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In 2004, following the 2003 EEZ delimitation agreement between Egypt and Cyprus, Turkey for the first time put forward claims regarding the maritime space between the Greek islands of the southeastern Aegean and Cyprus and published maps where its alleged maritime borders abut those of Egypt, disregarding the maritime rights of Greece and Cyprus.<sup>1</sup> This came as no surprise since the long-standing Turkish position is that the Greek islands of the Aegean Sea and Cyprus are not entitled to a continental shelf of their own and cannot claim an EEZ.<sup>2</sup>

Another reason prodding the Turkish reaction is that from 1963 onwards, when the Turkish Cypriots abandoned their positions in the government as well as in the civil service of Cyprus, Turkey refuses to recognise the Republic of Cyprus, while it does not accept that the Republic represents the Turkish Cypriots. Turkey has been – unsuccessfully – trying ever since to degrade the status of the Republic on the international plane and, concurrently, to achieve the establishment of a bizonal bicomunal federation formed by two equal constituent states, namely the Republic of Cyprus (or the ‘Greek Cypriot Administration of Southern Cyprus’ as Turkey calls it) and the breakaway ‘Turkish Republic of Northern Cyprus’ (‘TRNC’).

## Analysis of the Turkish claims

Interestingly, whereas Turkey does not accept the principle of equidistance/median line when it comes to maritime delimitation with Greece and Cyprus, it has adopted the median line method in designating its purported maritime borders with Egypt. Nevertheless, there is no rule of international law precluding states from using different delimitation methods in various parts of their maritime domain and no particular delimitation method is obligatory.<sup>3</sup> As a consequence, the Turkish putative continental shelf limits partly overlap with blocks 1, 4, 5, 6 and 7 of Cyprus’ continental shelf/EEZ and, also, encroach upon segments of the Greek continental shelf (Figure 1).<sup>4</sup> One of the

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<sup>1</sup> Erciyes C, ‘Maritime Delimitation and Off-Shore Activities in the Eastern Mediterranean: Legal and Political Perspectives, Recent Developments’ (Turkish Ministry of Foreign Affairs 2012), <[http://www.mfa.gov.tr/site\\_media/html/maritime\\_delimitation.pdf](http://www.mfa.gov.tr/site_media/html/maritime_delimitation.pdf)> last accessed 11 September 2017; Turkish Naval Forces Strategy (2016) <<https://www.dzkk.tsk.tr/data/icerik/392/FLASH/EN/index.html>> last accessed 11 September 2017.

<sup>2</sup> Çubukçuoğlu S S, ‘The EEZ Delimitation Dispute between Cyprus and Turkey-Part I’ (The Fletcher School of Law and Diplomacy 2014) p. 5. <[https://www.academia.edu/9532415/Cyprus\\_and\\_Turkey\\_The\\_EEZ\\_Delimitation\\_Dispute\\_in\\_the\\_Eastern\\_Mediterranean\\_-\\_Part\\_I](https://www.academia.edu/9532415/Cyprus_and_Turkey_The_EEZ_Delimitation_Dispute_in_the_Eastern_Mediterranean_-_Part_I)> last accessed 11 September 2017.

<sup>3</sup> *Continental Shelf (Libyan Arab Jamahiriya/Malta)* (Judgment) [1985] ICJ Rep 13, paras 43-44; *Case concerning the Delimitation of Maritime Areas between Canada and the French Republic* (1992) 31 ILM 1149, para 38.

<sup>4</sup> Colson D, ‘The Legal Regime of Maritime Boundary Agreements’ in Jonathan I Charney and Lewis M Alexander (eds), *International Maritime Boundaries*, Vol I (Martinus Nijhoff 1993) 67.

arguments advanced by Turkey in order to persuade Egypt to abandon its EEZ delimitation with Cyprus is that Egypt has 'abolished' a maritime space of approximately 19,400 km<sup>2</sup> due to the median line agreed with Cyprus.<sup>5</sup>

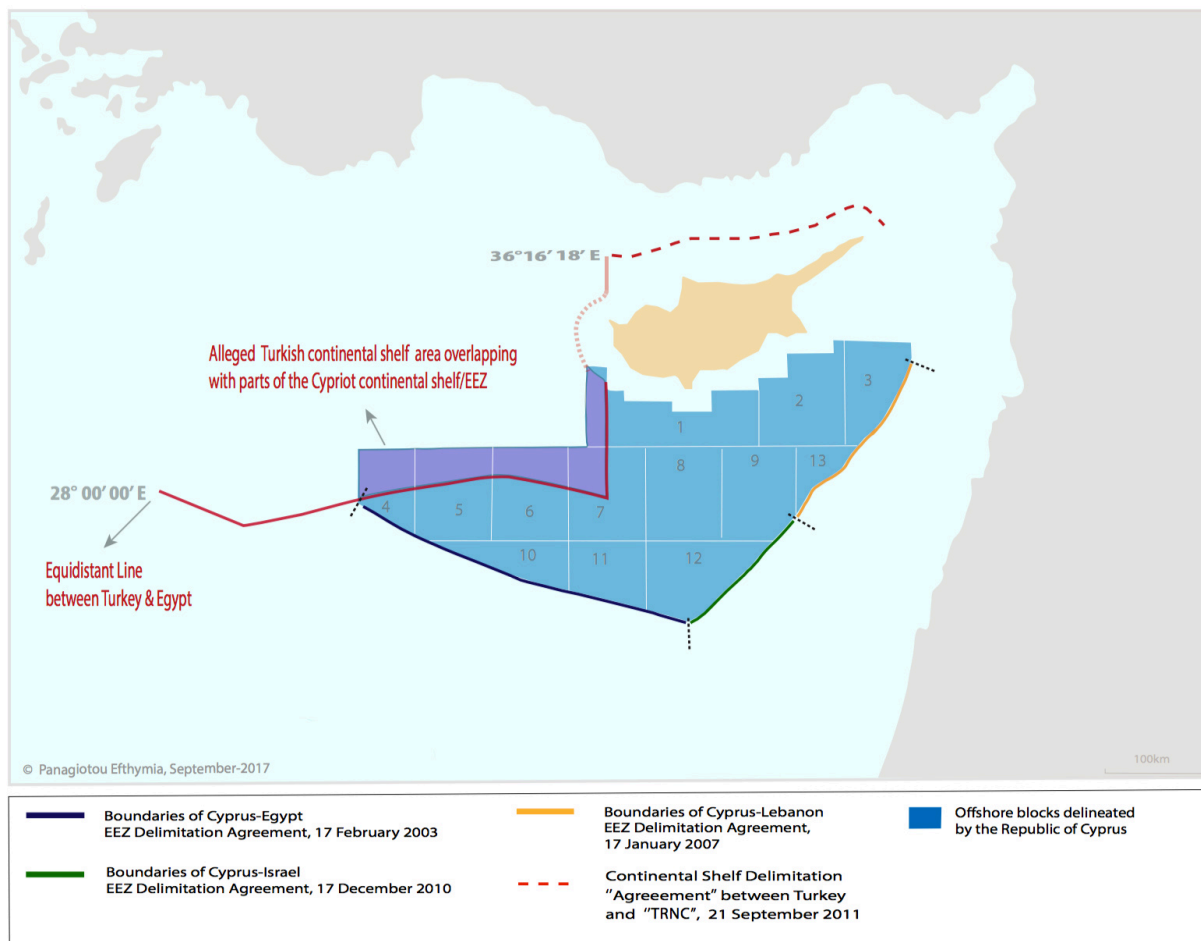


Figure 1. Turkey's alleged continental shelf maritime boundary with Egypt (Source: Cagatay Erciyes, 'Maritime Delimitation and Offshore Activities in the Eastern Mediterranean: Legal and Political Perspectives, Recent Developments' 2012).

The aforementioned position held by Turkey contradicts its ostensible interest in the protection of the rights of the Turkish Cypriots, since, if such a significant amount of maritime space is to be taken away from Cyprus, this would impair the rights of the Turkish Cypriots over the natural wealth of the island as well. Apart from that, the Turkish contentions over the western sector,<sup>6</sup> but mainly

<sup>5</sup> A Turkish author argues that both Israel and Lebanon should revisit their EEZ delimitation agreements with Cyprus as they are detrimental to their interests. Çubukçuoğlu S S, 'Turkey's Exclusive Economic Zone in the Mediterranean Sea: The Case of Kastellorizo' (Master's Thesis, The Fletcher School of Law and Diplomacy 2014) pp. 27, 32 <[https://www.academia.edu/9532225/Turkeys\\_EEZ\\_in\\_the\\_Mediterranean\\_Sea\\_The\\_Case\\_of\\_Kastellorizo](https://www.academia.edu/9532225/Turkeys_EEZ_in_the_Mediterranean_Sea_The_Case_of_Kastellorizo)> last accessed 11 September 2017; Yayci holds the view that Turkey can conclude delimitation agreements with Egypt, Syria, Israel, Libya and Lebanon disregarding the island of Cyprus. Yayci C, 'The Problem of Delimitation of Maritime Areas in Eastern Mediterranean and Turkey' (2012) 4(6) Bilge Strateji 1, 1-2.

<sup>6</sup> There is no maritime boundary delimitation agreement either between Cyprus and Greece or between Greece and Turkey or Cyprus and Turkey concerning the maritime area and seabed between the Greek islands of the southeastern Aegean and Cyprus.

over the southwestern segment of the Cyprus' continental shelf and proclaimed EEZ, in relation to which a maritime boundary delimitation as well as a framework agreement between Cyprus and Egypt are in force,<sup>7</sup> may violate the former's sovereign rights under both conventional and customary law if Turkey performs any unilateral activities in there.

Significantly, the framework agreement and the fact that Egypt has awarded oil concessions respecting the median line with Cyprus have reaffirmed and consolidated the maritime boundary of the two states and, accordingly, any efforts towards the revocation of the delimitation agreement would be extremely difficult.<sup>8</sup> Even if such revocation does take place it would be hard to affect the maritime boundary because of the 'doctrine of executed treaty provisions', which entails that 'once a boundary line has been established by treaty [...] its existence as a legal construction binding on the parties is no longer dependent on the continued existence of the treaty or the treaty provision which established it.'<sup>9</sup>

Bearing in mind that all of Turkey's maritime delimitation agreements in the Black Sea were effected according to the equidistance/median line,<sup>10</sup> it seems that Turkey considers this method as taking into account equitable principles and leading to an equitable solution in the Black Sea. Conversely, Turkey does not maintain the same position concerning the Aegean and the East Med due to the presence of islands and its objection to the establishment of EEZ in the Aegean Sea before the settlement of the continental shelf conundrum with Greece.<sup>11</sup>

Consequently, at first sight, it can be argued that the Turkish approach remains consistent with the stance it held during UNCLOS III, namely against the equidistance/median line method in favour of equitable principles when it comes to delimitation involving islands and continental lands.

### **Sovereign rights and jurisdiction of coastal states under the law of the sea**

On the authority of Articles 56(1)(a)(3), 77(1)(2) and 81 LOSC, coastal states have exclusive sovereign rights for conducting exploration and exploitation operations in their EEZ and on their continental shelf (the seabed and subsoil of the EEZ is actually the continental shelf).<sup>12</sup> In this regard, no other state is entitled to undertake such activities on another state's continental shelf

<sup>7</sup> Agreement between the Republic of Cyprus and the Arab Republic of Egypt on the Delimitation of the Exclusive Economic (signed 17 February 2003, entered into force 07 March 2004) 2488 UNTS 3; Framework Agreement Between the Government of the Republic of Cyprus and the Government of the Arab Republic of Egypt Concerning the Development of Cross-Median Line Hydrocarbons Resources, Republic of Cyprus, Government Gazette No. 4196 (25 July 2014) p. 10703, <[www.mof.gov.cy/mof/gpo/gpo.nsf/All/A88D02909DC27F10C2257D20002C1DB5/\\$file/4196%2025%207%202014%20PARARTIMA%201o%20MEROS%20III%20.pdf](http://www.mof.gov.cy/mof/gpo/gpo.nsf/All/A88D02909DC27F10C2257D20002C1DB5/$file/4196%2025%207%202014%20PARARTIMA%201o%20MEROS%20III%20.pdf)> last accessed 11 September 2017. This agreement was concluded according to Article 2 of the 2003 maritime boundary delimitation agreement between the two states.

<sup>8</sup> As a matter of fact, the Egyptian Administrative Court has recently rejected an application filed by several members of the Egyptian Parliament for the annulment of the 2003 EEZ delimitation agreement.

<sup>9</sup> Marston G, 'The Stability of Land and Sea Boundary Delimitations in International Law' in Gerald H Blake (ed), *Maritime Boundaries* (Routledge 1994) 145-146, 153; Vienna Convention on the Law of Treaties (signed 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331, arts 62(2)(a), 70(1); it is supported that international case law condones the view that Article 62(2)(a) VCLT applies to maritime boundaries as well. *Aegean Sea Continental Shelf Case (Greece v Turkey)* (Judgment) [1978] ICJ Rep 3, para 85; *Delimitation of Maritime Boundary between Guinea-Bissau and Senegal* [1989] 83 ILR 1, para 63; René-Jean Dupuy and Daniel Vignes (eds), *A Handbook on the New Law of the Sea*, Vol I (Martinus Nijhoff 1991) 426.

<sup>10</sup> *Maritime Delimitation in the Black Sea (Romania v Ukraine)* (Judgment) [2009] ICJ Rep 61, para 174.

<sup>11</sup> Yücel Acer, *The Aegean Maritime Disputes and International Law* (Ashgate Publishing 2002) 42-43.

<sup>12</sup> United Nations Convention on the Law of the Sea (signed 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3, art 56(3).

without the latter's explicit assent. This rule is part of customary international law<sup>13</sup> and, therefore, even non states parties to the Convention are under an obligation to observe it. Another aspect of the exclusivity a coastal state enjoys over natural resources in its seabed and subsoil is the exclusive jurisdiction it has 'to construct and to authorize and regulate the construction, operation and use' of installations and structures pertinent to hydrocarbon activities (ie oil rigs).<sup>14</sup>

In spite of this, Turkey from 2008 (one year after the first bidding round regarding the offshore blocks of Cyprus had been announced) until 2012 granted concessions to the TPAO for areas Greece considers as falling within its continental shelf, as well as for areas within the Cypriot continental shelf and proclaimed EEZ in close proximity to the western coasts of Cyprus.<sup>15</sup> It should be borne in mind that Turkey is entitled to maritime rights in a portion of the sea area between the Greek islands of the southeastern Aegean Sea and Cyprus as its coasts project into the area, but these entitlements do not cover the entire region.

Further, following the conclusion of the second bidding round concerning the sea blocks offered by Cyprus, the Turkish Ministry of Foreign Affairs issued the following statement:

Certain parts of the maritime areas in the west of the Island included in the so-called tender opened by GCA [Greek-Cypriot Administration] overlap with Turkey's continental shelf in the Mediterranean Sea. Turkey, as was already declared before, will not allow any activity over these areas.<sup>16</sup>

For its part, Cyprus submitted a demarché to the UN Secretary-General opposing the Turkish assertions and reiterating its exclusive sovereign rights over its maritime zones,<sup>17</sup> but Turkey replied that the areas for which exploration permissions were given fall within the Turkish continental shelf.<sup>18</sup> What followed was a note verbale whereby Greece protested against the Turkish actions. Greece stated that the outer limit of its continental shelf is the median line, while it repeated that all Greek islands including Rhodes and Kastellorizo are entitled to maritime zones beyond the territorial sea.<sup>19</sup> Turkey rejected the Greek positions, restating its views on cooperation in semi-enclosed seas

<sup>13</sup> The wording of Article 77(1)(2) LOSC is identical to that of Article 2(1)(2) of the 1958 Convention on the Continental Shelf, which was considered by the ICJ as reflective of customary international law. *North Sea Continental Shelf Cases* (Judgment) [1969] ICJ Rep 3, para 63; an Arbitral Tribunal constituted under Annex VII LOSC noted that the provisions of Article 77 LOSC 'are unequivocal and require no further interpretation'. *The Philippines v China Award* [2016] para 698 <<https://pca-cpa.org/wp-content/uploads/sites/175/2016/07/PH-CN-20160712-Award.pdf>> last accessed 11 September 2017.

<sup>14</sup> LOSC (n 12) arts 56(1)(b)(i), 60(1), 80; *The Philippines v China Award* (n 13) paras 1015-1016, 1032-1037.

<sup>15</sup> Official Gazette of the Republic of Turkey, No 27290 (16 July 2009) Decisions of the Council of Ministers 14002/2008, 14003/2008, 14004/2008, 14005/2008, <<http://www.resmigazete.gov.tr/main.aspx?home=http://www.resmigazete.gov.tr/eskiler/2009/07/20090716.htm&main=http://www.resmigazete.gov.tr/eskiler/2009/07/20090716.htm>> last accessed 11 September 2017; Official Gazette of the Republic of Turkey, No 28276 (27 April 2012) Decisions of the Council of Ministers 2968/2012, 2974/2012 <<http://www.resmigazete.gov.tr/eskiler/2012/04/20120427.htm>> last accessed 11 September 2017; Letter dated 13 February 2014 from the Permanent Representative of Cyprus to the United Nations addressed to the Secretary-General, UN Doc A/68/759.

<sup>16</sup> Ministry of Foreign Affairs of Turkey, Press Release (18 May 2012) <[http://www.mfa.gov.tr/no\\_-140\\_-18-may-2012\\_-press-release-regarding-the-international-tender-for-off\\_shore-hydrocarbon-exploration-and-exploitation-opened-by-the-greek-cypriot-administration.en.mfa](http://www.mfa.gov.tr/no_-140_-18-may-2012_-press-release-regarding-the-international-tender-for-off_shore-hydrocarbon-exploration-and-exploitation-opened-by-the-greek-cypriot-administration.en.mfa)> last accessed 11 September 2017.

<sup>17</sup> Letter dated 15 June 2012 from the Permanent Representative of Cyprus to the United Nations addressed to the Secretary-General, UN Doc A/66/851.

<sup>18</sup> Letter dated 5 September 2012 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General, UN Doc A/66/899.

<sup>19</sup> Communication dated 20 February 2013 from the Permanent Mission of Greece to the United Nations addressed to the Secretary-General.



on all matters and stressing, once again, that any delimitation should be effected according to equitable principles.<sup>20</sup>

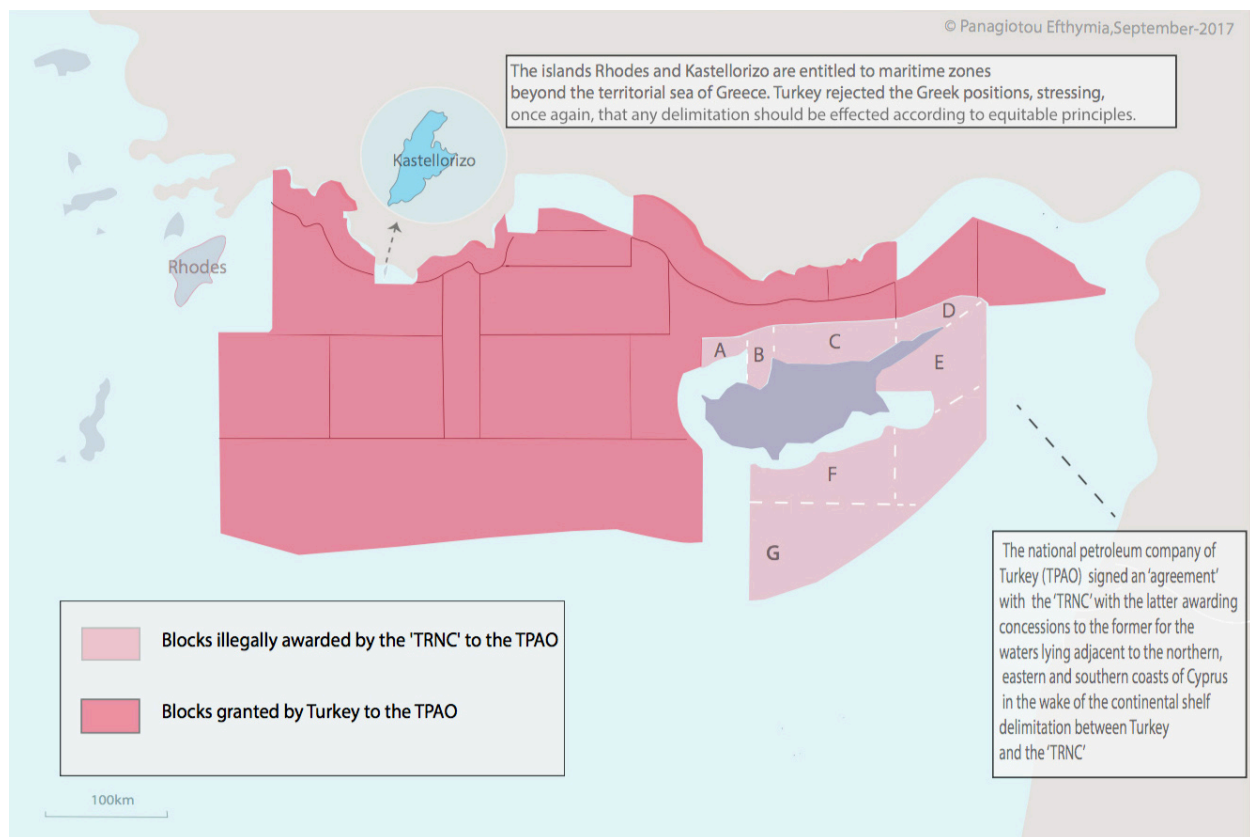


Figure 2. Sea blocks granted by Turkey to the Turkish Petroleum Corporation (TPAO)  
(Source: 'TPAO: New Horizon for Turkey' 2013).

What is more, in 2011 TPAO signed an 'agreement' with the 'TRNC' with the latter 'awarding' concessions to the former for the waters lying adjacent to the northern, eastern and southern coasts of Cyprus (in pink) in the wake of the continental shelf delimitation between Turkey and the 'TRNC' (Figure 2).<sup>21</sup> Given that the 'TRNC' is under the effective military and political control of Turkey, it would be more appropriate to say that these licences were issued by Turkey on behalf of the 'TRNC'; in essence, it is Turkey itself that has provided these licenses to the TPAO. In any case, the unlawfulness of the regime in northern Cyprus renders these concessions invalid.<sup>22</sup>

<sup>20</sup> Communication dated 12 March 2013 from the Permanent Mission of Turkey to the United Nations with reference to the Verbal Note from the Permanent Mission of Greece dated 20 February 2013.

<sup>21</sup> 'Cyprus is another site of interest. Turkish Republic of Northern Cyprus (TRNC) and TPAO agreed on an intense exploration program through the execution of a Petroleum Services and Production Sharing Contract in November 2011.' Turkish Petroleum, 'Central-Eastern Europe & Caspian (CEEC)', Scout Group Meeting - Crete, Greece (May 2012) on the continental shelf 'agreement' between Turkey and the 'TRNC', see Nikolaos Ioannides, 'The Continental Shelf Delimitation Agreement between Turkey and 'TRNC'' (EJIL *Talk!*, 26 May 2014) <<http://www.ejiltalk.org/the-continental-shelf-delimitation-agreement-between-turkey-and-trnc/>> last accessed 11 September 2017.

<sup>22</sup> *Loizidou v Turkey* ECHR 1996-VI, paras 44, 56-57; *Cyprus v Turkey* ECHR 2001-IV, paras 77, 78 and 80; *Xenides-Arestis v Turkey* App no 46347/99 (ECtHR, 22 December 2005), para 27; *Kyriacou Tsiakkourmas and Others* App no 13320/02 (ECtHR, 02 June 2015), para 150; on non-recognition of the 'TRNC' see also *Hesperides Hotels v Aegean*

## Conclusion

As illustrated above, Turkey has vigorously reacted to the maritime activities undertaken by Cyprus over the last fifteen years. The Turkish government has rejected the EEZ delimitation agreements signed between Cyprus and its neighbouring states, while it has opposed the granting of concessions by, and the hydrocarbon operations carried out on behalf of, Cyprus. Arguably, the reasons underpinning this posture is the non-recognition of the Republic of Cyprus by Turkey and the Turkish view that the former's activities prejudice the rights of the Turkish Cypriots; the long-standing Turkish position that islands are not capable of generating full maritime zones; and that the equidistance/median line method should not be used in the Aegean and the Eastern Mediterranean Seas due to the presence of islands, which, so the Turkish argument runs, are considered as a special circumstance dictating adjustment of the equidistance/median line. In addition, Turkey does not only object to the maritime activities of Cyprus, but has, also, allocated hydrocarbon licences to the TPAO for areas falling within the continental shelf of Greece and in the continental shelf/EEZ of Cyprus. Nonetheless, taking into account the relevant legal framework, it should be pointed out that the Turkish actions circumvent the rules of both conventional and customary international law, while they violate the sovereign rights of Cyprus over its continental shelf/EEZ. Regrettably, by following this pattern of behaviour, Turkey shows that it does not share the cooperative mentality forged by the other East Med states over the last few years and has been acting as a 'lone drummer' placing itself on the sidelines in respect of maritime and energy affairs. What the East Med conundrum affirms is that if states aspire to establish strong ties and collaborate with a view to avoiding tension and to achieving prosperity, they have to act in compliance with international law norms.

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*Turkish Holidays* [1978] 1 All ER 277, p. 281; *Autocephalous Greek-Orthodox Church of Cyprus and the Republic of Cyprus v Goldberg and Feldman Fine Arts, Inc., and Peg Goldberg* No. 89-2809, United States Court of Appeals, Seventh Circuit (24 October 1990) 109 ILR 488, para 69; *Case C-4322/92 The Queen and the Minister of Agriculture, Fisheries and Food, ex parte Anastasiou (Pissouri) Ltd and others* [1994] ECR-I 03087, paras 37, 40, 47; *Caglar v Billingham (Inspector of Taxes) and Related Appeals* [1996] 108 ILR 510, paras 121-122, 148, 150 182-183, 226; *Re Polly Peck International plc (in administration (No. 2)) Marangos Hotel Co Ltd and others v Stone and others* [1998] 3 All ER 812; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (Advisory Opinion) [2004] ICJ Rep 136, para 89; *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v Uganda)* (Judgment) [2005] ICJ Rep 168, paras 172-178.

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