilaterally against the sovereignty of the neighboring and riparian states. If an agreement cannot be reached, the aforementioned and similar problems should be resolved within the framework of the principle of equity for an equitable solution, taking into account the special conditions (Avar and Lın, 2019, pp.60-61).

Another point to be highlighted is the violation by Greece of the Lausanne balance which stipulates that both states benefit from the Aegean Sea equally. Of course, it is not possible for a state to upset the balance by changing the rules against the other state. The aforementioned international violation situation is such that it will lead to the emergence of international responsibility of Greece.

It is not possible to solve this issue without taking into account vital issues such as that the Aegean Sea is a semi-enclosed sea, that the two states are neighboring riparian states, that the distance

between them is very short, that the islands are very close to each other, and that the Greek-dominated islands are very close to the Turkish mainland. In addition, one of the reasons why the Aegean Sea poses an international problem is, of course, the presence of around 3,000 thousand islands, islets and rocks, as well as a number of geological formations, whose nature needs to be determined (Toppare, 2006, pp.17-20). If, contrary to the current situation, there were only a few small and undisputed islands, such a problem would probably not have arisen.

As we mentioned above, in the light of the general principles adopted by international law and their applications, it is not possible to accept the claim of Greece. It is against equity that will emerge in case the so-called solution proposals put forward by Greece in disregard of international law are implemented. For, if Greece's claims are implemented, Turkey's access to the open sea, which is the common heritage of humanity, will be completely closed and neither territorial waters nor continental shelf area of Turkey will remain. In this way, Greece wants to completely abolish Turkey's sovereignty areas *ab initio* and *ipso facto* (Güneş, 2017, pp.310-312). Needless to say, such a predicament would not be reasonable, logical or equitable. As we have stated before, it is obvious that the islands under the sovereignty of Greece are located on the natural extension of Anatolia, which creates a special situation (Gündüzler, 2013, p.64).

Consequently, Greece must respond to Turkey's calls to comply with international law. The principles of equity and goodwill (Güneş, 2017, p.314) should be adopted in order to obtain a mutually equitable solution, and a special, *sui generis* solution should be sought within the framework of international law principles. In the absence of special conditions in the resolution of the territorial waters dispute, the rule of equal distance in the continental shelf problem was not established as a customary rule although the principle of equidistance was adopted as a customary rule. For this reason, according to Article 83 of UNCLOS 1982, in case the parties cannot agree, it is accepted that they should resolve the problem on their own, considering special conditions within the framework of equity. Thus, there is no legal basis that Greece can claim against Turkey regarding the midline principle in the continental shelf dispute.

5. THE AEGEAN QUESTION IN THE LIGHT OF INTERNATIONAL JURISPRUDENCE

In order to better analyze the issue, it is necessary to mention briefly the jurisdiction of the ICJ. As it is known, there is no compulsory judicial body in international law that can make judgments against the will of any state – a fact necessarily resulting from the principal of sovereignty of states. Therefore, to resolve a dispute the ICJ depends on the acceptance of states, which are the main subjects of international law, of the jurisdiction in concrete disputes. As a matter of fact, to create such an obligation would be contrary to the nature of the sovereign structures of states and the spirit of international law. In addition, the state must demonstrate its consent to accept the jurisdiction of the Court in a way that does not leave room for discussion because the jurisdiction of the ICJ is discretionary ("Statute of international court of justice"). Therefore, it is out of question to act from the assumed consent.

First of all, it should be underlined that since the Republic of Turkey is not a party to the 1982 UNCLOS, it is not possible to assert the provisions of the said contract against it. In addition, as a customary law rule, it is not binding for Turkey since Turkey voted against and has the status of a persistent objector state (Gündüzler, 2013, p.64). As such, it is meaningless and groundless for Greece to base its claims on the 1982 UNCLOS provisions. However, our aim is to demonstrate the justification of Turkey's theses even in the case of the application of the said convention to the current issue.

First of all, in Chapter XV of UNCLOS, which deals with the resolution of disputes, by referring to article 2/3 of the UN Charter, it is regulated that states should resort to peaceful resolution, but if they cannot be resolved by these means, competent court or arbitration can be resorted to(Saltzman, p.3).As we explained above, the main thing is that the states resolve the conflict among themselves. Recourse to judicial remedies is secondary and seen as a last resort.

As a matter of fact, while mandatory jurisdiction was adopted in the 1982 UNCLOS, in Chapter XV Section 3, states with adjacent or opposite coasts may exclude disputes regarding territorial sea and continental shelf delimitation from mandatory jurisdiction, provided they report it("United Nations convention").In that case, we see that the principle of sovereign equality of states, which is the general rule of international law, is referred to in the resolution of disputes regarding the delimitation of maritime jurisdiction areas. It is also a result of the principle of sovereign equality that the states in conflict are advised to mutually resort to peaceful solutions.

Finally, we will include some rulings of the Court on the delimitation of maritime jurisdictions. Indeed, the Court attaches great importance to obtaining equitable results in the resolution of disputes. In this respect, it has included in its jurisprudence that there is no rule that can be applied to every common situation, that the application of the middle line principle is not obligatory (for example, the 2007 Nicaragua/Honduras Case), and it evaluated the specifics of the concrete case and resolved it in the light of fair principles. For example, the Court prioritized equitable principles and equitable settlement in the 1969 North Sea Continental Shelf Cases Germany-Netherlands and Germany-Denmark ("North Sea continental shelf cases", 1969), and in the 1982 Tunisia-Libya Continental Shelf Case (Vassalotti, 2011, pp. 394-395; Avar and Lın, 2019, p.61). In the English Channel Continental Shelf case, only partial influence was granted to the islands in terms of maritime jurisdictions, including the continental shelf ("North Sea continental shelf cases", 1969, p.46). In the 1985 Libya-Maltese Continental Shelf case, uninhabited islets in question were not taken into account in the drawing of the baseline ("Case concerning the continental shelf", 1985).

Similarly, the same principles are followed in Arbitration Decisions. In the Eritrea/Yemen Arbitration, Yemen, just like Greece, used its own islands to expand its maritime jurisdiction. However, some islands were not taken into account in the said arbitration decision on the grounds of fairness ("Eritrea/Yemen – Sovereignty"). In the Guinea/Guinea-Bissau Arbitration dated 1985, the issue of natural extension was especially emphasized in order to reach an equitable solution, and the middle line principle was pushed into the background by the numerous islands in front of the coast (Erkiner and Büyük, 2021, p.1028).

In the 2004 Romania-Ukraine Case("Maritime delimitation in The Black Sea", 2009) conditions such as the closed structure of the Black Sea, the oil, natural gas, fishing etc. activities of the parties, security concerns and the disproportion between coastal and maritime jurisdictions, which the Court investigated and evaluated, remind us of the *sui generis* structure and characteristics of the Aegean Sea.

As a result, the jurisprudence we have outlined shows us that the middle line principle is never applied as a commanding rule, and the tendency to produce a fair solution in the light of equitable principles by always evaluating geographical, political, economic, etc. features together. As Turkey advocates, the Aegean Issue should be resolved within the framework of the general principles of the law, taking into account the political, military, geographical, historical etc. characteristics of the Aegean Sea.

6. CONCLUSION

It should be noted that the problems between Turkey and Greece cannot be limited to the Aegean Islands only. Although there are other problems, the Aegean Islands issue, which always remains on the agenda due to Greece's unrelenting violations, is among the disputes that have gained a serious dimension in the international arena. Given that Ukraine became an EU member in a pretty short period of time, causing reaction from the international public opinion, the precondition that the Aegean Question should be resolved on the basis of Turkey's possible EU membership (Toppare, 2006, pp.168-171) with the efforts of Greece shows that what is at stake is essentially a political "conflict" rather than a legal and diplomatic issue. In that case, the principles of goodwill and fairness, (supposedly) dominant principles in the international arena, should be adopted by all persons of international law, not just by the so-called parties to the concrete dispute. Also, cooperation should be ensured by displaying a fair stance in solving the Aegean Problem instead of presenting it in different media.

Hakem Değerlendirmesi: Dış bağımsız.
Çıkar Çatışması: Yazarlar çıkar çatışması bildirmemiştir.
Finansal Destek: Yazarlar bu çalışma için finansal destek almadığını beyan etmiştir.
Etik Onay: Bu makale, insan veya hayvanlar ile ilgili etik onay gerektiren herhangi bir araştırma içermemektedir.
Yazar Katkısı: Selman ÖĞÜT (%50), Sümeyye DÜNDAR (%50)

Peer-review: Externally peer-reviewed.
Conflict of Interest: The authors declare that there is no conflict of interest.
Funding: The authors received no financial support for the research, authorship and/or publication of this article.
Ethical Approval: This article does not contain any studies with human participants or animals performed by the authors.
Author Contributions: Selman ÖĞÜT (50%), Sümeyye DÜNDAR (50%)

KAYNAKÇA

Acer, Y. (2003). *The Aegean maritime disputes and international law.* Wiltshire: Ashgate

Ak, G. (2014). Tarih, deniz ve egemenlik: Ege'nin ısporadları "Mendeşe Adaları"nın dünü ve bugünü. *Çağdaş Türkiye Tarihi Araştırmaları Tarihi, 14*(29), 283-313. Erişim Adresi: https://dergipark.org.tr/tr/download/article-file/235765

Aegean Sea continental shelf (Greece & Turkey). International Court of Justice. Retrieved from: https://www.icj-cij.org/en/case/62

Avar, Y., and Lın Y. C. (2019). Aegean disputes between Turkey and Greece: Turkish and Greek claims and motivations in the framework of legal and political perspectives. *International Journal of Politics and Security, 1*(1), 67-70. Retrieved from: https://dergipark.org.tr/tr/download/article-file/706054

Başlıca ege denizi sorunları (t.y.). Republic of Turkey Ministry of Foreign Affairs. Retrieved from: https://www.mfa.gov.tr/baslica-ege-denizi-sorunlari.tr.mfa

Background note on Aegean dispute. Republic of Türkiye Ministry of Foreign Affairs. Retrieved from: https://www.mfa.gov.tr/background-note-on-aegean-disputes.en.mfa

Case concerning the continental shelf (Libyan Arab Jamahiriya/Malta) (1985). International Court of Justice Reports 13. Retrieved from: https://www.icj-cij.org/en/case/68

Danişmend, İ.H. (1972). *İzahlı Osmanlı Kronolojisi.* İstanbul: Türkiye Yayınevi

Dyke, J.M.V. (2005). An analysis of the Aegean disputes under international law. *Ocean Development & International Law, 36*(1), 63-117. doi: 10.1080/00908320590909088

Fisheries Jurisdiction (United Kingdom v. Iceland). International Court of Justice. Retrieved from: https://www.icj-cij.org/en/case/55

Eren, Ş. (2008). Ege Denizi Temelinde Türk-Yunan ilişkileri (Yayımlanmamış Yüksek Lisans Tezi). Kadir Has Üniversitesi, Sosyal Bilimler Enstitüsü, İstanbul

Eritrea/Yemen – Sovereignty and Maritime Delimitation in the Red Sea. Permanent Court of Arbitration. Retrieved from: https://pca-cpa.org/en/cases/81/

Erkiner, H. H. and Büyük, M. E. (2021). Türk-Yunan ilişkileri kapsamında kıta sahanlığının çözüm yeri Birleşmiş Milletler Uluslararası Adalet Divanı olabilir mi?. MÜHF-HAD, 27(2), 1013-1038. doi:10.33433/maruhad.989579

Green, L.C. (1952). The Anglo-Norwegian fisheries case. *I.C.J. Reports 1951, 15*(3), 373-377. Retrieved from: https://www.icj-cij.org/en/case/5

Gündüzler, U. (2013). United Nations convention on law of sea as a mixed treaty of EU: a headache for Turkey? *Ankara Review of European Studies, 12*(2), 61. doi:10.1501/Avraras_0000000194

Güneş, Ş.A. (2017). Aegean Sea territorial waters issue. P. G. Ercan (Ed.). Turkish Foreign Policy: International Relations, Legality and Global Reach (pp.303-320). Ankara: Palgrave Macmillan Cham. 10.1007/978-3-319-50451-3

İleri, K. and Gunerigok, S. (2022). US points to 'America's national interest's for double standard on Greece. AA. Retrieved from: https://www.aa.com.tr/en/americas/us-points-to-americas-national-interests-for-double-standard-on-greece/2697618

Johnson, D.H.N. (1952). The Anglo-Norwegian fisheries case. *The International & Comparative Law Quarterly, 1(2), 145-180.* Retrieved from: https://www.cambridge.org/core/journals/international-and-comparative-lawquarterly/article/abs/anglonorwegian-fisheries case/804CCD504ECB5716295466E98A86161E

Kalkan, E. (2020). The longstanding dispute between Turkey and Greece: the Aegean issue. International Journal of Economics and Administrative Studies, 28, 167-174. doi: 10.18092/ulikidince.713136

Kamalov, R. (2007). Ege sorunları (Yayımlanmış Yüksek Lisans Tezi). Ankara Üniversitesi, Ankara.

Karasuları Kanunu. (1964, 25 Mayıs). Resmi Gazete (Sayı: 11711). Erişim Adresi: https://www5.tbmm.gov.tr/tutanaklar/KANUNLAR_KARARLAR/kanuntbmmc047/kanuntbmmc047/kanuntbmmc04700476.pdf

Karğın, Ş. (2010). Ege Adaları'nın hukuksal statüsü Ege sorunları (Yayımlanmamış Yüksek Lisans Tezi). İstanbul Üniversitesi, Sosyal Bilimler Enstitüsü, İstanbul

Keskin, F. (2018). Günümüz Türk-Yunan ilişkilerinde tarihi boyutları ile temel sorunları (Yayımlanmamış Yüksek Lisans Tezi). Bahçeşehir Üniversitesi, Sosyal Bilimler Enstitüsü, İstanbul

Kuran, S. (2014). *Uluslararası deniz hukuku*. İstanbul: Beta Yayınları

Lozan sulh muahedenamesinin kabuluna dair kanunlar düstur üçüncü tertip cilt 5. (1931). https://www5.tbmm.gov.tr/tutanaklar/KANUNLAR_KARARLAR/kanuntbmmc002/kanuntbmmc002/kanuntbmmc00200343.pdf

Mann, S. (2001). The Greek-Turkish dispute in the Aegean Sea: its ramifications for NATO and the prospects for resolution. Calhoun. Retrieved from: https://calhoun.nps.edu/bitstream/handle/10945/2684/01Mar_Mann.pdf?sequence=1&isAllowed=y

Maritime delimitation in The Black Sea (Romania V. Ukraine) judgment of 3 February 2009. International Court of Justice Reports of Judgments, Advisory Opinions and Orders. Retrieved from: https://www.icj-cij.org/public/files/case-related/132/132-20090203-JUD-01-00-BI.pdf

Monte video convention on the rights and duties of states (Article 1). University of Oslo. Retrieved from: https://www.jus.uio.no/english/services/library/treaties/01/1-02/rights-duties-states.xml

Maden Tetkik ve Arama Genel Müdürlüğü (t.y.). MTA Sismik-1 Araştırma Gemisi. Retrieved from: https://www.mta.gov.tr/v3.0/arastirmalar/sismik1

North Sea continental shelf cases (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands) judgment of 20 February 1969. International Court of Justice Reports of Judgments, Advisory Opinions and Orders. Retrieved from: https://www.icj-cij.org/public/files/case-related/52/052-19690220-JUD-01-00-EN.pdf

Öğüt, S. (2010). The sea politics of the EU in the framework of 1982 convention on the law of the sea. (Unpublished Master Thesis). Marmara Universitesi, Avrupa Birliği Enstitüsü, İstanbul

Saltzman, D. S. (t.y.). A legal survey of some of the Aegean issues of dispute and prospects for a non-judicial multidisciplinary solution. Retrieved from: http://turkishpolicy.com/pdf/vol_1-no_2-saltzman.pdf

Siousiouras, P. and Chrysochou G. (2014). The Aegean dispute in the context of contemporary judicial decisions on maritime delimitation. *Laws, 3*(1), 12-49. doi:10.3390/laws3010012

Statute of international court of justice (2022, 25 October). Article 36/1. Retrieved from: https://www.icj-cij.org/en/statute

Sur, M. (2022). *Uluslararası hukukun esasları*. İstanbul: Filiz Kitabevi

Treaty of peace with Italy, signed at Paris on 10 February 1947 (1947). Parties: Italy, France, Allies Powers, Basin: Lake of Mont Cenis. Retrieved from: http://gis.nacse.org/tfdd/tfdddocs/135ENG.pdf

Toppare, N.A. (2006). A legal approach to the Greek Turkish continental shelf dispute at the Aegean Sea (Published Master Thesis). Bilkent University, The Institute of Economics and Social Sciences, Ankara

Turan, C. (2016). Türk-Yunan ilişkileri ve Ege sorunu (Yayımlanmamış Yüksek Lisans Tezi). Trakya Üniversitesi

Türkiye'den ABD ve Yunanistan'a adalar uyarısı. (2022, 22 Eylül). Retrieved from: https://www.trthaber.com/haber/gundem/turkiyeden-abd-ve-yunanistana-adalar-notasi-711582.html

United Nations convention on the law of the sea. Retrieved from: https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf

United Nations security council resolutions (t.y.). Retrieved from: http://unscr.com/en/resolutions/395. Date of Access: 01.10.2022

UN Treaty Collection. (1932-1934 January 4). League of Nations Treaty. Retrieved from: https://treaties.un.org/doc/Publication/UNTS/LON/LoN-cumulative%20index-06.pdf

Vassalotti, J. (2011). Rough Seas: The Greek-Turkish Aegean Sea dispute and ideas for resolution. L.A. Int'l & Comp. L. Rev, 387. Retrieved from: https://digitalcommons.lmu.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1667&context=ilr

Yazan, Y. (2012). Türk-Yunan Ege Denizi sorunlarının Avrupa Birliği Komisyonunun ve Parlamentosunun bakış açıları çerçevesinde incelenmesi. *Kahramanmaraş Sütçü İmam Üniversitesi İktisadi ve İdari Bilimler Fakültesi Dergisi, 2*(1), 191-218. Retrieved from: http://iibfdergisi.ksu.edu.tr/tr/download/article-file/107649

ÖZET

Ege Denizi üzerinde karasuları, kıta sahanlığı adaların aidiyeti ve silahlandırılmasına ilişkin sorunların yanında ekonomik bölge sorunu da özellikle Yunanistan'ın uluslar arası hukuka aykırı mükerrer eylemleriyle sürekli gündemde kalmasına rağmen çözüme kavuşturulamamıştır. Ege Meselesi bugüne kadar Uluslar arası Adalet Divanı tarafından karara bağlanmış deniz yetki alanlarının sınırlandırılmasına ilişkin uyuşmazlıklara ek olarak çok farklı özelliklere sahiptir. Yunanistan 24 Nisan 1830'da bağımsız olması ardından dış politikasını, Osmanlı Devleti'nden toprak almak üzerine kurmuştur. Osmanlı devleti ile Balkan devletleri arasında, I. Balkan Savaşı'nı bitiren Londra Antlaşması 30 Mayıs 1923 tarihinde imzalanmıştır. Anlaşmaya taraf olan altı devlet (Almanya, Fransa, İngiltere, İtalya, Avusturya-Macaristan, Rusya), Londra Antlaşması'nın beşinci maddesi doğrultusunda, 13 Şubat 1914 tarihinde Gökçeada, Bozcaada, ve Meis Adaları'nın Osmanlı Devleti'ne bırakmıştır. Yunanistan işgal altında olan Doğu Ege Adaları silahsız bırakmak ve askeri amaçları için kullanılmaması şartıyla Yunanistan'a bırakılmıştır. 14 Kasım 1913'te Osmanlı Devleti ile Yunanistan arasında imzalanan Atina Antlaşması'nın 15. maddesi, Londra Antlaşması'nın 5. maddesine atıfta bulunarak adaların durumu bahsedilen devletlerin kararına bırakılmıştır. Bu anlaşma ile Girit'te kesin olarak Yunanistan'a bırakılmıştır. Lozan Barış Antlaşması'nın 12. ve 13. maddeleri Atina ve Londra Antlaşmaları'na atıfta bulunmasıyla bu maddeler yeniden onaylanmıştır. 1922'de Türk-Yunan sıcak savaşının sona ermesiyle Lozan Barış Antlaşması 24 Temmuz 1923 tarihinde imzalanmıştır. Bu anlaşma ile iki ülke arasında bir denge meydana getirilmiştir. Türkiye ve Yunanistan arasında 1930'larda dostane ilişkiler şeklinde devam eden duruma rağmen Yunanistan, 1931 Cumhurbaşkanı kararnamesi ile hava sahasını 3 milden 10 mile çıkarmıştır. Ayrıca Yunanistan, 1926 Montrö Boğazlar Sözleşmesi ardından da kara sularını 3 milden 6 mile çıkarmıştır. Burada Montrö Boğazlar Sözleşmesi'nin iki ülke tarafından farklı yorumlanması söz konusudur. Türkiye'nin katılmadığı II. Dünya Savaşı'nda İtalya'nın (1943) teslim olmasıyla bu defa Almanya işgaline uğramıştır. 1945'te Almanya'nın teslim olması sonrasında adalar İngiltere tarafından işgal edilmiştir. Menteşe Adaları ile Meis Adası, 10 Şubat 1947 tarihinde Paris Barış Antlaşması'nın 14. maddesi çerçevesinde Yunanistan'a devredilmiştir. Sonuç olarak ismen sayılan 13 ada ile "bitişik adacıklar" Yunanistan'a yine askersizleştirme koşulu karşılığında devredilmiştir. Burada dikkat çeken nokta, İtalya'nın aksine Yunanistan'a yapılan devirde özellikle silahlandırma ve askerden arındırma koşullarının bulunmasıdır. Bakıldığında Lozan Antlaşması'nın getirdiği "Lozan Dengesi" Ege denizinde titizlikle korunması gereken unsurlardan olduğu görülebilmektedir. Askerden arındırmanın ihlali konusuyla ilgili Türkiye'nin mevzu bahis adalara en yakın konumda olması güvenlik endişesi yaşamasına neden olmaktadır. Buna ek olarak anılan ihlal durumlarında Türkiye'nin Paris Barış Antlaşması'na taraf olmadığı gerekçesi ile söz hakkı olmadığını söyleyen Yunanistan'ın bu iddiası ciddi dereced eanlamsız ve hukuki mesnetten yoksundur. Günümüzde devletlerin, her türlü ve her düzeydeki konuyla ilgili sıkı işbirliği içerisinde bulundukları bir dünya düzeni içerisinde uluslararası barış ve güvenliği ilgilendiren konularda her devlet bu ihlalleri ortaya koyabilir. Bu yüzden konuya doğrudan muhatap ve bölgenin göz ardı edilemez egemen aktörü olan Türkiye'nin yapılan ihlallere sessiz kalıp gözardı edeceğini düşünmek akıldan ve mantıktan uzak bir yaklaşımdır. Askersizleştirme şartını Yunanistan, 1960 yılından bu yana özellikle Doğu Ege Adalarını silahlandırarak sürekli ihlal etmektedir. 1970'lerde ise Türkiye Ege Ordusunu kurması ardından Yunanistan Doğu Ege Adaları'nın silahsız bırakılma hükmünü yok sayarak silahlanmaya girişmiştir. Sonuç olarak, komşu devletler arası barışçıl ve güvenli ortamın sağlanması yönünde adımlar atılması gerekirken, Yunanistan'ın uluslararası hukuka aykırı davranarak sürekli egemenlik iddiaları ile yayılmacı bir politika gütmesi uluslararası barış v egüvenliği tehdit etmektedir. Benzer şekilde Yunanistan'ın karasularını 12 mile çıkarma iradesi gibi hamleleri mevcut meseleyi çözüme ulaştırmayı hiç kolaylaştırmadığı gibi, devletler arası ilişkileri de menfi anlamda etkileyerek daha fazla krizin gündeme gelmesine sebebiyet vermektedir. Türkiye ve

Yunanistan arasındaki Yunanistan'ın durulmayan ihlalleri nedeniyle gündemde yerini daima koruyan Ege Adaları sorunu uluslar arası arenada ciddi boyut kazanmış uyuşmazlıklar arasında yer almaktadır. Konuyla ilgili uluslararası hakim olan iyiniyet ve hakkaniyet ilkelerinin sadece somut uyuşmazlığın sözde taraflarınca değil tüm uluslararası hukuk kişilerince her konuya ilişkin olarak benimsenmesi gerekmektedir. Ek olarak Ege Sorunu'nun farklı mecralarda ortaya konması yerine çözümlenmesi bakımından hakça duruş sergileyerek işbirliği sağlanmalıdır.