

THE EXPLORATION OF HYDROCARBONS AND TURKISH OBJECTIONS

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The stated position of Turkey is that the so-called "*Turkish Republic of Northern Cyprus*" has rights and authority over the maritime areas around the island of Cyprus and that Greek Cypriots do not represent the island as a whole. Consequently, Turkey argues that neither the legislation enacted, nor the bilateral agreements concluded by the Republic of Cyprus have any effect. Turkey has repeatedly threatened that it is determined to protect its legitimate rights and interests in the Eastern Mediterranean and will not allow any attempt to undermine such rights, and called upon all companies and neighbouring countries to refrain from any endeavour that would be contrary to Turkish interests. Turkey has further alleged that the President of the Republic of Cyprus has no power to represent the Turkish Cypriots and to sign any agreements and maintained that such behaviour of the Greek Cypriots will have a negative impact with respect to the Cyprus problem.

The Government of the Republic of Cyprus has rejected Turkey's threats and maintained that Turkey had no right to challenge the delimitation of the EEZ between Cyprus and its neighbouring states and refuted any claims that Cyprus was not a sovereign state. The position of Cyprus has been supported by Greece, Egypt, Israel and other neighbouring countries, whereas the EU, the UK and the USA have all reiterated that Cyprus is a sovereign state, member of the UN and the EU, additionally noting that they continue to support a solution of the Cyprus problem so that all Cypriots can profit from the existence of hydrocarbons.

In the brief note we shall examine the objections of Turkey from an international law perspective (see also the recent analysis of P. Athanassiou, 'State and Government Recognition and the 2011 Cyprus EEZ Demarcation and Exploration Dispute: Some Reflections' [2012] *Cyprus Yearbook of International Law*: 19-32, as well as A. Emilianides and P. Focaidis, *The Exploration of Hydrocarbons in Cyprus: Implications, Problems and Perspectives* (2008) 7 *Cyprus and European Law Review*: 91-108 and updated version in *Power Options for the Eastern Mediterranean Region: Conference Proceedings, Limassol, 2012*, POEM12/146: 1-4).

The Security Council of the United Nations has repeatedly confirmed that the government of the Republic of Cyprus is the only internationally recognized government of Cyprus and has called upon all member states to respect the sovereignty, independence and territorial integrity of the Republic of Cyprus (see e.g. Resolutions 186/64, 353/74). Resolution 360/74 has expressed the official contempt on behalf of the Security

Council of the unilateral military force undertaken against the Republic of Cyprus. Resolution 3212/74 of the General Assembly of the United Nations has also called upon all states to respect the sovereignty, independence and territorial integrity of the Republic of Cyprus and has demanded that all foreign armed forces leave at once from the Republic of Cyprus. It has also demanded that any foreign intervention with the Republic of Cyprus's affairs should cease immediately. The aforementioned Resolution was endorsed by Resolution 365/74 of the Security Council. Decision 37/253 of the General Assembly of the United Nations has also confirmed that the withdrawal of all foreign military forces should be the basis for any attempt to solve the Cyprus problem.

The Security Council of the United Nations has condemned the declaration of the so - called '*Turkish Republic of Northern Cyprus*' with Resolution 541/83 in which it declared that such declaration was legally invalid. The Security Council called upon all member states to abstain from recognizing any other state in Cyprus, apart from the internationally recognized Republic of Cyprus. Resolution 550/84 of the Security Council reiterated Resolution 541/83 and further condemned all acts promoting secession of the island. The declaration of the so - called '*TRNC*' was also condemned by all organs of the European Community, including the Council of Ministers (Statement of 10th June 1985), the Commission (Statement of 16th November 1983) and the European Parliament (Resolution of 17th November 1983), by the Council of Europe (Decision of 24th November 1983) and the Parliamentary Assembly of the Council of Europe (Resolution 816/84), as well as the Commonwealth Heads of Government in New Delhi in 19 November 1983.

The fact that the government of the Republic of Cyprus is the only internationally recognized government has also been recognized by various decisions of the European Court of Justice (C- 432/92, *R v. Minister of Agriculture, Fisheries and Food, ex p. S. P. Anastasiou (Pissouri) Ltd and Others* [1994] Συλλογή I-3087 and more recently C-420/07, *Orams v. Apostolides* [2009] ECR I-3571. See e.g. S. Lauthé-Shaelou, *The EU and Cyprus: Principles and Strategies of Full Integration*, Leiden: Brill, 2010: 172-232). by the European Court of Human Rights (*Loizidou v. Turkey*, Judgment of 23/3/1995 and 18/12/1996, *Cyprus v. Turkey*, Judgment of 10/5/2001. G. Cohen - Jonathan, 'L' Affaire Loizidou devant la Cour Européenne des Droits de l' Homme: Quelques Observations' *Revue Général de Droit International Public* 46 (1998): 123-144, S. Perrakis, 'The Importance of the Loizidou Case and the Consequences of the Judgments of the European Court of Human Rights in the International Legal Order' *Yearbook of Institute of International Relations* [2000]: 169-180 (in Greek), H. Dipla, 'Responsabilité de l' état en Droits de l' Homme: L' Arrêt de la Cour de Strasbourg en l' Affaire Loizidou c. Turquie' *Revue Hellénique de Droit International* 50 (1997): 17-42. This position has not been affected by the recent *Demopoulos* case for which see See P. Polyviou, L. Arakelian, *Fall of the Guardians: The*

European Court of Human Rights and the Case of Demopoulos, Nicosia: University of Nicosia Press, 2011, L. Loucaides, 'Is the European Court of Human Rights still a Principled Court of Human Rights after the Demopoulos Case' *Leiden Journal of International Law* 24 (2011): 435-465), the Court of Appeal of the United States (*Autocephalous Greek Orthodox Church of Cyprus v. Goldberg* 917 F 2d 278 [1990]) and the British courts (*Veysi Dag v. Secretary of State for the Home Department* (2002) 122 ILR 529, *Caglar v. Billingham (Inspector of Taxes)* [1996] STC (SCD) 150 and more recently *Apostolides v. Orams* [2010] EWCA Civ 9).

The European Court of Human Rights has confirmed in both the *Loizidou* judgment and the inter - state application of *Cyprus v. Turkey*, that "Turkish armed forces of more than 30.000 personnel are stationed throughout the whole of the occupied area of Northern Cyprus, which is constantly patrolled and has checkpoints on all main lines of communications". It was further observed that: "It is obvious from the large number of troops engaged in active duties in northern Cyprus ... that her army exercises effective overall control over that part of the island. Such control, according to the relevant test and in the circumstances of the case, entails her responsibility for the policies and actions of the 'TRNC'". The so - called 'TRNC' was held to be a subordinate administration to Turkey.

It is therefore, undisputed, at least from the point of view of international law, that the Republic of Cyprus is the sole legitimate government, which represents all its citizens, either Greek Cypriots or Turkish Cypriots (see e.g. A. Emilianides, *Constitutional Law in Cyprus*, The Hague: Kluwer, 2013, K. Chrysostomides, *The Republic of Cyprus: A Study in International Law*, The Hague: Martinus Nijhoff, 2000, p. 117ff). Indeed following the accession of the Republic of Cyprus in the European Union on May 1, 2004 the great majority of Turkish Cypriot citizens of the Republic had been issued birth certificates, identity cards and passports, a fact which reconfirms that Turkish Cypriots also recognize that they are citizens of the Republic of Cyprus and, through the Republic of Cyprus, citizens of the European Union.

It is therefore, submitted that Turkish objections should be rejected as they are founded on arguments repeatedly rejected by the international community. The Republic of Cyprus can legally conclude agreements with its neighbouring states with respect to the exploration of hydrocarbons and legally represents the island as a whole. It is thus paramount that the Government of the Republic of Cyprus should not consider the negotiations for the solution of the Cyprus problem as necessarily interwoven with the separate issue of exploration of hydrocarbons.