

Dispute in Aegean Sea: Ownership of Islets and Rocks

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Abstract

The United Nations Convention on the Law of the Sea (UNCLOS), called also “Law of the Sea Treaty” or “Law of the Sea Convention” is the final agreement on the Sea, Maritime and Continental Shelf matters. The Maritime Law changed for the third time at the Conference convened in New York on 1982, after 9 years of long discussions. Greece signed the UNCLOS and Turkey together with USA and some other countries did not. Greece, right after the official release of convention results and verifying it officially, ignited a dispute in Aegean Sea to expand its control over marine areas adjacent to its coastlines based on the continental shelf rights of the islands, claiming ownership on the islets where their ownership not ceded to Greece by any international treaty. The unilaterally and intentionally declaration ownerships of islets and rocks by Greece based on rules, regulations and laws issued by the Government of Greece, which does not originate from any international treaty or agreement, by the time officially led to a “fait accompli” ownership of the islets and rocks by Greece, which according to UNCLOS, would lead the Aegean Sea to be a Greek Lake, stretching from Turkish coast line to the shores of the Greece in Aegean Sea. Most of the islets and the rocks, being the core of the decades long dispute between Turkey and Greece, bear no economic life or value and do not sustain any human or animal habitation. Most of them are even not large enough to be marked on a map, except portolans.

Keywords: Aegean Sea, Islets, Rocks, UNCLOS, Greece, Turkey.

CHAPTER 1

1 INTRODUCTION

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1.1 Introduction

This paper is based mainly on the official documents, papers, articles and books authored by Greek or Turkish academics, bureaucrats, maritime experts and unbiased non Greek or Turkish authors.

This paper will elaborate the biased behavior and decisions of the United Nations and European Union, and will focus on Lausanne Treaty dated July 24, 1923 and international laws and treaties related to the issue. It will in addition display how politics can be twisted according to the necessities and overrule the principles of international law.

1.2 Importance of Research, General objectives

Arguably the importance of the topic lays hidden within the irredentist aims of Greece. The Greek governments and the Hellenic Parliament issued individually or jointly rules, regulations and laws enabling Greece to be the sole owner of the islets and rocks in the Aegean Sea which had no bearings at all from the point of valid international laws. These artificially created rules, regulations and laws did not originate from any international treaty or agreement but had only the irredentist target to convey the Aegean Sea to a Greek Lake, blocking Turkey to reach to international waters directly and to fully enjoy and benefit from the Exclusive Economic Zone gaining of the “Closed Greek Lake” called Aegean Sea. The General objective of this paper is to look at searchingly to the relevant official documents concerning true ownership of the islets and rocks in the Aegean Sea.

1.3 Research Question

The main target of this paper is to find answers to the origins, nature and the legal ownerships of the islets and rocks, causing a major dispute in Aegean Sea between Turkey and Greece, on the basis of the international laws.

The research question is who is the owner or who should be the owner of the islets and rocks in the Aegean Sea, not shown in the ordinary navigation maps and not mentioned clearly by coordinates and/or by titles in the international treaties or agreements.

Starting from these the main research question of this paper could be conceptualized as: “what are the origins of the islets and rocks in the Aegean Sea, which are not shown in the ordinary navigation maps and/or not mentioned clearly by coordinates and by titles in the international treaties or agreements and what is the dispute between Greece and Turkey concerning the islets in Aegean Sea.”

1.4 Hypothesis

The general argument of this thesis is that the Governments of Greece had always the initiative to extend the limits of the Greece’s boundaries in Aegean Sea to

cover all the islands islets and rocks, originated from centuries long irredentist thoughts, to fully benefit from the benefit from the Exclusive Economic Zone gaining of the “Closed Greek Lake” or namely the Greek Aegean Sea.

1.5 Methodology

One of the leading methods academics and researchers understands and studies the perceptions and thinking of a certain group of people on who they are what they are doing, how do they fit the social life and to the world they live in, is the Textual Analysis. Actually the textual analysis is the description or the interpretation of the information based on the data given in that specific text. The information could be verbatim recordings or the outputs of the messages or the information collected. The latter is the most preferred method. Archival research is based on the notes or communications included in the recordings. Mainly four methods are used in Textual Analysis: performance studies, content analysis, rhetorical criticism, and interaction analysis.

Performance study is based on dialogic correlation with researcher and others communication based on performance. Content Analysis is the analysis of the text content based on identifying and enumeration of the information embedded. Rhetorical Criticism is a method based on interpreting, evaluating, analyzing and describing the data and messages within the texts. Interaction Analysis is a complex accomplishment mainly based on the experience and the knowledge of the researcher on how to handle the behavior and thoughts of the respondent.

This study is mainly based on the official documents, researches, academic non biased papers and to inquisitorial books on the Aegean dispute and islets-rocks ownership. Accordingly, the study did not become restricted. The textual analysis is based on the rendition of the information based on the given data in these official documents, researches, academic non biased papers and the related books. The methodology is trying to find out the answers to the question or topic "who are the official owners of the islets and rocks in the Aegean Sea, based on the international treaties". The main source of this research would be the availability of unbiased documents, academic papers and books released or printed. The instruments and data to be used in the analysis to the case will be the unbiased documents, academic unbiased papers and books on the matter. In addition to the above mentioned printed material, analysis of the Helen history related to Aegean Sea will take place in this paper. The books, unbiased academic studies on the topic, findings of the politicians and academics will constitute the basis of the information used and will form the core of this paper. The utmost importance is given to the objectivity and reliability of the sources by recognizing the complexity of finding these kinds of sources especially studying the islets and rocks of the Aegean Sea issue.

1.6 Theoretical Approach

In old ages, the antic Greek people called themselves and the people around having common cultural and linguistic features as “Helens” and the other hostile groups “Barbarians”. For the Helens, the Ottomans were barbarians although the Greek Orthodox Church, where the Patriarchate was and still is in Fener, İstanbul, had fully fledged rights and privileges within the Ottoman Empire since the capture of İstanbul, the capital city of Byzantium Empire. Megali Idea means “Great Idea” or “Great Dream” and flicked in the minds of Byzantium people after capture of İstanbul, the capital city of Byzantium Empire, the then name Constantinople by the Ottoman Empire on May 29, 1453. (Smith, 2002:17) Megali Idea is the ideal of almost all the Helen origin people living on the earth irrespective of in which country they reside. Mainly it is based on reestablishing the geographical boundaries defined in the book titled Geographika, written by the ancient geographer Strabo during the years 7 B.C. and 17-17 AD (Strabon, Pekman:2012). The boundaries defined in Geographika, cover all the soil once ruled by

the antic Byzantium Empire. The ideal is to reestablish the Eastern Roman Empire, namely Byzantium by declaring an independent and sovereign Greek state, stretching from Ionian Sea to midst of Asia Minor or Anatolia on East-West direction, from Black Sea to Cyprus on eastern North-South direction and from Thrace, Macedonia to Rhodes and Crete on western North-South direction. İstanbul or Constantinople would form the capital of this new fully sovereign Greek state. It will step on two continents and surrounding Libyan or the Mediterranean Sea, the Black Sea, Marmara, Aegean and Ionian seas will wet the shores. Rigas Ferreos (1757-1798), the famous Greek poet and national hero, is the first known Greek who made thorough research, multiple readings and hard work on the subject and who converted the idea from a dream to a written material (Clogg,2013:28). In the year 1791 in Bucharest, the capital of today's Romania, he drafted the first map showing the boundaries of the Helen Republic, which its declaration is the final stage and main target of the ideal.

This short description of Megali Idea actually gives almost all the details on the eals of Helen Nation and puts forward it's relation to Aegean Sea and to the ownership of the islets and rocks therein.

1.7 Literature Review

The purpose of this research thesis is to enlighten the real intention and unveil the national irredentist ideal of Greece concerning the destiny or the future of the islets and rocks in the Aegean Sea. It seems obvious that there are very few academic studies, governmental releases and reports and books handling in depth the international rules governing the system of property ownership of islets and rocks in the Aegean Sea.

1.8 Structure of Chapters.

Chapter 1, Introduction, gives a full picture to the reader about the Research Question of the paper, the Methodology used, Theoretical Approach to the subject and the books and other material studied to gather up the necessary information to be used in this paper.

Chapter 2, Historical background of the Aegean Sea problem, studies the history of Law of the Sea, irredentist ideal of Greek Governments to convert the Aegean Sea in to a Greek Aegean Lake.

Chapter 3, Legal Aspects of Aegean Sea Problem, starts with the UNCLOS III of 1982 and how the laws and regulations unilaterally issued by the Greek Governments and Greek Parliament to declare the ownership of the islets and rocks in the Aegean Sea, not originated from the international treaties and agreements.

Chapter 4, Articles 12, 15 and 16 of Lausanne Treaty, starts with the explanations and interpretations of the articles 12, 15, and 16 of Lausanne Treaty and their relation with the continental shelf dispute in the Aegean Sea.

Chapter 5, Summary, Conclusion and Recommendations, elaborates the findings in the previous chapters and states the conclusion in detail. On the

other hand, and from a different point of view, this section proves the necessity of the internationally recognized and issued treaties, laws, rules and agreements.

CHAPTER 2

2 INTRODUCTION

Chapter 2: Historical background of the Aegean Sea Problem

Ottoman Empire conquered the Aegean Sea completely as early as 17th Century and lost most of it in the nineteenth and twentieths centuries. The Turkish hegemony ran for couple of centuries over the full Aegean Sea including all the islands, islets and rocks.

After World War I., more than 90 percent of these islands, islets and rocks were ceded to other countries, and some few to the successor of Ottoman Empire, Republic of Turkey. Accordingly, the sovereignty of Turkey became very limited on the Aegean Sea. Due to the equivocation of the relevant international agreements, treaties, documents and the practices of both Greece and Turkey over the islands and finally the Kardak-Imia issue, created an important confrontation problem and dispute over the islands, islets and rocks in the Western shores of Aegean Sea between the two neighboring countries.

Chronologically the treaties, agreements and documents dealing with the status of the islands, islets and rocks with in the territorial seas of Turkey are;

Lausanne Treaty, dated July 24, 1923,

The Conference and exchanged letters in connection between Turkey and Italy, dated January 4, 1932,

The official documents signed by the Turkish and Italian experts of Maritime, December 28, 1932,

Peace Treaty signed at Paris, February 10, 1947.

Before the Ottomans the Byzantine Empire hold the sole governance on the Aegean Sea for centuries. Remnants of the Byzantine Empire, the Greek population, are still living on the islands located at the Eastern shores of Aegean Sea. After the signing of the Lausanne Treaty on July 24, 1923, some 1,3 million Greek people from the Western Anatolia and Eastern Thrace immigrated to Greece and some 400 thousand Muslims from Western Thrace immigrated to Turkey.

The territorial division in Thrace and Anatolia and exchange of population between Greece and Turkey resulting from Treaty of Lausanne dated July 24, 1923 and Treaty of Paris dated February 10, 1947 seemed had solid and sustainable results. Within the Aegean Sea Greece managed to take under its rule almost all of the islands based on the international agreements and treaties. The evolution of the British Admiralty Law after World War II and adoption of the Convention on the Continental Shelf and the Convention on the Territorial Sea and the Contiguous Zone at the First Convention on the Law of the Sea in the year 1958, did tamper the status quo in the region.

CHAPTER 3: Legal Aspects of Aegean Sea Problem

The Admiralty and Maritime Law (Force,2004:1-252) do not cover over or under sea island or islet issues.

Some initiatives concerning the sovereignty of islands, islets and rocks in the Aegean Sea, were exchanged between the Ottoman Empire and relevant European

countries, between the years 1911 and 1923 in good faith to solve the problem but since they were not concluded by international agreements or treaties, the status of these islands, islets and rocks remained the same.

The Greek islands are spread all over the Aegean Sea, starting from the Eastern shores of Greece mainland up to Western Coast of Anatolia. The islands titled Midilli-Lesbos, Sakız-Chios, İstanköy-Kos, Rodos-Rhodes and Sisam-Samos are located within the territorial waters of Turkey. Some are even almost within the base line of Turkey, like Meis-Castellorizo island only a mere 1300 m. from the Turkish coast.

After evolution of the Law of the Sea the legal border lines, EEZ line and sovereignty of Turkey and Greece became very complicated within the Aegean Sea.

3.1 The Turkish-Greece dispute based on The Law of the Sea

Since the Eighteenth Century, the territorial seas of the coastal states and their sovereignty on these waters were accepted as 3 nautical miles stretching perpendicularly towards the deep seas starting from their coastal lines.

Parallel to the advancements in the technology, the interests of the coastal states in the underwater sources, mineral, mine and hydro carbon wealth lying under the sea bed and the maritime industry over the sea surface got bigger and bigger. Consequently, the need to enlarge their sovereignty over the neighboring and surrounding seas also increased and acquired importance.

The enlargement of the seas as the continental shelf and exclusive economic zone (EEZ) under jurisdiction and as territorial waters under sovereignty, created many disputes and became the source of friction and problems between many countries. One of the most important one is the Aegean Sea dispute between Turkey and Greece.

The First Convention of the Law of the Sea held on 1958, mainly handled the Territorial Sea and the Contiguous Zone topics and did not elaborate the territorial waters issue, while for some countries the navigation was more important than other issues, for some the security and for others the exploitation of the marine resources.

The exploitation of the mines, minerals and hydrocarbon resources in the sea bed lying within the continental shelf became important and this topic was discussed thoroughly in the first convention on the Law of the Sea on April 29, 1958 and officially recognized. After the closing of the convention, some countries extended their territorial waters from 3 nautical miles to 12 nautical miles.

At the Third Convention on the Law of the Sea, shortly called UNCLOS (United Nations Convention on the Law of the Sea) in December 1982 at Montego Bay, the concept of Exclusive Economic Zone extending over 200 nautical miles from the coast of continents and islands, and the jurisdiction over the continental shelf were allowed to be exercised officially.

In the Aegean Sea the dispute between Turkey and Greece is originating from the radical change in the results of the First Convention on the Law of the Sea. These change in the Law of the Sea, shook the hardy set stability over the Aegean Sea since the end of the Second World War and caused a controversy regarding territorial waters and the continental shelf between Turkey and Greece.

CHAPTER 4: Articles 12, 15 and 16 of Lausanne Treaty

The Articles 12, 15 and 16 of the Lausanne Peace Treaty may have some effects on the status of the islands, islets and rocks, causing dispute between Turkey and Greece in Aegean Sea.

4.1 Article 12

Article 12 of the Lausanne Treaty clearly states the following wording “except where a provision, to the contrary, is contained in the present treaty, the islands situated at less than three miles from the Asiatic coast shall remain under Turkish sovereignty.”

The Greek policy over the Hellenic sovereignty of the islands, islets and rocks rely heavily on this article. Greece, based on this article, claiming that Turkish sovereignties over the islands, islets and rocks are limited with three-mile zone from the coast of Anatolia in the Aegean Sea (McNair,1961:367).

Turkey argues that the idea behind this article is not to limit the Turkish sovereignty with the three-mile zone but to guarantee the Turkish territorial sovereignty along the coasts of Anatolia in Aegean Sea, Mediterranean Sea and Black Sea and extends the sovereignty out of the three-mile zone where necessary over the islands, islets and rocks. In this context if the article had the intention to limit the sovereignty of Turkey outside the three-mile zone, then a further sentence such as “all the islands that lie within the three-mile zone along the coast of Anatolia shall remain under Turkish sovereignty and others will be under Italy and or Greece.” had to be added to the treaty. The article 12 without any misinterpretation, stresses strongly that all islands, islets and rocks should stay under the Turkish sovereignty and if the main idea during the discussions of the treaty was something different, then the wording would also be different and limiting the sovereignty of Turkey with in the three-mile zone strictly with clear definition and words. Accordingly, article 12 does not change the status of any islands, islets and rocks with in the Aegean Sea.

4.2 Article 15

Article 15 of the Lausanne Treaty clearly puts forward that Turkey waives its rights over Oniki adalar-Dodecanese islands together with the islets and rocks depending on them and the Meis-Castellorizo island and these islands together with the depending islets and rocks are ceded to Italy. The number of the islands called Oniki adalar-Dodecanese, originating from the wording “Dodeca nissas” meaning “Twelve islands” in Greek, actually consisted of Fourteen islands rather than Twelve including Meis-Castellorizo island. These islands are namely İstanbulya-Stampalia, Hereke-Chalki, Kilimli-Kalimnos, Kerpe-Karpethos, Kaşot-Casos, Rodos-Rhodes, İstanköy-Cos, İleriyoz-Leros, İncirli-Nisiros, Batnaz-Patmos, Sömbeki-Simi, Tilos-İlleki, Eşekler-Lipsos ve Meis-Castellorizo (Bölükbaşı,2012:434). Italy ceded these islands to Greece according to Paris Peace Treaty held in Paris on 1947.

It is obvious from the wording that there are some islets and rocks depending on Oniki adalar-Dodecanese islands and some are not. The islets and rocks not depending to Oniki adalar-Dodecanese islands and Meis-Castellorizo island remains under the sovereignty of Turkey. If the intention of the parties discussing the above mentioned treaty in Lausanne was something different concerning the sovereignty over islets and rocks around, then the word “depending” would not be used in the wording. Accordingly, all the islets and rocks, in short everything in the Aegean Sea, would be ceded to Italy rather than the depending ones.

Accordingly, it can be argued that the islands, islets, and rocks who are not dependable to Oniki adalar-Dodecanese islands and Meis-Castellorizo were not ceded to Italy and to Greece respectively and still they continue to be the part of Republic of Turkey.

The islands and islets around Oniki adalar-Dodecanese are Kızkardaşlar-Adelfoi Syrnas Islets, Eşek-Agathonisi, Askino- Anditilos, Nergiscik-Arki, Ermeniya-Armathia, Limoniye- Alimia, İstakida adaları- Astakidonisia, Yumurta-Avgo, Kamelya- Chamili, İkikardaşlar- Divounia, Bulamaç- Farmakonisi, Yavalsa- Gialesino, Laros- Glaros, Yalı-Gyali, Kardak-İmia, Kalolimni-Kalolimnos, Kandilli- Kandelioussa, Ardıçcık-Kinaros,

Eşekler-Lipsi, Koçbaba- Levitha, Kendiroz- Liadi Islets, Mermer- Marmarás, Mavra-Mavra, Miskin- Nimos, Yaban- Ofidoussa, Pakya-Pachia, Pergusa-Pergousa, Plati-Plati, Keçi-Pserimos, Sariye- Saria, Seskili-Sesklio, Safran adaları-Sofrano Islets, Birgöz-Strogyli, Sirina- Syrna, Telendos-Telendos, Ücadalar-Trianisia.

The Paris Peace Treaty held in Paris on 1947 does not give a clear idea on the sovereignty of the islands, islets and rocks mentioned in the treaty. Turkey and Greece have their own interpretation on the sovereignty of these islands, islets and rocks, which led to a dispute since.

4.3 Article 16

Article 16 of the Lausanne Treaty “Turkey hereby renounces all rights and title whatsoever over ... the islands other than those over which her sovereignty is recognized by the said Treaty, the future of ... these islands being settled or to be settled by the parties concerned” is interpreted by Turkey and Greece differently based on their political and territorial acquisitions over the islands, islets and rocks related.

Turkey claims sovereignty over the islands, islets and rocks which their names are not mentioned in the article 16 together with the islands, islets and rocks on which the sovereignty of Turkey confirmed by article 12.

Greece claims that Turkey renounced all the islands, islets and rocks situated in the Aegean Sea by this article and have sovereignty over the islands with in the three-mile zone from the Anatolian coast as mentioned in article 12 and over Gökçeada-İmbros, Bozcaada-Tenedos and Tavşan adası-Mavriya islands only.

The Greek argument on the article 16 is that article 16 has an understanding of mass renunciation and Turkey ceded all her sovereignty and ownership rights over the islands, islets and rocks situated in Aegean Sea (Economides,1997:330-33).

The Turkish argument on this particular Greek allegation is that this article is written just to complete the other related articles and has no such meaning and characteristics and does not layout a further renunciation (Başeren,1998:108-9). In addition to this argument, Turkey claims that since the article 16 is specifically handling the islands only and the parties of the treaty know the differences between islands and islets, which they mentioned in the other articles separately, islets and rocks should not be interpreted or handled together with the islands in the scope of this article. The arrangements made in the article 16 for the islands does not bind the islets and rocks and accordingly Turkey did not renounce the islets and rocks at all in the Aegean Sea (İnan,1997:8-9).

CHAPTER 5: Summary, Conclusion and Recommendations

It can be argued that Greece can acquire some of the islands, islets and rocks, as a result of its state policy where Turkey did not protest during the past years and did not cede to any state by an international agreement since Lausanne Treaty of 1923 and Paris Treaty of 1947. Greece claims that the Law No.547 of 1948 meeting, regulating the governance of some of the islands, islets and rocks in the Aegean Sea, including Kardak-İmia, defines all of them within the Greek territories and showing the list as the best evidence since it was never protested or over ruled.

Some European Union partnership programs covering the topics within the eastern parts of Aegean Sea handled and run by some of the departments and representatives of member states of the European Union were cited by Greece as strong evidences supporting her claims over the islands, islets and rocks, especially on the Kardak-İmia rocks.

As the counter opinion to Greece's claims, Turkey argues that, she did not participate in these development programs, never informed officially about their contents and have no idea or data related. In addition states that the Kardak-Imia rocks are registered in the log book the Land Registry Office of Bodrum, Turkey.

As a general international practice which is acceptable by all the member countries of UN, concerning declaring ownership and administration of lands in full or partial, islands, islets and rocks, it is more important to register and announce their ownership by a law through the parliament, published publicly.

It is obvious that Greece acquired the ownership and sovereignty of some of the islands, islets and rocks in the Aegean Sea unilaterally by laws through the Greek Parliament and not by a valid and binding international agreement. Accordingly Greece's claims over these islands are not genuine and binding.

REFERENCE

- Başeren, Sertaç. "Ege'de Ada, Adacık ve kayalıkların Uluslararası Andlaşmalarla Tayin Edilen Hukuki Statüsü", 1998, Türk Tarih Kurumu, Ankara, Turkey
- Bölükbaşı, Deniz. "Turkey and Greece: The Aegean Disputes", 2012, Routledge, New York, USA
- Clogg, Richard. "A Concise History of Greece", 2013, Cambridge University Press, UK
- Economides, Constantinos. "Les Ilots D'Imia dans la mer eggee: un differend cree par la force" 1997, Revue générale de droit international public, Paris, France
- Force, Robert. "Admiralty and Maritime law", 2002, Tulane Maritime Law Center, Tulane Law School, Federal Judicial Center Publication, Tulane, New Orleans, USA
- İnan, Yüksel - Başeren, Sertaç. "Status of Kardak Rocks", 1997, Türk tarih Kurumu, Ankara, Turkey
- Lord MacNair. "The Law of Treaties", 1961, Theb Clarendon press, Oxford, UK
- Smith, Michael Llewellyn, "Yunan Düşü", 2002, Ayraç Yayınlan, Ankara
- Strabon, (Translation by Pekman, A.) "Antik Anadolu Coğrafyası Kitap:XII-XIII-XIV - Strabon-Geographika", 2012, Arkeoloji ve Sanat yayınları, İstanbul, Turkey.