

# PROTRACTED CONFLICTS' RESOLUTION: LESSONS OF THE GREECE-TURKEY CONFLICT FOR THE UKRAINE-RUSSIA CASE

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*The article analyses the Greek-Turkish conflict as an example of a protracted international conflict, which proved to be resilient to the years of resolution attempts. Some possible applications of its lessons to the current state and future development of the Ukrainian-Russian conflict are suggested. Special attention is paid to the prospects and limitations of using international legal instruments.*

## Introduction: The Resilience of Protracted Conflicts

The severe restriction on the use of force in interstate relations in the nuclear age and utmost attention to negotiations and peaceful resolution did not manage to prevent interstate conflicts altogether. Nevertheless, these approaches have diminished the number of conflicts significantly and influenced their structure. As a result, hybrid warfare and proxy wars proliferated while intrastate conflicts started to dominate over the interstate conflicts<sup>1</sup>. In addition, numerous protracted conflicts – long-term standoffs that periodically burst into deep crises or even wars, with underlying deep historical and identity grievances – became one of the most pressing issues in contemporary conflict resolution.

The ongoing Ukraine-Russia conflict partly follows this logic, with hybrid tactics at the core of the Russian strategy, but it is also unique in a couple of dimensions. The most important of these is the precedent of the outright annexation of a part of a sovereign state (the case in point is, obviously, the Crimean Peninsula). This becomes even more prominent in view of the fact that the aggressor is a nuclear state and a permanent UN SC member attacking the country that surrendered a huge nuclear arsenal in exchange for security and territorial integrity assurances (1994 Budapest Memorandum). Some researchers even categorize the Russian aggression as a possible breaking point for the future of international law and post-war security system<sup>2</sup>.

Formally in its fourth year, the Ukraine-Russia conflict does not yet meet the

<sup>1</sup> K. Holsti, *The State, War, and the State of War*, Cambridge University Press: Cambridge and New York, 1996.

<sup>2</sup> T. Grant, *Aggression against Ukraine. Territory, Responsibility and International Law*, Palgrave Macmillan, 2015.

criteria to be categorized as a protracted conflict (according to Michael Brecher, this requires “lengthy duration – at least ten years – and three or more interstate crises, often accompanied by war or lesser degrees of violence between the PC adversaries, and, sometimes their patron(s) and/or ally[ies]”<sup>3</sup>). Nevertheless, it has all the potential to become one, due to the existential differences between the parties and lack of any viable and long-term resolution plan so far. As the implementation of the Minsk Agreements stumbled, the bulk of the efforts of international mediators concentrate on decreasing the degree of violence and assisting populations of the combat-affected areas, while relying on diplomatic efforts and reconciliation processes in the longer perspective. Surely, this has a potential to become another protracted conflict, and some politicians have even supported such a course of events, especially with regard to the Crimean dimension<sup>4</sup>. Although in a world that progressively relies more on power and less on institutions, even the existing protracted conflicts and ways to resolve them will evolve; learning from other protracted conflicts’ examples could be instructive.

### **Greek-Turkish Rollback: Cyprus Reunification Talks’ Failure And Beyond**

The Greek-Turkish conflict is a useful example of a protracted conflict, which proved to be notoriously resistant to resolution, notwithstanding all the efforts that have been put in by prominent politicians, civil society initiatives, and international organisations. The two countries, overloaded with a long and difficult common history, were accepted

to NATO in 1952 for Cold War strategic reasons, creating a so-called southeast flank of the Alliance. The conflicts have broken out almost immediately. Bloody intercommunal fights in colonial and independent Cyprus in the 1950s-1960s provoked the establishment of the UN-peacekeeping mission (UNFICYP), controlling the “Green line” that has been dividing the island in two parts since 1964.

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The pogrom of Istanbul Greeks in September 1955 and deportations of Greek nationals from Turkey in 1964 initiated the process of a drastic decrease of the Greek minority in Turkey, while the Muslim minority in Greece’s Western Thrace has encountered education, property, and political representation problems. The Turkish military incursion into Cyprus as a guarantor power in 1974 resulted in an occupation of one third of the island, where the Turkish Republic of Northern Cyprus was established in 1983, but remains virtually non-recognised ever since. The emergence of Aegean territorial disputes in the 1970s-1980s over the size of the Greek continental shelf was gradually “enriched” with additional dimensions, culminating in 1996 with the Imia/Kardak incident: a severe crisis as to the territorial allegiance of a small uninhabited island. Not

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<sup>3</sup> M. Brecher, *The World of Protracted Conflicts*, Lexington Books, 2016, p. 4. PC in the citation is the acronym for “protracted conflict”.

<sup>4</sup> The recent prominent example was the German Free Democrats Party leader Christian Lindner’s call to accept the annexation of Crimea as “permanent provisional solution”. See for example: Christian Lindner: *Germany Should Accept Crimean Annexation as ‘Permanent Provisional Solution’*, “Politico.eu”, 06 August 2017, [<http://www.politico.eu/article/christian-lindner-germany-should-accept-crimean-annexation-as-permanent-provisional-solution/>]

only the extended timeframe but also the sheer range of bilateral problems illustrates the inherent complexity of the problem and its development over time.

Although in the last two years, heightened expectations emerged that the Cyprus crisis could be resolved once and for all, the solution, which seemed to be at hand in 2015-2017, turned into a sound defeat. It was the most real possibility to reunite Cyprus since the time of the Annan reunification plan failure in 2004, and the motivation of all the parties was strong. The success of Cyprus reunification was crucial for the EU, as it could substantiate its political preference of peaceful conflict resolution with a palpable success, and practically integrate Northern Cyprus into the EU via reunification. This could counter the powerful disintegration trend launched by Brexit and demonstrate that the EU, notwithstanding all the differences, is moving in the right direction. It could also become a breakthrough for Greece and Turkey, which needed smooth cooperation in dealing with a migration crisis with a view to the implementation of the EU-Turkey migration deal, entering into force in March 2016. Also, the presidents of the two parts of the island, representing possibly the last generation that has physically lived in united Cyprus, were enormously motivated to amend the gap. Nevertheless, negotiations, stalled since January 2017, have finally and officially failed in July that year.

Even though the issue of Cyprus is evidently so much more than bilateral, engaging players from the local communities up to the UN, still its importance to the Greek-Turkish relations cannot be underestimated. Moreover, it was this bilateral dimension that

resulted in the failure of the negotiations, with the insurmountable problem of the withdrawal of the over 30,000-strong Turkish army from the island, present in Cyprus since the swift Turkish military operation in 1974, notwithstanding UN resolutions that demanded withdrawal. Related was the future of the 1960 Treaty of Guarantee, which provided at least partial justification to guarantor states' external military involvement. Most players suggest such a regime is unfair and outdated and the two of the three guarantors – Greece and United Kingdom – declared readiness to drop their guarantor status. Turkey, however, decided not to abandon such a powerful instrument of control. The failure of the negotiations quickly returned the situation to a conflicting mode, starting with the issue of the drilling rights offshore Cyprus<sup>5</sup>.

In addition, almost concomitantly, the quarrel as to Greece's refusal to extradite eight Turkish officers over the failed July 2016 coup emerged, and the bulk of Aegean semi-dormant disputes have been reignited: Incidents on sea and airspace dogfights have intensified. Political rhetoric reached dangerous levels, amounting to claims from Turkish politicians as to validity of the basic 1923 Lausanne treaty that defined the sea borders between the two countries. President Erdogan himself raised the bar, claiming:

*July 15 [coup attempt] is the second War of Independence for the Turkish nation. Let us know it like that. They [threatened] us with Sèvres in 1920 and persuaded us to [accept] Lausanne in 1923. Some tried to deceive us by presenting Lausanne as victory. In Lausanne, we gave away the [now-Greek] islands that you could shout across to.*<sup>6</sup>

<sup>5</sup> *Tensions Grow over Cyprus Gas Drilling*, "ekathimerini", 12 July 2017, [http://www.ekathimerini.com/219986/article/ekathimerini/news/tensions-grow-over-cyprus-gas-drilling]

<sup>6</sup> As cited in: *Erdogan's Remarks on Treaty that Formed Modern Turkey Irk Opposition*, "Hurriyet Daily News", 29 September 2016, [http://www.hurriyetdailynews.com/erdogans-remarks-on-treaty-that-formed-modern-turkey-irk-opposition.aspx?PageID=238&NID=104386&NewsCatID=338]

With the Turkish-EU relations hitting low again and the Greek-Turkish relations returning to a standoff over security issues, the question that remains open is: Was this failure due to some structural deficiencies in the conflict resolution process or did it just become a victim of external circumstances? While the current environment in the region is difficult indeed, the deplorable longevity of the Greek-Turkish conflict and its resilience to a decisive resolution gives us possibilities to see into the influence of long-term trends on conflict resolution and reconciliation and to assess the effectiveness of some conflict resolution instruments.

### **Aegean Puzzle between Strategic Interests and International Law**

In the world where international law is deemed compulsory but oftentimes lacks mechanisms of enforcement, its application to the conflict resolution has only limited effects. Except for the transitional justice and tribunals for atrocities, which are regularly employed in a post-conflict resolution period, applying law instruments to resolve conflicts is relatively rare and limited in scope.

The core of the present-day dispute between Greece and Turkey is territorial, and at the heart of it presently stands an array of sovereignty disputes in the Aegean Sea. While no direct military attack has happened so far over the Aegean issues, several open threats of war, important military build-up, an impressive arms race, and a few dangerous incidents involving casualties still make this theatre vulnerable to eventual escalation.

Asymmetric nature of conflict also has its influence: The stronger player usually stresses power and interests, while the weaker player recurses to international law and international support. Greece, as

the weaker part in this asymmetric conflict, is the one that champions international law over direct negotiations. It is a status quo power that has profited from the 1982

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United Nations Convention on the Law of the Sea (UNCLOS) that permitted it to extend its territorial waters up to 12 nautical miles, and has quite a strong position in legal respect. Since the 1970s, Turkey has started to progressively challenge that status quo, and the scope of these challenges has progressed. It started from the continental shelf issues (claims that islands have no continental shelf), and related problems of international waters and exploration rights; then it challenged 10 miles aerial space, authority of Athens Flight Information Region over the Aegean Sea and finally the sovereignty of the islets that have not been mentioned by name in the Lausanne treaty<sup>7</sup>.

Having never considered becoming party to the UNCLOS, Turkey adopted fierce opposition to its eventual implementation by Greece. As virtually all Aegean islands belong to Greece, with territorial seas going from 6 to 12 nautical miles, Greece could control 64% of the Aegean Sea (currently 35%) and a proportion of the international waters will decrease from 56% to 26%. The rhetoric of not letting the Aegean Sea to become a “Greek lake” gained ground in Turkey. Thus, after Greece ratified the Convention in 1994, the Turkish parliament adopted a resolution

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<sup>7</sup> For more details see, for example, H. Athanasopoulos, *Greece, Turkey and the Aegean Sea. A Case Study in International Law*, McFarland & Company, 2001.

that authorized the government to use all measures to protect Turkey's rights in the Aegean, eventually declaring 12 miles territorial water implementation a *casus belli*. As an alternative, Turkey proposed bilateral negotiations over all the conflicting issues to incorporate all parties' interests. Nevertheless, Greece, acknowledging the existence of the only conflicting issue – continental shelf, has repeatedly proposed to submit the case to the International Court of Justice (ICJ) in The Hague, but to no avail. After the Imia incident, Greece also suggested to file the case on the disputed sovereignty in the Aegean to the ICJ, but was no more successful. To this day, the essence of the conflict remains unresolved.

In the meantime, the focus in the Aegean was to keep dialogue and communications lines open and provide for more transparency in each country's military undertakings via introducing different confidence-building measures (CBMs), oftentimes under the NATO sponsorship. The first and utmost reason was to prevent dangerous escalation from incidents, which were not infrequent and at times dangerous. The second aim was to create the atmosphere of mutual trust, which would later contribute to resolving hard security problems and reconcile security interests. The CBMs have been introduced in a series of instances starting from 1988<sup>8</sup> up to today, most importantly in 2002-2004, when a direct dialogue between the officials of the two countries over the Aegean disputes took place. These included rules or limitations to military exercises, special phone hotlines between the prime ministers and army chiefs, and a range of different self-restraint commitments. This

helped, to a degree, to defuse the tensions and better control the situation on the ground, preventing unwanted escalations. Still, as the development of the events (both in the Aegean and Cyprus negotiations) has demonstrated, the idea of reconciliation via moving from the less contested issues to the more problematic ones did not bear much fruit.

### **Sanctions and Responsibility for Occupation in the Cyprus Case**

The description of all international law puzzles in the Cyprus case exceeds the limits of a small overview article, as for roughly six decades this had been a highly internationalised conflict issue with over 130 UN SC resolutions adopted up to date. I will just briefly stop at a few judicial decisions which could be the most relevant for the Ukraine-Russia case.

One prominent precedent happened in 1994, when the European Court of Justice took a decision in 1994 ruling against acceptance of Turkish Cypriot goods by the other countries. By this decision, furthermore, it effectively established severe economic sanctions against the self-proclaimed TRNC<sup>9</sup>, which remain in force today. The non-recognition is reciprocated: Turkey does not recognise the Republic of Cyprus, and thus deems its passports invalid and prohibits entry of Cypriot ships in Turkey's ports. The impasse around the question over lifting these mutual sanctions also produced no result in the latest negotiations over Cyprus, as they have been a stumbling block in the earlier Turkey-EU accession negotiations.

<sup>8</sup> For the CBMs evolution, see for example Z. Lachowski, *Confidence- and Security-building Measures in the New Europe*, SIPRI Research Report No. 18, Oxford University Press, 2004, pp. 151-155. The author's conclusion that "the existing CBMs are not supported by strong political determination, but are symbolic and insufficient to reduce tension between the two states" (p. 155) still holds true in 2017.

<sup>9</sup> S. Talmon, *The Cyprus Question before the European Court of Justice*, "European Journal of International Law", Vol. 12, No. 4, 01 September 2001, pp. 727-750.

The second prominent example of using the instruments of international law in the Cyprus question relates to the individual applications of the Greeks who lost their properties in the north after 1974 to the European Court of Human Rights (ECHR). The success of one such application, *Loizidou case*<sup>10</sup>, forced Turkey to pay 1.2 euro as a compensation, and numerous similar applications to the ECHR followed. However, with Turkey establishing a restitution commission (recognised by the ECHR to be a sufficient remedy in 2010), which accepted individual applications from the Greek Cypriots, it could drastically decrease the amount of money to pay (compared with the payments according to the court verdicts). Turkey also became more reluctant to give even small territorial compensations to the Greek Cypriots, as the last negotiations have demonstrated<sup>11</sup>. This one is an instructive precedent for Ukrainians who lost their property after the annexation of Crimea.

The potentially seminal international-law-related development happened in May 2014 with another ruling of the ECHR, which obliged Turkey to pay 90 million Euro as a compensation for its 1974 Cyprus invasion. In 1998, the ECHR ruled that both the invasion and occupation were illegal, and occupation discourse appeared in UN SC resolutions as early as 1984<sup>12</sup>. This decision, if implemented, could be a game-changer for Turkey (although at the moment it does

not accept the ruling). More importantly, the ruling also has wider implications, as an international law professor Philip Sands commented to *The Guardian*,

*It's a strong signal that the passage of time will not diminish the consequences or costs of illegal occupation. It has obvious relevance to the situation in Abkhazia and South Ossetia, which are occupied parts of Georgia, and Crimea, which is occupied Ukraine.*<sup>13</sup>

Before the 2014 ECHR ruling, Turkey only suffered a US-imposed short-term arms trade embargo (1975-1978) due to the Cyprus invasion, and calls for direct economic sanctions against the state have not reached their aims. Still Greece managed for some time to impose indirect sanctions, using some instruments proposed by its EU membership and balancing in this way a generally weaker position.

It is instructive nevertheless that Greece did not manage to get military support or hard security guarantees from the EU in its standoff with Turkey (in the 1990s, the Western European Union directly stated that it would not interfere in the Greek-Turkish conflict)<sup>14</sup>. Moreover, in an attempt to lower tensions, international partners were keen on limiting military build-up and arms race in the region, pressuring both states simultaneously. Thus, when Greece

<sup>10</sup> The different interpretations of the *Loizidou case*: Republic of Cyprus MFA, [http://www.mfa.gov.cy/mfa/mfa2016.nsf/CC8E93A64DF9F2FFC2257F9C00386EA3/\$file/European%20Court%20of%20Human%20Rights-Case%20of%20Loizidou%20v%20Turkey.pdf], Republic of Turkey MFA, November 1999, [http://www.mfa.gov.tr/the-loizidou-case-a-critical-examination-by-zaim-m\_necatigil\_-november-1999.en.mfa]

<sup>11</sup> B. Yinanç, *Time to Think Outside of the Box on the Cyprus Issue*, "Hurriyet Daily News", 15 August 2017, [http://www.hurriyetdailynews.com/time-to-think-outside-of-the-box-on-the-cyprus-issue.aspx?page-ID=449&nID=116732&NewsCatID=412]

<sup>12</sup> For the overview of UN SC resolutions and most up-to-date summary of the legal dimension of Cyprus conflict, see: P. Ercan, *The Cyprus Question: At an Impasse for Too Long*, [in:] *Turkish Foreign Policy: International Relations, Legality and Global Reach*, Palgrave Macmillan, 2017, pp. 321-342.

<sup>13</sup> J. Borger, *European Court Orders Turkey to Pay Damages for Cyprus Invasion*, "The Guardian", 12 May 2014, [https://www.theguardian.com/law/2014/may/12/european-court-human-rights-turkey-compensation-cyprus-invasion]

<sup>14</sup> P. Tsakonas, A. Tournikiotis, *Greece's Elusive Quest for Security Providers: The 'Expectations-Reality Gap'*, "Security Dialogue", September 2003, Vol. 34, No. 3, p. 307.

announced the Joint Defence Doctrine with Cyprus in 1993 and announced that it was going to deploy Russian S-300 ground-to-air missiles there, it was followed by the threat from Turkey to remove the missiles by force. The US and the UK pressured both Greek and Cypriot governments and finally prevented the deployment.

However, the failure to get military support was somehow compensated by the EU support to the resolution of the Aegean conflict according to the international law, as well as letting Cyprus to become the EU member-state before the conflict resolution, both countering Turkish positions. Finally, the EU membership provided Greece with important diplomatic leverage to veto Turkish EU integration initiatives (up to rejecting the Turkish membership bid in 1997).

The longest known and most successful détente and rapprochement period in bilateral Greek-Turkish relations began in 1999, following a change in the Greek strategy, removing its veto and introducing its subsequent support, albeit conditional, to Turkey's EU membership. In this period, the idea that economic cooperation and increased societal contacts bring peace gained ground. While changing attitudes and stereotypes is believed to be the most important condition to get sustainable peace in the Greek-Turkish relations<sup>15</sup>, this kind of psychology change needs quite a long-term framework. Thus, the links from economic cooperation were believed to contribute to peace and many governmental and non-governmental initiatives took place. The result was that considerable successes were recorded in the development of trade and tourism. But again, with the EU-Turkey relations going south and the old strategic problems re-emerging on the

bilateral agenda, the increased economic and tourist turnaround exists on a parallel track with strategic quarrels. The possibility of translating economic ties into peace still needs to be proven.

### **Conclusions: Are Any Cross-case Lessons Possible?**

The remarkable resilience of the Greek-Turkish conflict to the resolution attempts, instruments, and policies that were assessed in this article drive certain conclusions. Although direct analogies can be faulty at least, some developments reveal to be extremely instructive. First, the use of the international law possibilities is still a way

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to go that should be thoroughly explored by Ukraine, both in the view of compensation for lost property and paying damages for the occupation. As the Greek-Turkish case demonstrates, this could take decades, but the consequences both in terms of responsibility and parties' standing in the international arena are huge. Second, looking at the Aegean disputes, the territorial issues as to the sea territories could be the next area of contention with Russia, albeit in a different environment with the ongoing occupation of Crimea and Russian de facto control of the Kerch straight, which could threaten the navigation in the Azov Sea and economic well-being of the coastal cities. Third, confidence- or trust-building

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<sup>15</sup> A. Heraclides, *The Greek-Turkish Conflict in the Aegean: Imagined Enemies*, Palgrave Macmillan, 2010.

measures are mostly effective for the control of the situation on the ground and for preventing unwanted escalations. Yet, they do not help much to resolve strategic disputes. Nevertheless, the pressure to adopt this kind of measures increases as the conflict grows longer. Fourth, the persistence of the idea that intensified economic cooperation brings peace would have a double consequence for Ukraine: first, the pressure of the anti-sanctions lobby and their idea of restoring and improving relations with Russia through trade; and second, sponsoring the renewal of economic ties not only with the occupied territories, but also between Ukraine and Russia in a kind of a new "Eastern policy"

and encouraging intra-regional cooperation in the post-Soviet space.

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