

Turkish Air Force Violations of Greek National Airspace in the Aegean

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The Russian Sukhoi Su-24 shoot-down by a Turkish F-16 on 26 November 2015, renewed global interest on the question of Turkish violations in the Aegean.¹ While Turkey did not show the slightest tolerance in a violation of its airspace, that lasted about 17 seconds, it continues to violate Greek National Airspace in the Aegean on a daily basis. The aggressive behavior of Turkey, which systematically ignores international law and treaties, aggravates its relations with Greece and hampers any efforts to resolve the differences between the two states.

After its invasion of Cyprus in the summer of 1974, Turkey gradually began questioning the sovereign rights of Greece and started to practice provocative and offensive policies over the Aegean. The aim was to change the existing status quo, both at sea and in the air, despite the fact that the Aegean status is clearly defined by international law and treaties. Turkish claims focus on Greece's right to extend its territorial waters to 12 nautical miles (nm), the width of Greek National Airspace, the responsibilities within the Athinai Flight Information Region (FIR), the responsibilities within the Search and Rescue Region, the Greek sovereignty over certain islands, and the demilitarization of the Eastern Aegean islands. The Aegean Sea is a strategic area in the Eastern Mediterranean that controls the exit of the Bosphorus Straits and the Dardanelles. Turkey is seeking to take control of half the Aegean, ignoring the large number of Greek islands and the sovereign rights of Greece in the wider area. Despite the change of leadership in 2003 and the proclamation of the so-called "zero problems" policy with its neighbors, Turkish militancy in the Aegean has in fact increased in recent years.²

Turkish aggression in the Aegean airspace concerns two different issues that are often confused. The first one refers to the question of the delimitation of Greek National Airspace and its *violation* by the Turkish Air Force, while the other pertains to the challenge of Greece's responsibilities within the Athinai FIR that results in *infringements* of international air traffic regulations.

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¹ "They know how it's done: Turkey violated Greek airspace 2,244 times in 2014 alone," *Russia Today*, 25 Nov 2015, <https://www.rt.com/news/323429-greece-turkey-airspace-violations> [accessed 1 March 2016].

² Ilias I. Kouskouvelis "The Problem with Turkey's 'Zero Problems'," *Middle East Quarterly*, 20:1 (Winter 2013), 47-56.

National Airspace in the Aegean

In principle, the National Airspace extends above the land and territorial waters of a state. As a concept of international law, it was originally established by the Paris Convention of 1919, concerning the regulation of air traffic, which recognized that member states have complete and exclusive sovereignty over their National Airspace. The Chicago Convention of 1944 that replaced all previous treaties and agreements, remaining the basic institutional framework of international aviation, defines National Airspace in the same way. The Chicago Convention establishes the right of every state to defend its National Airspace and to intercept or to force down any aircraft that does not comply with international or national air traffic regulations.³ The entrance of a military aircraft in the National Airspace of another state is only authorized after approval and issuance of the appropriate diplomatic clearance.

Greece established the width of its National Airspace at 10 nm in 1931⁴, while at sea it has chosen to exercise its sovereign rights at 6 nm.⁵ This difference of 4 nm constitutes an international paradox, which nevertheless had been in force for more than four decades, without being challenged by any state, including Turkey itself. In fact, before 1974 Turkey not only did not question the width of the Greek National Airspace, but also requested, during military exercises, the issue of a NOTAM by the Greek authorities⁶ that clearly stated that “no aircraft will approach closer than 10 nm from Greek territory,”⁷ confirming thus the acknowledgement of Greek sovereign rights. Furthermore, under the United Nations Convention on the Law of the Sea (UNCLOS) of 1982 at Montego Bay, all coastal states are entitled to territorial waters of 12 nm. Greece ratified this treaty in 1995⁸ and thereafter maintains the right to extend its territorial waters up to 12 nm, which means the corresponding extension of its National Airspace as well.⁹ It is thus clear that the challenge of this status quo by Turkey, immediately after the invasion of Cyprus in 1974, under the pretext that it was not informed of its existence, is obviously unfounded. Despite the paradox of uneven airspace and territorial waters, the legal status of the Greek National Airspace in the Aegean has been known for many decades and consequently has the legal status of a local custom.¹⁰

Moreover, in the mid-1990s, Turkey, peaking its aggressive attitude, began disputing Greek sovereignty over certain islands, islets and rocks in the Aegean. Specifically, it considers that the status of the islands that are not mentioned by name in the texts of the Treaty of Lausanne (1923) and the Treaty of Paris (1947) is not clearly defined.¹¹ The culmination of this revisionist policy was the Imia crisis in 1996, which brought the two countries to the brink of armed conflict. Despite the clear wording of the Treaty of Lausanne,¹² Turkey continues to deny the Greek sovereignty of these islets and thus the airspace above them and their territorial waters.

³ Christos Kassimeris, “NATO and the Aegean Disputes,” *Defense & Security Analysis*, 24:2 (June 2008), 170.

⁴ Hellenic Republic, Presidential Decree (PD) 6/18 September 1931 and Law 5017/1931, as revised by Laws 230/1936 and 1815/1988.

⁵ Hellenic Republic, Law 230/1936 and PD 187/1973.

⁶ The authority responsible for the administration of Athenai FIR is the Hellenic Civil Aviation Authority (HCAA).

⁷ George Assonitis, “Greek Airspace: The Legality of a Paradox,” *United States Air Force Academy Journal of Legal Studies*, 8 (1997-1998), 173.

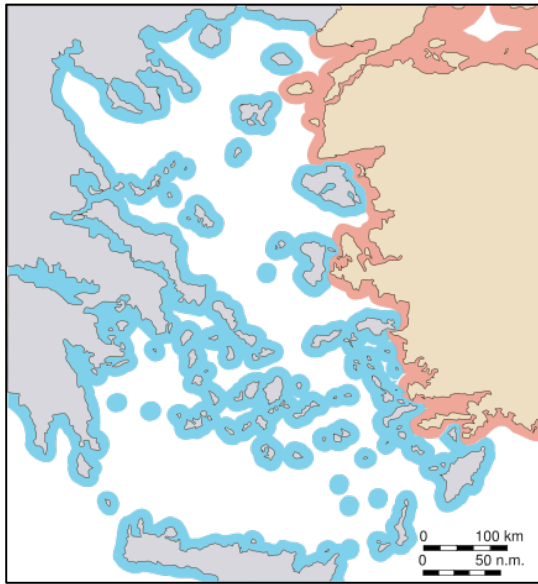
⁸ Hellenic Republic, Law 2321/1995.

⁹ Despite the fact that Turkey has not signed the UNCLOS treaty, its implementation by the majority of UN members (166 of 193 member states), gives the treaty the validity of customary international law.

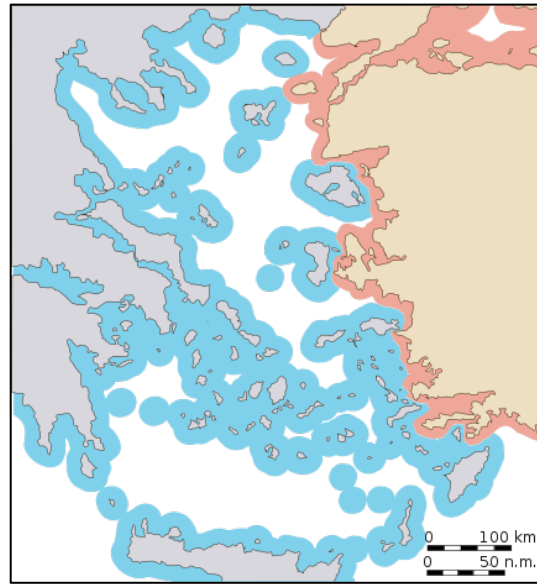
¹⁰ Christos Rozakis, “The Greek-Turkish relations: the legal dimension” [in Greek], in *Modern Greek Foreign Policy 1974-1987*, edited by Dimitris Konstantas and Charalampos Tsartanidis (Athens: Sakkoulas, 1988), II, 43-45.

¹¹ “Islands, islets and rocks in the Aegean which were not ceded to Greece by international treaties,” Turkish Ministry of Foreign Affairs, http://www.mfa.gov.tr/islands_-islets-and-rocks-in-the-aegean-which-were-not-ceded-to-greece-by-international-treaties.en.mfa [accessed 18 February 2016].

¹² “[...] the sovereignty of Greece over the islands of the Eastern Mediterranean, other than the islands of Imvros, Tenedos and Rabbit islands, particularly the islands of Limnos, Samothrace, Mytilene, Chios, Samos and Ikaria is confirmed,



Greek Territorial waters in the Aegean at 6 nm



Greek National Airspace in the Aegean at 10 nm

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Athinai Flight Information Region (FIR) and Search and Rescue (SAR) Region

Another dimension of Turkish claims in the Aegean concerns the responsibilities of Greece in Athinai FIR. With the establishment of the International Civil Aviation Organization (ICAO) in 1947, the Flight Information Regions were defined in order to facilitate air traffic and flight safety. The obligations of the control authority in each FIR include flight information service and alerting service.¹³ The dividing line between the Athinai and Istanbul FIR's was established in 1952, and follows the general line of land and maritime borders between the two states. It is evident that the Athinai FIR includes both the entire Greek National Airspace, as well as parts of international airspace, in which Greece does not exercise sovereign rights.¹⁴

Until the mid-1970s, Turkey accepted this framework, without creating problems in air traffic over the Aegean. This changed with the arbitrary issue of NOTAM¹⁵ 714 on 6 August 1974, by which Turkey questioned the responsibility of Athinai FIR over about half the Aegean, asking all aircraft to report to Istanbul FIR. This action was followed by Greek official protests to ICAO and the corresponding issue of NOTAMs 1066 and 1152 on 14 August 1974, by which the airspace over the Aegean was characterized as a "dangerous area." The crisis, which caused many problems in the region's air traffic, ended after six years, when Turkey withdrew its NOTAM 714¹⁶ in 1980 under international pressure to restore stability.¹⁷

subject to the provisions of the present Treaty respecting the islands placed under the sovereignty of Italy which form the subject of Article 15. 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 remain under Turkey's sovereignty." Hellenic Republic, Ministry of Foreign Affairs, <http://www.mfa.gr/en/issues-of-greek-turkish-relations/relevant-documents/grey-zones.html> [accessed 18 February 2016].

¹³ Regards informing the appropriate services responsible for aircraft in need of immediate assistance and search and rescue.

¹⁴ Michael N. Schmitt, "Aegean Angst: A Historical and Legal Analysis of the Greek-Turkish Dispute," *Roger Williams University Law Review*, 2:1 (1996-1997), 47.

¹⁵ Notice to Airmen.

¹⁶ By NOTAM 211 of 22 February 1980. Correspondingly Greece by NOTAM 267 of 23 February 1980 annulled the previous NOTAMs 1066 and 1157 of 1974.

¹⁷ Nikolaos Cheiladakis, "The dispute in the Aegean and Turkish provocation" [in Greek], *Hellenic Army Military Review* (May- June 2008), 78-80.



Athinai, Nicosia and Istanbul FIRs

This gesture did not mean the withdrawal of Turkish claims to control the airspace over the Aegean, since, following the challenge of the FIR responsibility, Turkey began to question Greece's responsibilities in the Search and Rescue (SAR) Region of Athinai FIR. With the publication of its new regulation on Search and Rescue in 1989,¹⁸ Turkey arbitrarily included in its area of responsibility a large part of Athinai and Nicosia FIRs. But despite Turkish claims, SAR regions in the Aegean have been clearly defined by ICAO¹⁹ and for practical reasons are identical to the corresponding FIRs. Thus, the Turkish demand to change the boundaries of SAR regions has been rejected by the ICAO, which is the only competent international organization.²⁰

Turkish infringements and violations in the Aegean

As it is apparent from the above, the aggressive activity of the Turkish Air Force in the Aegean is divided into two distinct actions. *Infringement* of the Athinai FIR, when an aircraft enters without notifying the appropriate air traffic control center for flight information. *Violation*, when an aircraft flies through the Greek National Airspace, namely through the Greek air borders, without appropriate permission. In the first case, the aircraft must be recognized in order to identify its intention. Obviously, flying without air traffic control in controlled airspace is a potential risk to the safety of all other civil and military aviation flights in the area. Turkey claims that state aircraft (including military) are not required to submit flight plans when flying in international airspace. But, according to international practice all military aircraft, for safety reasons, normally follow the procedures of flight plan submission and comply with the instructions given by the air traffic control.²¹ In the second case, the violating aircraft is initially recognized and subsequently intercepted by fighter aircraft, and in case that it refuses to leave, the intercepting fighters may engage it in order to force it to leave National Airspace.²²

After 1975 and the initiation of the questioning of Greek sovereign rights and international law, the activity of the Turkish Air Force in the Aegean gradually increased. At first the Turkish pilots were hesitant, as they knew neither the Aegean nor what the reaction of Greek Air Force pilots

¹⁸ Regulation 88/13559/89.

¹⁹ The ICAO SAR regions concern only aircraft accidents. For maritime accidents the SAR areas specified by the International Maritime Organization (IMO) are not mandatory the same, but practically coincide with those of the ICAO.

²⁰ Valentine Spyroglou, "Aegean Confrontation," *Defense & Foreign Affairs Strategic Policy*, 34:5 (2006), 10.

²¹ Rozakis, "The Greek-Turkish relations: The legal dimension," 47-48.

²² Cheiladakis, "The dispute in the Aegean," 75.

would be. Initially, Turkish fighter aircrafts made momentary infringements of Athinai FIR, without violating National Airspace. Gradually the duration and frequency of infringements increased and Turkish fighters began violations of the Greek National Airspace between 6 and 10 nm, resulting in interceptions by Greek fighters. The next stage was to commence Greek territory overflights, both over small islands, the ownership of which Turkey questions, and even over larger and inhabited islands. In many cases, the Turkish fighters are armed and refuse to leave, leading to engagements and dogfights with Greek fighters.²³ Turkey does not even hesitate to harass aircraft with the Greek political leadership on board.

It is indicative that in 2015, when the downing of Russian Su-24 occurred, a total of 1.384 Turkish aircraft, of which 133 were armed, made 826 infringements of Athinai FIR, 1.779 violations of Greek National Airspace, including 36 over Greek territory, while 80 engagements took place by Greek fighters. These numbers are unprecedented at global level, indicating the magnitude of Turkish aggression, which, as shown in Chart 1 and Table 1, tends to increase. Turkish infringements and violations are not limited to fighter aircraft, but also include helicopters and other specialized aircraft such as electronic warfare and reconnaissance. Furthermore, by refusing the submission of flight plans for its military aircrafts, Turkey causes many problems in air traffic, both at the airports of the Aegean islands and in transiting aircraft. This poses a major danger to aviation safety in the Aegean airspace, as several incidents have occurred due to the irresponsible behavior of Turkish fighters against both civil aircraft and Greek fighters, which at times have cost the lives of Greek and Turkish pilots.²⁴

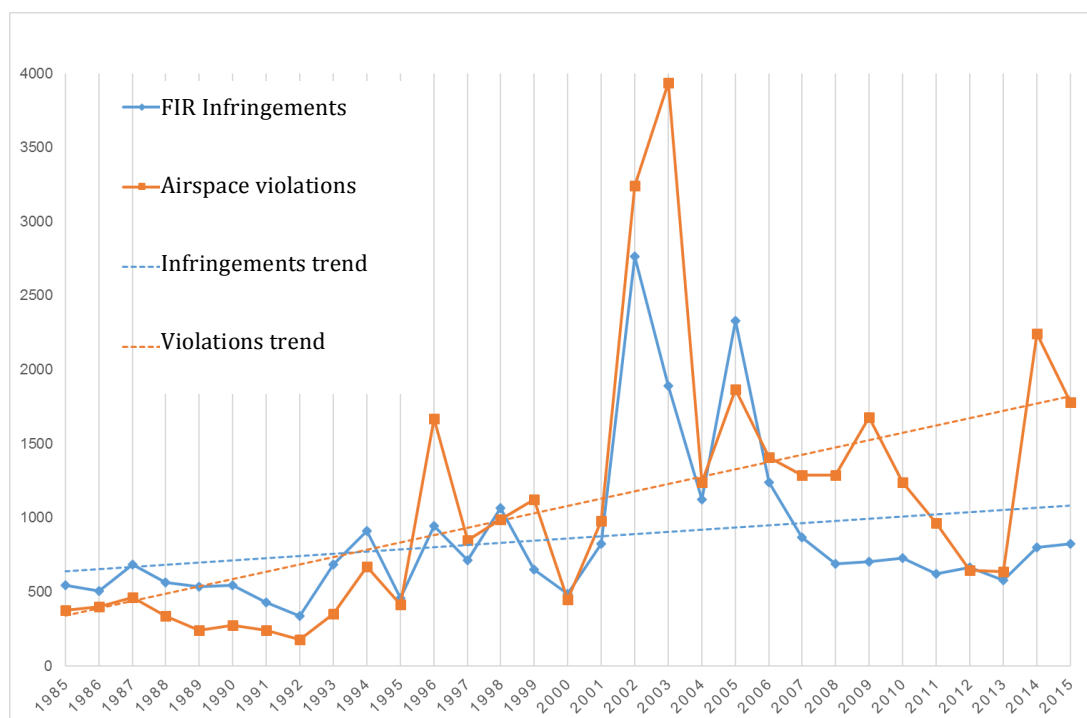


Chart 1
Infringements of Athinai FIR and Violations of Greek National Airspace from 1985 to 2015

(Source: Hellenic National Defense General Staff)

²³ Cheiladakis, "The dispute in the Aegean," 82-84.

²⁴ An example of this practice is the episode of the collision of a Greek F-16 and a Turkish RF-4, on 23 May 2006 near the island of Karpathos, resulting in the death of Captain Constantine Iliakis. Spyroglou, "Aegean Confrontation," 6.

Another common practice of Ankara is the issue of NOTAMs that reserve large areas in the Aegean, to allegedly conduct aeronautical exercises. These areas often include sections of Greek National Airspace, between 6 and 10 nm, as well as within 6nm, or even entire Greek islands and islets. Some of these NOTAMs have a long duration that can reach up to one year.²⁵ The illegal nature of these claims is evident, and they are not accepted by the Greek authorities, which are exclusively responsible for the approval of all NOTAMs within the Athinai FIR. However, this practice has started to become a habit in recent years, increasing the tension. Indeed, recently Turkish authorities did not hesitate to issue a NOTAM that challenged Greek authority for SAR near Kinaros island, after the crash of a Hellenic Navy AB-212 helicopter on 10 February 2016.²⁶

Conclusion

The international community is theoretically favorable to Greek rights, but in practice it has failed to discourage Turkish behavior. NATO and the United States, following a neutral policy between the two states, avoid taking a clear stance.²⁷ Washington tries to avoid tension within the Alliance and considers Greece and Turkey both valuable allies in the region, especially after the recent developments in the Middle East. Therefore they do not actively intervene to resolve disputes in the Aegean, unless the situation escalates dangerously.²⁸ The attitude of the EU tends to be equally neutral and despite Turkey's commitment to resolve bilateral issues with Greece, as a prerequisite for the continuation of accession negotiations,²⁹ it does not seem willing to exert pressure in this direction. After the crisis that has broken out in recent years within the EU, each member state seems to follow its own course in foreign policy, without a common goal.

Despite repeated attempts by Greece to address bilateral issues, Turkey not only denies complying with international law, but also seems to escalate tension, taking advantage of the recent Greek economic crisis. The number of infringements and violations by Turkish aircraft in the Aegean, despite fluctuations, present a stable increasing trend. Turkey insists on its claims in the Aegean airspace, maintaining the tension in the region that due to the long duration tends to become a routine. By consolidating daily provocations, Ankara seeks to promote its strategic claims, achieving at the same time the disorientation of its public opinion from the multiple internal problems (i.e. the Kurdish problem, the freedom of the press, constitutional questions, etc.). Although the legal status of the Aegean Sea is clear without misconceptions, Turkey continues to provoke and ignore international law and refuses to adopt good intentions. The Turkish leadership's anxiety for the loss of the control of the largest part of the Aegean airspace,³⁰ if the Greek side chooses to extend its sovereignty to 12 nm, is obvious, but this reflects the geographic reality in the Aegean. Turkish claims are increasing, seeking to challenge the status quo, which has been established for decades, exerting an apparently revisionist "neo-Ottoman" policy, which openly poses a risk to security and stability in the region.

²⁵ "Aegean: Ankara continues its policy of disputes" [in Greek], CNN Greece, <http://www.cnn.gr/news/ellada/story/21280/aigaio-synexizei-i-agkyra-tin-politiki-ton-amfisvitiseon> [accessed 5 March 2016].

²⁶ "Turkey deems illegal search and rescue at Kinaros" [in Greek], To Vima, <http://www.tovima.gr/politics/article/?aid=775802> [accessed 5 March 2016].

²⁷ A typical example is the statement by the Permanent US Representative to NATO, Ambassador Douglas Lute, "The US Permanent Representative to NATO, Ambassador Douglas Lute, talks about the Greek-Turkish airspace" [in Greek], The Diplomat, <http://thediplomat.gr/el/2016/02/10/u-s-ambassador-douglas-lute-talks-about-the-greek-and-turkish-airspace> [accessed 11 March 2016].

²⁸ As was the case of crisis in Imia 1996.

²⁹ Spyroglou, "Aegean Confrontation," 6.

³⁰ "Background Note on Aegean Dispute", Turkish Ministry of Foreign Affairs, <http://www.mfa.gov.tr/background-note-on-aegean-dispute.en.mfa> [accessed 5 March 2016].

The Greek reaction should be more efficient and coordinated in multiple levels. It is necessary to dynamically pose each issue to the international community, focusing on the risks to flight safety and the aggressive practice of Turkish fighters in the Athinai FIR. The recent events in Syria and Ukraine³¹ could help Greece to defend its rights. Given the economic crisis, it is important to highlight at EU level, the economic cost Greece has to bear due to the daily actions of Turkish aircraft and the need of maintaining high readiness aircraft for this purpose. Promoting the idea of a single European Airspace could be a part of the solution, by introducing territorial waters and airspace 12 nm throughout the EU. The Greek effort should intensify and be continuous in order to prevent the establishment of the daily Turkish violations as a de facto “norm” over the Aegean and to impede the revisionist aspirations of the Turkish leadership in the wider region.

Table 1
Turkish Air Force activity in the Aegean from 1985 to 2015
(Source: Hellenic National Defense General Staff)

YEAR	FIR INFRINGEMENTS	NATIONAL AIRSPACE VIOLATIONS	ARMED VIOLATING FORMATIONS	ENGAGEMENTS	NATIONAL TERRITORY OVERFLIGHTS	TOTAL VIOLATING AIRCRAFT
1985	546	375	24	117		
1986	507	401	26	65		
1987	682	461	39	78		
1988	563	338	14	42	22	
1989	532	239	48	74	20	
1990	546	272	50	92	22	
1991	426	240	38	112	20	
1992	335	175	39	105	17	
1993	684	353	72	69	43	
1994	909	671	190	245	186	
1995	455	413	31	89	64	
1996	946	1667	431	459	538	
1997	712	849	448	425		
1998	1.064	986	574	405		
1999	648	1.125	384	171		
2000	487	446	82	30	16	1.229
2001	826	976	105	53	68	1.895
2002	2.762	3.240	1.062	1.017	285	6.443
2003	1.891	3.938	970	1.032	88	4.453
2004	1.121	1.241	521	528	24	2.382
2005	2.330	1.866	977	244	29	5.769
2006	1.237	1.406	567	159	10	4.087
2007	868	1.289	464	207	48	2.780
2008	688	1.288	393	240	25	3.041
2009	703	1.678	395	237	51	3.078
2010	729	1.239	367	13	20	3.030
2011	620	962	307	13	4	2.441
2012	667	646	176	1	3	1.405
2013	577	636	129	0	11	1.084
2014	801	2.244	145	8	14	1.269
2015	826	1.779	133	80	36	1.384

³¹ For example, the shooting down of Malaysia Airlines aircraft in Ukrainian airspace in the summer of 2014.