



Nuovi Autoritarismi e Democrazie:
Diritto, Istituzioni, Società

EU Measures ‘against’ Turkey through the Lens of International Law Dynamics

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Abstract

[It.] La pressante minaccia rappresentata dai cambiamenti climatici nell’area del Mediterraneo orientale dovrebbe incoraggiare il ricorso a forme sempre più incisive di cooperazione tra paesi costieri e con l’Unione europea. Ciò nonostante, nel 2018 alcune attività di trivellazione non autorizzate poste in essere da navi turche nel Mediterraneo orientale hanno contribuito a deteriorare le già difficili relazioni diplomatiche fra l’Unione europea e la Turchia inducendo la prima ad adottare alcune misure restrittive mirate nei confronti della Turchia. L’articolo si focalizza sulle misure adottate dall’Unione europea e le analizza sullo sfondo, da un lato, della complessa questione di Cipro e, dall’altro, della minaccia rappresentata, nell’area del Mediterraneo orientale, dai cambiamenti climatici.

[En.] The threats of climate change in the Eastern Mediterranean area should encourage cooperation among the coastal States and with the EU. Unauthorized drilling activities in 2018 have further affected already troubled European neighbourly relations with the Republic of Turkey and led the EU to impose targeted restrictive measures. The article focuses on targeted decisions and regulations adopted by the EU. The analysis develops against the backdrop, on the one hand, of the unsolved Cyprus issue and, on the other, of environmental risks in the Eastern Mediterranean.

Parole-chiave: Turchia – Misure restrittive dell’Unione europea – Associazione all’Unione europea – Mediterraneo orientale – Delimitazione dei confini delle zone marittime – Cipro – Diritto internazionale – Sovranità territoriale – Missione ONU di buoni uffici – Minacce ambientali.

Keywords: Turkey – EU Restrictive Measures – Association Process – Eastern Mediterranean – Maritime Boundary Delimitation - Cyprus – International Law – Sovereignty – UN Mission of Good Offices – Environmental Threats.

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1. *The Issue of The Maritime Boundary Delimitation between Turkey and Greece. Introductory Remarks*

The maritime dynamics between Turkey and Greece have been long lasting. Throughout history, the relationship between the two communities settled in Greece or Turkey has frequently transitioned from a state of tumult and often brutal violence to one of prosperity and close proximity, only to revert back again over time¹. Despite both States, Greece and Turkey, being NATO allies, their interactions have always alternated between alarming and mutually nourishing². Moreover Greece is an EU member State, as well as the Republic of Cyprus.

Trade and imaginaries across the Mediterranean, the Dardanelles, and the Black Sea have had a significant impact on international relations throughout history. Sovereignty over the Eastern Mediterranean, the Aegean islands, even rocks, and maritime zones has been continually jeopardized by strategic goals and later on by the need to overcome risks of geopolitical and technological failings.

In the light of this situation, Turkey did not sign the 1982 United Nations Convention on the Law of the Sea (UNCLOS). The reason for this is allegedly its sovereignty claims regarding the delimitation of the continental shelf and exclusive economic zone in the Eastern Mediterranean and some Greek islands in the Aegean³.

In this context, it is open to interpretation whether current technological-political and strictly strategic maritime primacy has become as dangerous for peace and balanced neighbouring relations between Turkey, the European Union, and their respective allies as the regional ‘ancestral instincts’ of the coastal States that are involved in some way, such as Greece, the Balkan States, Russia, and North Africa, to assert sovereignty over what is emotionally perceived, and (depending on the circumstances) legally or politically claimed, to be ‘homeland’⁴.

¹ Aligning with S. Huntington, *The Clash of Civilizations and the Remaking of World Order*, Simon and Schuster, 1996, English Edition August 2011, 302.

² See the pertinent A. Stergiou, *The Greek-Turkish Maritime Dispute. Resisting the Future*, Springer Nature Switzerland AG, 2022; D. Santoro, *La Turchia punta a dominare il mare Nostrum*, in *Limes. Rivista italiana di geopolitica, Il mare italiano e la guerra*, 2022, 133 and 142-145.

³ The United Nations Convention on the Law of the Sea, Montego Bay 10.12.1982, un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf. Among others, one peculiarity of the Eastern Mediterranean Area is that it is the littoral region with the greatest number of non-parties (Israel, Syria, Turkey) to the Montego Bay Convention: A. Stergiou, *The Greek-Turkish Maritime Dispute*, cit., 23.

⁴ Istituto per gli studi di politica internazionale (ISPI), *Mediterraneo orientale: battaglia navale fra Grecia e Turchia*, *Newsletter Daily Focus*, 26.08.2020, ispionline.it/it/pubblicazione/mediterraneo-orientale-battaglia-navale-tra-grecia-e-turchia-27204; Id, *Mediterraneo orientale: battaglia navale tra Grecia e Turchia*, in *Newsletter Daily Focus*, 26.08.2020, ispionline.it/it/pubblicazione/mediterraneo-orientale-battaglia-navale-tra-grecia-e-turchia-27204, with express reference to the EastMed pipeline and Turkey’s (and Northern Cyprus’) claims on the Exclusive Economic Zone in the Eastern Mediterranean and around the so-called Greek islands; V. Talbot, *Turkey’s changing Foreign Policy: A Delicate Balance*, in Istituto per gli studi di politica

Scholars do not generally consider Turkey's approach to the Eastern Mediterranean Dispute as strategic⁵, seeing it as being more anthropological and emotional in nature, which, in practical terms, undermines the political possibility of settling the issues under discussion, from the legal standpoint.

2. Turkish Government's Shift from Vatan to Mavi Vatan

Throughout history, Turkey has focused its expansionist ambitions on land territories. In more recent times, however, Turkey has come to view the sea as an integral part of its territory, treating it as equivalent in importance to the terrestrial domain, to the soil. The Turkish Government has consequently embraced a new pedagogical approach known as the *Mavi Vatan* Doctrine or the 'Blue Homeland Doctrine'⁶.

The *Mavi Vatan* Doctrine is of great, and profound, geopolitical value. Through this doctrine, the Government aims to disseminate and anchor among the Turkish population – also leveraging the media, e.g., using the content of television series⁷ – the 'attitude' that the control and defence of the seas has the same sentimental value as protecting and defending soil homeland⁸. This represents a marked shift in approach, as shown by Turkey's changing attitudes towards Libya and Israel⁹.

This new paradigm became evident with regard to Libya on June 10, 2020, when a significant naval incident occurred between Turkish warships and a French naval vessel, the Frigate Courbet, in the Mediterranean. The French vessel was taking part in the NATO *Sea Guardian* naval operation. At the time, France had accused Turkey of repeatedly violating the UN arms embargo against Libya, and it was in this context that the French vessel attempted to approach a Tanzanian-flagged cargo ship, the Cirkin, which was suspected of involvement in trafficking arms to Libya

internazionale (ISPI), *Newsletter Daily Focus*, 27.05.2021, [med.ispionline.it/publication/isp-i-med-dossier-turkeys-changing-foreign-policy-a-delicate-balance/](https://www.ispionline.it/publication/isp-i-med-dossier-turkeys-changing-foreign-policy-a-delicate-balance/).

⁵ See D. Santoro, *La Turchia punta a dominare il mare Nostrum*, cit., 133-48.

⁶ *Idem*, 133. This stance is based on the fundamental principle of national defence, whereby Turkey's 'homeland' (*Vatan*) is no longer the land but also the sea, namely the 'Blue Homeland' (*Mavi Vatan*): B. Stanicek, *Turkey: Remodelling the Eastern Mediterranean. Conflicting exploration of natural gas reserves*, European Parliament Research Center (Briefing), 2020, 3, [europarl.europa.eu/thinktank/en/document/EPRS_BRI\(2020\)652048](https://europarl.europa.eu/thinktank/en/document/EPRS_BRI(2020)652048).

⁷ See A. Grasso, *Storie d'amore e drammi storici: il trionfo delle serie turche*, in *Corriere della Sera*, 24.02.23, [corriere.it/spettacoli/cinema-serie-tv/24_febbraio_23/storie-d-amore-drammi-storici-trionfo-serie-turche-8f1df1e4-d25a-11ee-986e-4fbc6ecbba1.shtml](https://www.corriere.it/spettacoli/cinema-serie-tv/24_febbraio_23/storie-d-amore-drammi-storici-trionfo-serie-turche-8f1df1e4-d25a-11ee-986e-4fbc6ecbba1.shtml); A. Stergiou, *The Greek-Turkish Maritime Dispute*, cit., 81; L. Noto, *Perché l'Italia non può dimenticare il Mediterraneo orientale*, in *Limes Il mare italiano e la guerra*, 2022, 149-152; D. Santoro *La Turchia punta a dominare il mare Nostrum*, cit., 135.

⁸ The ultimate goal is to persuade others of the importance of permanently uniting the seas, even at the cost of shedding Turkish blood as their forefathers have always done on land: D. Santoro, *La Turchia punta a dominare il mare Nostrum*, cit., 133-134. In the past, Turkey had always expanded its influence in the Mediterranean through its dominant terrestrial presence.

⁹ A. Stergiou, *The Greek-Turkish Maritime Dispute*, cit., 116.

in breach of the UN embargo¹⁰. Turkish navy vessels were escorting the cargo ship, but the French and Turkish versions of events do not coincide, and the UN was unable to establish the facts. Nevertheless, the Turkish vessels forced the French ship to flee.

It has been pertinently noted that this was the first time in history that Turkey had succeeded in defending its sphere of maritime and territorial influence in Libya from the sea rather than from land. This was even achieved against the backdrop of the controversial 2019 Memorandum of Understanding (MoU) between the Government of the Republic of Turkey and the Government of National Accord-State of Libya on the delimitation of maritime jurisdiction areas in the Mediterranean¹¹. It is worth noting that, in view of the situation in Libya, the European Union subsequently issued CFSP Council Implementing Decision 2020/1310 of 21 September 2020 concerning restrictive measures against, among others, the Turkish shipping company *Avraya Shipping*, which operated the vessel *Cirkin*, in view of the situation in Libya¹².

In this context, it is important to consider historical tragedies such as the 1955 Pogrom of Greek people living in Istanbul¹³, past sufferings on both sides, diplomatic *faux pas* since the fall of the Ottoman Empire¹⁴, and the new Turkish

¹⁰ A. De Sanctis, *L'incidente navale franco-turco del 10 giugno*, in *Limes Il Turco alla Porta*, 2020, 40; J. Irish and R. Emmott, *France-Turkey Tensions mount after NATO Naval Incident*, in *Reuters* 07.07.2020, reuters.com/article/us-nato-france-turkey-analysis-idUSKBN2481K5.

¹¹ D. Santoro, *La Turchia punta a dominare il mare Nostrum*, cit., 134, also referring to the Memorandum of Understanding between the Government of the Republic of Turkey and the Government of National Accord-State of Lybia on the delimitation of the Maritime Jurisdiction Areas in the Mediterranean, Istanbul, 27.11.2019, notified by Turkey in accordance with Art. VI of the UN Charter and registered by the UN (COR-Reg-56119-Sr-69975): un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/TREATIES/Turkey_11122019_%28HC%29_MoU_Lybia-Delimitation-areas-Mediterranean.pdf. Concerning registration see also treaties.un.org/Pages/showDetails.aspx?objid=080000028056605a&clang=_en. Adopting a critical stance: German Bundestag-Wissenschaftlicher Dienst, *Seevölkerrechtliche Bewertung der türkisch-libyschen Vereinbarung über die Abgrenzung ihrer maritimen Interessenssphären im östlichen Mittelmeer*, 2020, File number WD2-3000-143/19, bundestag.de/resource/blob/678992/e6247b1311a73d6058a5d50ea7eb2682/WD-2-143-19-pdf-data.pdf.

¹² Annex to the Council implementing Decision (CFSP) 2020/1310 of 21 September 2020 implementing Decision (CFSP) 2015/1333 concerning restrictive measures in view of the situation in Libya [2020] OJ L305I/5; Council implementing Regulation (EU) 2020/1309 of 21 September 2020 implementing Article 21(2) of Regulation (EU) 2016/44 concerning restrictive measures in view of the situation in Libya [2020] OJ L305I/1.

¹³ A. Stergiou, *The Greek-Turkish Maritime Dispute*, cit., IX; A. Zambelli, *Storia: Il Pogrom di Istanbul del 1955 e la fine dei Greci del Bosforo*, in *East Journal*, 2020, eastjournal.net/archives/108787; D. Güven, *Riots against the Non-Muslims of Turkey: 6/7 September 1955 in the context of demographic engineering*, in *European Journal of Turkish Studies*, Vol. 12, No. 12, 2011.

¹⁴ A revisionist approach concerning the delimitation of the Aegean continental shelf, for instance, examining the 1913 Treaty of London, the peace treaty signed on 30.05.1913 after the First Balkan War, following the London Conference of 1912-1913 and signed in the absence of a delegation from the Ottoman empire. The same can be argued with regard to the 1913 Peace Treaty of Athens signed

Mavi Vatan Doctrine as extending beyond the strictly legal settlement of conflicting expectations. One might question whether ‘memories’ ought not to be honoured and reciprocally acknowledged by all parties involved in a dispute, before seeking ways out. Would it not be advisable to integrate the different feelings and emotions at play - when dealing with as yet unresolved conflicts and fostering more balanced relationships in the region?

Despite the environmental threat, which poses a significant risk in the Mediterranean area and should, as has rightly been pointed out¹⁵, encourage cooperation among coastal States rather than fuelling deep-rooted conflicts, it is still sovereignty rights, national security interests, and the specific peculiarities of situations that continue to drive the race towards technological and scientific primacy, exhaustible mineral resources, rare earths, underwater cables, trade routes, and, not least, offshore gas pipelines. These attract also economic-political actions and reactions that disregard or, depending on one’s standpoint, waive international law.

We are witnessing, as though frozen, a sort of clash of civilizations from a revitalized perspective, like a phoenix reborn from the ashes¹⁶. It presents obstacles to the delimitation of maritime boundaries, the settlement of the long-standing Cyprus issue, and Turkey’s controversial EU accession negotiations. In this context, the issues at hand directly affect the troubled neighbourly relations between the European Union and the Republic of Turkey with respect to unauthorized gas

on 11.11.1913 between the Ottoman Empire and the Kingdom of Greece: in *AJIL Supplement*, official documents, 1914, 46–55; for the 1936 Montreux Convention regarding the *Régime* of the straits, concerning rights granted to Turkey relating to Bosphorus and Dardanelles Straits: treaties.un.org/pages/showDetails.aspx?objid=0800000280166981; and, lastly, for the 24.07.1923 Peace Treaty of Lausanne: treaties.un.org/doc/publication/unts/lon/volume%2028/v28.pdf; see A. Stergiou, *The Greek-Turkish Maritime Dispute*, cit., 5–17. Some doubts arise concerning the so-called 1932 Italian-Turkish Treaty – Consular Convention between the Reign of Italy and the Republic of Turkey, Rome 09.09.1929, archives.ungeneva.org/no-2962-italie-et-turquie-convention-consulaire-signee-a-rome-le-9-septembre-1929-enregistree-le-11-mai-1932-a-la-demande-du-ministre-des-affaires-etrangeres-ditalie-recueil-des-traites-vol-129/download, which was not deposited with the Secretariat of the League of Nations as it had not been ratified by the Turkish National Assembly. The Ottoman Empire was dissolved in 1919, though Greek independence from the Empire dates back to 1830. The dispute between Greece and Turkey concerning sovereignty over the Aegean Sea has traditionally taken the form of a frozen conflict: A. Stergiou, *The Greek-Turkish Maritime Dispute*, cit., IX.

¹⁵ A. Stergiou, *The Greek-Turkish Maritime Dispute*, cit., 97–107: «Pursuing cooperation against climate change is of paramount importance in order to bridge the differences in the Aegean over the maritime zones or the demilitarisation of islands, etc.».

¹⁶ More recently, see A. Tekin, *Future of Turkey-EU relations: a civilisational discourse*, in *Futures*, 2005, 287-302 also with reference to S. Huntington, *The Clash of Civilizations and the Remaking of World Order*, cit.; S. Kunalalp, *Turkey-EU Relations: Past, Present – and future?*, Heinrich Böll Stiftung – Brussels European Union, 2 May 2017, eu.boell.org/en/2017/05/02/turkey-eu-relations-past-present-and-future; for an older treatment, see S. Faroqhi, *Geschichte des Osmanischen Reiches*, C.H. Beck Verlag, 2021; M. Reinkowski, *Geschichte der Türkei. Von Atatürk bis zur Gegenwart*, C.H.Beck Verlag, 2021, 496.

drilling activities in the Eastern Mediterranean, which have led to the EU imposing restrictive measures on two Turkish citizens, as will be discussed in this article¹⁷.

3. *The Deadlock of the Cyprus Issue*

Of course, each EU Member State has its own unique history in this respect¹⁸. For instance, the relationship between Italy and Turkey has been characterized by ambivalence and tension, which can be attributed to a complex interplay of factors such as fidelity to European and external alliances, trade interests, levantine-rooted proximity and Mediterranean elective affinities.

In any event, focusing on the core issue and starting point of the study on EU-selected restrictive measures concerning Turkey, there is no doubt that the Mediterranean Sea, specifically the Eastern Mediterranean¹⁹, plays the lead role. The Turkish Republic of Northern Cyprus is the stone guest²⁰.

The Cyprus question is complex and multi-faceted, with significant implications for international and EU Law²¹, involving memories and raising a number of sensitive and controversial factual, historical, legal, and political questions that deserve dedicated, far-reaching, balanced, and focused attention. The situation has been further compounded by Russia's annexation of Crimea in 2014 and its military intervention in Ukraine in 2022, seizing parts of its territory, which added new weight to the issue. If not resolved in a timely and respectful manner, the Cyprus

¹⁷ Annex I to Council Regulation (EU) 2019/1890 of 11 November 2019 concerning restrictive measures in view of Turkey's unauthorised drilling activities in the Eastern Mediterranean [2019] OJ L201/3. The first person concerned as, *inter alia*, Vice-President and member of the Board of Directors of the Turkish Petroleum Corporation (TPAO). The drilling activities in this case were carried out by the vessels Yayuz and Faith. The second person is the Deputy Director of the Exploration Department of the same corporation.

¹⁸ H.L. Hague, A. Eralp, W. Wessels and N.S. Bedir, *Mapping Milestones and Periods of Past EU-Turkey Relations*, in Id., *FEUTURE Working Paper, The Future of EU-Turkey Relations: Mapping Dynamics and testing Scenarios*, 2016, iai.it/sites/default/files/feuture_2.pdf; E. Turhan, W. Reiners (eds.), *Unpacking the New Complexities of EU-Turkey Relations: Merging Theories, Institutions, and Policies*, Palgrave Macmillan, Springer Nature Switzerland AG, 2021, link.springer.com/content/pdf/10.1007/978-3-030-70890-0.pdf; S. Huntington, *The Clash of Civilizations and the Remaking of World Order*, cit., 143-149.

¹⁹ Istituto per gli studi di politica internazionale (ISPI), *Grecia-Turchia: tensione nel Mediterraneo orientale*, in *Newsletter Daily Focus*, 2022, ispionline.it/it/pubblicazione/grecia-turchia-tensione-nel-mediterraneo-orientale-36306.

²⁰ See D. Santoro, *La Turchia punta a dominare il mare Nostrum*, cit., 133; recently A. Stergiou, *The Greek-Turkish Maritime Dispute*, cit., IX-XIII, particularly on Greek-Turkish relations throughout history, which have been characterized by abiding distrust, enmity, resentment, popular stereotypes, and nationalistic news coverage. All this has influenced the two peoples' perception of each other's attitudes to the 2019-2020 maritime borders delimitation agreements or Memoranda of Understanding in the Eastern Mediterranean.

²¹ K. Chrysostomides, *The Republic of Cyprus. A Study in International Law*, Martinus Nijhoff Publishers, 2000; E. Bora, *Cyprus in International Law*, in *Ankara Bar Review*, 2013, 27-58 heinonline.org/HOL/Page?collection=journals&handle=hein.journals/ankar6&id=32&men_tab=srchresults; B. Grandi, *Profili internazionali della questione di Cipro*, Giuffrè editore, 1988.

question has the potential to be perceived or invoked as a precedent for other unresolved situations at present or in the very near future.

It comes as no surprise that Turkey has once again begun to claim international recognition of the Turkish Republic of Northern Cyprus²². Regardless of the complex legal framework in which the situation has been embedded since at least 1974 when Turkey invaded Cyprus and setting aside the consequences of violating international law and the question of the effective existence of the Republic of Northern Cyprus since at least 1984, it is high time to settle the issue. This should be done before the anniversary of the division of the ‘Island of Venus’. Forty or fifty years (depending on the starting point) of pretending that it does not exist is a long time. The population has endured significant hardship, and it is imperative that contemporary international law adopt a people-centric approach. In this regard, it is noteworthy that civil society has demonstrated greater adaptability and responsiveness than the development of international law and relations²³.

It is unclear to what extent the idea behind Turkey’s request for recognition coincides with the goals of the autonomous government of Northern Cyprus and the Cypriot community²⁴. Looking at the issue from a different perspective, it is worth highlighting that Cyprus is not only an attractive tax haven but also a known location for international criminal activities. Against this backdrop, the question of who stands to gain from non-recognition may seem rhetorical but is nevertheless of crucial significance²⁵.

²² *La Turchia chiede il riconoscimento dell’indipendenza di Cipro Nord*, in *Osservatorio Romano*, 09.2022, osservatoreromano.va/it/news/2022-09/quo-223/la-turchia-chiede-il-riconoscimento-dell-indipendenza-di-cipro-n.html; A. Paul, *The Cyprus Problem: Has time run for Reunification?*, EPC Commentary, April 2021, epc.eu/en/Publications/The-Cyprus-problem-Has-time-run-out-for-reunification~3dfd24.

²³ In this regard see the UN Secretary General’s Report, *Mission of Good Offices in Cyprus*, (Security Council, S/2022/534, 05.07.2022, securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2022_534.pdf) on the so-called low politics issues successfully addressed in Cyprus to strengthen cooperation among the Turkish and the Greek communities. Some Technical Committees – which are seen as ‘models of bicomunal camaraderie and cooperation’ (para. 18) have achieved remarkable results. Technical Committees have been created on Health, Crime, Gender Equality, the Environment, Economic and Commercial Matters, Broadcasting, Education, Support Facilities, Migration, Missing Persons, Interreligious Dialogue, and Cultural Heritage. See also: UN Secretary General’s Report, *Mission of Good Offices in Cyprus*, (Security Council, S/2024/13, 03.01.2024, uncyprustalks.unmissions.org/sites/default/files/osasg-s2024-13.pdf) also with reference (para 9) to the impact on regional dynamics by the outbreak of conflict in the Middle East.

²⁴ M. Faraci, *Il caso Cipro Nord. Le ragioni per un riconoscimento*, in *Strade*, 2015, stradeonline.it/istituzioni-ed-economia/1128-il-caso-cipro-nord-le-ragioni-per-un-riconoscimento#.

²⁵ P. Innocenti, *Cipro, paradiso fiscale e centro del riciclaggio delle mafie*, 01.12.2020, liberainformazione.org/2020/12/01/cipro-paradiso-fiscale-e-centro-del-riciclaggio-anche-delle-mafie/; T. Theiopoulou, *Breakaway north Cyprus cause of money laundering concern-USSD*, March 6th, 2020, in-cyprus.philenews.com/insider/business/breakaway-north-cyprus-cause-of-money-laundering-concern-ussd/.

Be that as it may, the international community and the European Union (especially two of its members: Greece and the Republic of Cyprus), on one side, and Turkey on the other, can no longer postpone seeking a way out of this long-standing deadlock. The strategy of mere survival in this frozen conflict is collapsing and drowning in the Eastern Mediterranean. It is worth reflecting on whether the non-recognition of a situation that has developed over nearly five decades, albeit unlawful and deserving condemnation on an international level, makes sense in the light of the *de facto* existence of, and at least some level of internal governance by, the Government of the Republic of Northern Cyprus. It is certainly time for a comprehensive political resolution of the Cyprus question within the broader Eastern Mediterranean context. A preferable solution would be a bi-communal, bi-zonal federation enjoying political equality, in accordance with relevant UN Resolutions²⁶ and aligned with the European Union's *acquis* and core principles. Regrettably, as we are aware, the Turkish government, seemingly disregarding the position of Northern Cyprus' Government and inhabitants, persists in advocating for a two-State solution²⁷.

Given the course of events since 1984, and indeed, earlier times, it seems unlikely that a resolution to the conflict can be achieved without the prior international recognition of the Turkish Republic of Northern Cyprus²⁸ and equal rights for the North and South Cypriot people, at least as a first step towards settlement²⁹.

²⁶ UN Security Council, *Resolution 186 on The Cyprus Question*, S/RES/186 (1964), 04.03.1964; UN Secretary General's Report, *Mission of Good Offices in Cyprus*, (Security Council, S/2022/534, 05.07.2022. UN Security Council, *Resolution 2618* (2022), which renewed the mandate of the UN Peacekeeping Force in Cyprus (UNFICYP) for another six months, until 31.07.2022. UN Security Council, *Resolution 2674* (2023) extended the mandate until 31.01.2024 documents.un.org/doc/undoc/gen/n23/027/30/pdf/n2302730.pdf?token=31VEeSj3im0qvbAC8Y&fe=true. UN Security Council, *Resolution 2723* (2024) underlined the urge to extend the mandate [further documents.un.org/doc/undoc/gen/n24/025/56/pdf/n2402556.pdf?token=Dl0lknTRRDzJ0thDIW&fe=true](https://documents.un.org/doc/undoc/gen/n24/025/56/pdf/n2402556.pdf?token=Dl0lknTRRDzJ0thDIW&fe=true).

²⁷ In this regard, see Annex II to the UN Secretary General Report 2022, 15, Actions taken by the Turkish Cypriot Side in support of the relevant parts of Security Council Resolution S/RES/2618 (2022) which clearly states that: «...the Turkish Cypriot side has withdrawn its consent for bi-zonal, bi-communal federation (BBF) as the basis for the solution of the Cyprus problem. This failed basis, *which has been exhausted*, is no longer on the table» (emphasis added).

²⁸ Turning again to the Report 2022 quoted above in note 23, the Turkish side stresses that it is prepared to proceed with formal negotiations «only after establishing the equilibrium between the two Sides»; «[...] a confirmation of the inherent sovereign equality and equal international status of the two sides» should level the playing field since «it is time to acknowledge this fact, through the adoption of a new negotiating basis with the assistance of UNSG».

²⁹ Reciprocal acknowledgment of suffering, losses, discrimination, and abuses is the premise for every reconciliation process: «Versöhnen kann sich nur, was vorher entzweit war. Verbinden kann sich nur, was vorher getrennt war. Also sind die Trennung und das Unterschiedliche eine Voraussetzung für die Versöhnung. Was heißt es dann, sich zu versöhnen? Was heißt in diesem Zusammenhang Frieden? Dass das Unterschiedliche und das Gegensätzliche erhalten bleiben, such aber gegenseitig anerkennen und würdigen und sich vom anderen ergänzen und bereichern lassen. Damit erkennen sie, dass der andere gleichwertig ist. So darf das Unterschiedliche bestehen bleiben; und doch, indem es sich mit vielem anderen verbindet, erreichen sie gemeinsam die Fülle»: B. Hellinger, *Der große Konflikt. Die Antwort*, Wilhelm Goldmann Verlag, 2005, 203.

4. The Complex Overall Framework of EU targeted Restrictive Measures concerning Turkey

Having outlined the overall international background, let us focus on the EU's targeted restrictive measures concerning Turkey. These were issued in 2019, renewed in 2020, confirmed by Council Decision (CFSP) 2022/2186 until 12 November 2023, and by Council Decision 2023/2488 until 30 November 2024³⁰. The premise and trigger for these measures were Turkey's exploration activities for natural gas resources in the Eastern Mediterranean and further provocative actions in the Aegean Sea³¹. These events occurred despite Council and European Council conclusions dating from 2018 and firmly condemning the illegal actions that violated Cyprus' Exclusive Economic Zone from the EU's perspective³².

The EU's position is that Turkey's unauthorized research activities and subsequent conduct conflict with treaty and/or customary international law. In this regard, the European Council has repeatedly expressed serious concern over Turkey's drilling activities and deplored the country's lack of response to the Union's repeated calls to cease them. The Turkish Government was specifically asked to refrain from engaging in such behaviour, to act in a spirit of good neighbourliness, and to respect Cyprus' sovereignty and sovereign rights in accordance with international law. Additionally, the European Union condemned statements by Turkey disputing Greece's sovereignty over a number of islands in the Aegean Sea³³.

In this regard, unlike Greece, which ratified the UN Convention on the Law of the Sea in 1995, Turkey has notably – as already observed in the introductory remarks – not adhered to the Convention, possibly due to the rights it grants to island territories with respect to the delimitation of maritime zones³⁴. Generally speaking, concerning islands, Turkey claims rights based on its continental shelf and insists on special circumstances being considered in the cases at issue. Following this approach, islands should not be considered in the particular delimitation process,

³⁰ Council Decision (CFSP) 2022/2186 of 8 November 2022 amending Decision (CFSP) 2019/1894 concerning restrictive measures in view of Turkey's unauthorised drilling activities in the Eastern Mediterranean [2022] OJ L288/81, and Council Regulation EU 2019/1890: above n. 17 and Council Decision 2023/2488 of 9 November 2023 amending Decision (CFSP) 2019/1894 concerning restrictive measures in view of Turkey's unauthorised drilling activities in the Eastern Mediterranean [2023], eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202302488. There are no changes in the list of persons subject to sanctions.

³¹ It must be stressed once again that the European approach linking the reaction only to recent facts, i.e., to the drilling activities, appears reductive in the light of the complexity of the situations involved.

³² For instance, see Council of Europe, *Turkey's Illegal Drilling Activities in the Eastern Mediterranean: Council adopts conclusions*, Press release 658/19, 14.10.2019, eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202302488.

³³ B. Stanicek, *Turkey: Remodelling the Eastern Mediterranean*, cit.

³⁴ On islands e.g. Art. 10 and Art. 121, United Nations Convention on the Law of the Sea (UNCLOS), cit.

which is supposed to be more political than legal³⁵. Greece's position is that the delimitation of the continental shelf is governed by the rule of equidistance between the Eastern Aegean Islands and the Turkish mainland since no delimitation agreement exists between the coastal States³⁶. This is another thorny and seemingly unsolvable issue.

Offshore natural gas reserves were discovered in the Mediterranean around 2009. Since then, Turkey has challenged international law and the delimitation of coastal States' exclusive economic zones and neighbouring countries at various levels through diverse actions on territorial waters, airspaces, military interventions, and intimidations. These actions have been followed by foreign policy steps towards Libya and military interventions in Syria, destabilizing the Mediterranean region from the EU's perspective. In November 2019, for example, Turkey concluded a highly controversial Memorandum of Understanding (MoU) with the Libyan Government of National Accord with the specific purpose of setting new maritime boundaries³⁷.

Shortly before this step, on October 14., 2019, the Council affirmed its full solidarity with Cyprus and recalled its own conclusions of July 15th, 2019, the duty to address the delimitation of exclusive economic zones and the continental shelf through dialogue, negotiating in a) good faith and showing b) full respect for international law and in accordance with c) the principle of good neighbourly relations³⁸. It also agreed to establish a «framework for restrictive measures targeting natural and legal persons responsible for, or involved in, illegal hydrocarbon drilling activity in the Eastern Mediterranean».

The 2019 Memorandum of Understanding with Libya was considered at that time to be only the latest 'unfriendly' act and one of several pending disputes

³⁵ A. Stergiou, *The Greek-Turkish Maritime Dispute*, cit., 4.

³⁶ Art. Article 83 UNCLOS, 'Delimitation of the continental shelf between States with opposite or adjacent coasts' states as follows: «1. The delimitation of the continental shelf between States with opposite or adjacent coasts shall be affected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.

2. If no agreement can be reached within a reasonable period of time, the States concerned shall resort to the procedures provided for in Part XV.

3. Pending agreement as provided for in paragraph 1, the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a practical nature and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement. Such arrangements shall be without prejudice to the final delimitation.

4. Where there is an agreement in force between the States concerned, questions relating to the delimitation of the continental shelf shall be determined in accordance with the provisions of that agreement».

See also Art 74 UNCLOS regarding the delimitation of the economic exclusive zones with opposite or adjacent coasts.

³⁷ Memorandum of Understanding between the Government of the Republic of Turkey and the Government of National Accord-State of Lybia on the delimitation of the Maritime Jurisdiction areas in the Mediterranean, above n. 11.

³⁸ Council of the EU, *Turkey's Illegal Drilling Activities in the Eastern Mediterranean: Council adopts conclusions*, cit.

concerning Turkey's foreign policy towards the European Union³⁹. It drew a dividing line between the Eastern and the Western part of the Mediterranean threatening security, mineral explorations and infrastructure.

Turkey's unilateral actions have had a strong negative impact on its EU accession negotiations, the continuation of exploratory talks on the delimitation of the continental shelf and exclusive economic zone, and the settlement of the long-standing Cyprus question.

On the other hand, new collaborations have developed among Eastern Mediterranean and EU countries regarding gas resource exploration in the region and infrastructure construction. The EastMed Pipeline is a prime example⁴⁰. The Eastern Mediterranean Gas Forum was established in January 2019 between Cyprus, Egypt, Greece, Israel, Italy, Jordan, and the Palestinian Authority⁴¹. In early 2020, Cyprus, Greece, and Israel signed an agreement to construct the EastMed pipeline, a 1,872 km-long mostly undersea project aimed at promoting regional energy diversity. The EastMed pipeline was intended to ensure energy diversification in the region and bring Israel geographically and physically closer to the EU through its stronger alliance with Greece and Cyprus. However, since spring 2022, Turkey has connected the Trans-Anatolian Pipeline (TANAP) to the Trans-Adriatic Pipeline (TAP) in a bid to secure Europe's gas supply amid tensions caused by Russia's aggression against Ukraine⁴².

At the same time, an almost strategic and ambitious New Ottoman Agenda is reshaping the Eastern Mediterranean and aims to spread Turkey's influence from

³⁹ Above n. 11 with further reference to the critical German position.

⁴⁰ L. Noto, *Perché l'Italia non può dimenticare il Mediterraneo orientale*, cit., 152-153; A. Stergiou, *The Greek-Turkish Maritime Dispute*, cit., 57, 105-106.

⁴¹ L. Noto, *Perché l'Italia non può dimenticare il Mediterraneo orientale*, cit.

⁴² Trans-Anatolian natural gas pipeline (TANAP): L. Noto, *Perché l'Italia non può dimenticare il Mediterraneo orientale*, cit., 155.

Northern Iraq and Syria to Libya⁴³ and from there to the Horn of Africa⁴⁴. As aptly pointed out, «the fact that Greece and Turkey are blessed or cursed to be situated in the Eastern Mediterranean, a geopolitically highly combustible region haunted by numerous ethnic and political conflicts, is an important component of the analysis. Notably the East Med region has been in geopolitical, geo-economic and geo-strategic terms, important throughout history. It is a common area for three different continents – Europe, Asia and Africa – and the three monotheistic religions – Judaism, Christianity, and Islam». ⁴⁵ The Aegean and its surrounding shores have a long history of peaceful interreligious and cultural coexistence, but also of bitter ethnic conflicts and devastating antagonisms.

Embedded in this complex historical and political framework, pending maritime delimitation issues are a source of renewed tensions among the countries and cultures involved – both States and peoples – as the delimitation of maritime zones involves sovereign rights, emotional attitudes, and economic interests at the same time.

This is particularly effective in Turkey, where the Government is promoting the *Mavi Vatan* Doctrine, presenting maritime rights in its national propaganda as equivalent to territorial rights. This goes beyond legal, economic, and political

⁴³ Thus definitively abandoning of the former Kemalist tradition of secularism and regional neutrality: B. Stanicek, *Turkey: Remodelling the Eastern Mediterranean*, cit., 1, 3. Issues on the delimitation of the Aegean continental shelf go back to the fall of the Ottoman Empire and to numerous international conferences and treaties, e.g., the 30.05.1913 Treaty of London, the peace treaty signed at the end of the First Balkan war between Turkey and the Balkan Allies pollitecon.com/html/treaties/Treaty_of_London_1913.html as the Ottoman Empire lost its remaining European territory. On the events of the first Balkan War between Bulgaria, Greece, Montenegro, and Serbia against the Ottoman Empire, see D. Santoro, *La Turchia punta a dominare il mare Nostrum*, cit., 143. Among the declarations and treaties at issue, scholars also refer to the decision of 14.11.1913 communicated to Greece on 13.02.1914, the so-called 1914 ‘Decision of six Powers’ issued to the Hellenic Government by Germany, Austria-Hungary, France, Great Britain, Italy and Russia, referring to Art. 5 of the 1913 London Treaty and reinforcing the territorial provisions regarding the Northeastern occupied Aegean Islands. Turkey was to cede the islands to Greece on the condition that Greece would not fortify or use them for any military or naval purposes. The Turkish government was not involved in the negotiations, only agreeing to the division outlined in Article 12 of the 1923 Lausanne Treaty, which included a requirement to demilitarize the islands: R. Türmen, *Whose Sea? A Turkish International Law Perspective on the Greek-Turkish Disputes, Analysis*, 2020, 4, institutmontaigne.org/en/blog/whose-sea-turkish-international-law-perspective-greek-turkish-disputes. The 1923 Lausanne Treaty, signed on 24.07.1923 between the British Empire, France, Italy, Japan, Greece, Romania and the Serb-Croat-Slovene State on one hand, and Turkey on the other, to bring the state of war which had existed in the East since 1914 to an end: mfa.gr/images/docs/diethneis_symvaseis/1923_lausanne_treaty.doc. On the probability of a revision of the Lausanne Treaty see D. Santoro, *La Turchia punta a dominare il mare Nostrum*, cit., 144 and, on the 1932 Italian-Turkish Treaty, above n. 14.

⁴⁴ On the extension and confirmation of Turkey’s influence in Africa, including Ethiopia, Somalia, Senegal, Niger, and Mali, not only through military cooperation, arms and drone supply, but also through cultural and educational cooperation, see D. Santoro, *La Turchia punta a dominare il mare Nostrum*, cit., 140.

⁴⁵ A. Stergiou, *The Greek-Turkish Maritime Dispute*, cit., XI with further literature.

considerations, as it is deeply intertwined with the concepts of fatherland and homeland – the soil of ancestors, home, and memory.

Also, in response to the 2019 Memorandum of Understanding with Libya⁴⁶, Greece signed a maritime delimitation agreement with Egypt and Italy in summer 2020, provoking a strong reaction from Ankara and making the risk of military confrontation between NATO members real for the first time⁴⁷. In 2021, Turkish drilling activities stopped, and exploratory talks between Greece and Turkey began. Unfortunately, 2022 saw a renewed standstill. Tensions rose again due to Turkish warships obstructing surveys of Cyprus' exclusive economic zone (EEZ), where Turkey decided to conduct seismic surveys and scientific research activities, among other things. Turkey was accused of harassing Cypriot fishing vessels.

To sum up, the situation is very complex, and the Northern Cyprus issue must be considered or integrated into the overall approach. Turkey is claiming sovereign rights over maritime boundaries on behalf of Northern Cyprus, which is under its influence despite being governed by its *own* regularly elected government⁴⁸. The international community of States, with the exception of Turkey, has never recognized the Turkish Republic of Northern Cyprus, established in 1984⁴⁹. With regard to maritime disputes, Turkey accuses Greece – and the EU – of violating Northern Cyprus' sovereignty and of behaving unlawfully towards Turkish Cypriots. It claims reciprocity for these people. On the other hand, the Republic of Cyprus is a member of the European Union, which aims to represent and protect the rights of the Cypriot people as a whole.

⁴⁶ On the issue of Libya's non-ratification of the MoU in the absence of a recognised government: above n. 11 and n. 39. For a reference in literature, see. A. Stergiou, *The Greek-Turkish Maritime Dispute*, cit., 7.; D. Santoro, *La Turchia punta a dominare il mare Nostrum*, cit., 139.

⁴⁷ Agreement between The Hellenic Republic and the Republic of Italy on the Delimitation of their Respective Maritime Zones, 09.06.2020. See M. Mancini, *The Agreement between Greece and Italy on the Delimitation of their respective Maritime Zones: An Italian Perspective*, in *The Italian Yearbook of International Law Online*, 2021, brill.com/view/journals/iyio/30/1/article-p283_16.xml?language=en; A. Marghelis, *The Greek-Italian Maritime Delimitation Agreement of 9 June 2020: An Analysis in the light of International Law, National interest and Regional Politics*, in *Marine Policy*, No. 104403, 2021, [sciencedirect.com/science/article/pii/S0308597X21000130](https://www.sciencedirect.com/science/article/pii/S0308597X21000130).

⁴⁸ The Republic of Cyprus has not yet agreed with the other coastal States involved in establishing the limits of the continental shelf and its exclusive economic zone. On the international regime of maritime exclusive economic zones and the continental shelf from the perspective of development, see, *inter alia*, M.H. Nordquist, J. N. Moore, A. Chircop, and R. Long (eds.), *The regulation of continental shelf development. Rethinking international standards*, Martinus Nijhoff Publishers, 2013, 3; S. Jayakumar, *The Continental Shelf Regime under the UN Convention on the Law of the Sea: Reflections after thirty Years*, cit., 5; see also S. V. Bush, *Establishing Continental Shelf Limits beyond 200 Nautical Miles by the Coastal State. A right of Involvement for other States?*, Brill Nijhoff, 2016, 5; spec. G. Cherkashov, *Mining for Marine Minerals*, cit., 71; J. A. Roach, *International Standards for Offshore Drilling*, *ibidem*, p. 105; T. CARNEY, *The Legal Issues Regarding Drilling off the Northeast Coast of Cyprus*, in *OpinioJuris*, 2019 opiniojuris.org/2019/09/23/the-legal-issues-regarding-drilling-off-the-northeast-coast-of-cyprus/.

⁴⁹ On non-recognition also in relation to the North Cyprus issue, see R. Portmann, *Legal Personality in International Law*, Cambridge University Press, 2010, 80. On UNCLOS: above n. 36.

5. *The Scope of the EU Restrictive Measures*

The EU's restrictive measures concerning Turkey stem from Council Decision (CFSP) 2019/1894 and Regulation (EU) 2019/1890, issued on November 11, 2019, in response to Turkey's already mentioned unauthorized drilling activities in the Eastern Mediterranean⁵⁰.

Regulation 2019/1890 states that Turkey's drilling activities infringe on the sovereignty, sovereign rights and jurisdiction of the Republic of Cyprus and are contrary to the principles of the United Nations Charter, including the peaceful resolution of disputes and pose a threat to the interests and the security of the Union. The EU is reacting to a breach of international law, specifically the violation of rights granted to the Republic of Cyprus by international customary and treaty law. The Union claims that these actions pose a threat to its interests and security and is acting within the framework of international law.

However, as we will see shortly, the scope of the measures adopted is rather narrow. In fact, the list of persons subject to restrictions in the Annex is limited to just two individuals. Therefore, the response appears to be something of a deterrent, leaving doors open for already existing or future cooperation and partnerships with Turkey in all relevant economic and political areas. The EU seems to be defending its own international law rights and security interests, as Cyprus and Greece are part of the Union as a whole, albeit maintaining a clear view of complex and sensitive international dynamics. As we shall see in greater depth later on, the EU recognizes the need to maintain an inclusive approach and avoid prioritizing narrow interests, which, although they are based on international law, are merely regional (and national).

With regard to provisions, Council Regulation 2019/1894 establishes two types of measures: one targeting natural persons and the other freezing economic resources. The Decision urges members (using the so-called 'mandatory shall') to take measures considered 'necessary to prevent' the entry and transit through their territories of natural persons involved in unauthorized drilling operations within Cyprus's territorial sea, exclusive economic zone or continental shelf (Art. 1(1)). To address any potential objections from the outset, it should be noted that the decision explicitly states that the restricted measures may apply even in instances where there is no agreed delimitation (although the text uses the wording «has not been delimited in accordance with international law» rather than «agreed delimitation»). The reference here is to the 1982 UN Convention on the Law of the Sea. As previously mentioned, this issue is controversial and intertwined with several other international law questions. Notably, the Republic of Cyprus has yet to agree with other involved coastal States on establishing the delimitation of the continental shelf, including the exclusive economic zone⁵¹.

⁵⁰ Above n. 32.

⁵¹ This combination and overlapping of issues have grown into an intricate spider's web around the shaping of the status of Cyprus (as a single entity or divided but under the umbrella of confederation) and possible ways out of the stalemate of EU negotiations on Turkey's accession.

In any case, coming back to the wording and to the content of the provision, regarding the failed (agreement on) delimitation of the continental shelf, exclusive economic zone, and territorial sea in the Eastern Mediterranean, the decision acknowledges the existence of a «State having an opposite coast» and refers to activities that may «jeopardize or hamper the reaching of a delimitation agreement» (Art. 1(1)(a), para. 2).

Apart from the specific situation of failed delimitation agreements, the first group of activities giving rise to sanctions (the Council does not seem to consider the list exhaustive) includes «planning, preparing, participating in, directing or assisting» not authorised by the Republic of Cyprus – EU Member State. As previously noted, drilling activities must be conducted within the Cypriot territorial sea, i.e., the Republic of Cyprus, its exclusive economic zone, or continental shelf. Lastly, they must concern (unauthorized) hydrocarbon exploration, production, and extraction⁵².

Restrictive and necessary measures are taken by States against the natural persons listed in the Annex. As a consequence, persons involved in, or responsible for, these activities are prevented from entering or transiting through the territories of Member States. The second and third groups of activities also concern specified natural persons. The first case regards those providing financial, technical or material support for the above-mentioned drilling activities, while the second group are associated with all of them. Council Regulation 2019/1890 provides for the possibility of direct enforcement of these measures on the territories of all Member States.

In any case, in conformity with international law, no Member State is obliged to refuse entry to its own nationals, and restrictive measures must not prejudice situations where a Member State is bound by obligations of international law. This includes being the host country of international intergovernmental organizations or conferences (under the auspices) of the United Nations or being bound by a multilateral agreement conferring privileges and immunities. In these cases, and where a country hosts the Organisation for Security and Cooperation in Europe (OSCE), the Council shall be duly informed of the granted exemption. This is also true of the exemption concerning Italy, which recognizes its unique relationship with the Holy See, and restrictive measures must comply with the obligations following from the 1929 Lateran Pacts without prejudice.

In other cases, Member States ‘may’ grant strictly limited exemptions for ‘urgent’ humanitarian needs or to attend meetings promoted or hosted by the EU or the Member State holding the Chairmanship of the OSCE (Art. 1(6))⁵³.

⁵² Also, in this case the listing is not exhaustive.

⁵³ Recital 11 of the Preamble highlights that the Decision should not hamper the delivery and facilitation of humanitarian aid. In this regard a derogation is possible as appropriate if it appears that the application of such measures could impede the delivery of humanitarian aid. As to the limited exceptions, in specific situations, one or more Council members can raise objections in writing: see Art. 1(8).

Regarding measures concerning assets and economic resources held or controlled by natural or legal persons listed in the Annex, again associated with or responsible for the drilling activities in question, or providing financial, technical, or material support, Council Regulation 2019/1890 enables direct enforcement of sanctions across Member States. Pursuant to Article 2(1)(b) and (c), sanctions apply not only to natural or legal persons but also their affiliates and entities. Such assets and resources shall be frozen, and no funds or economic resources can be made available to such parties.

Here too, derogations are possible, *inter alia*, to satisfy the basic needs of the person and their family, to pay reasonable professional fees, to pay extraordinary expenses and for judicial reasons⁵⁴. Although this safeguard clause allows for discretionary national outcomes, it is still a welcomed measure.

Setting aside the provisions outlining procedures for amending the list in the Annex and the reasons for the listing of the natural and legal persons, entities, and bodies involved, the information necessary to identify them, the ban on claims related to affected contracts or transactions (Art. 5) and data processing protocols (Art. 6), Article 7 is particularly worthy of note. Although it is often present in sanctions and countermeasures issued by international organizations, this article requires Members to encourage third States to adopt comparable restrictive measures against Turkey.

Before ending this brief survey, let us return to the Preamble of Decision 2019/1894, and first of all to recital 3, which specifically refers to EU-Turkey relations and the negative impact of illegal drilling activities on good neighbourliness and respect of sovereignty, in addition to the sovereign rights of Cyprus «in accordance with international law». The Council notes that «the delimitation of exclusive economic zones and of the continental shelf should be addressed through dialogue and negotiations in good faith, in full respect of international law and in accordance with the principle of good neighbourly relations». There are three keywords and pillars that mark and underpin the direction and evolution of EU-Turkish dynamics, and these can be found in every EU document concerning Turkey: good faith, respect of sovereignty, and the spirit of good neighbourly relations. Given Turkey's drilling activities, and in response to the asserted breaches of the three pillars (as stated in Preamble, recital 4), the Council decided to take the following actions: a) to suspend negotiations on the Comprehensive Air Transport Agreement, b) to discontinue holding high-level dialogues with Turkey, and lastly, c) to endorse the Commission's proposal to reduce pre-accession assistance to Turkey for 2020. Subsequently, the European Investment Bank was invited to review its lending activities in Turkey. Fortunately, the Customs Union is still in place. Furthermore, Turkey's active diplomatic involvement – though we will refrain from examining the whys and wherefores – in resolving the war launched by Russia against Ukraine is a positive development.

⁵⁴ Without prejudice, as per the provision of para. 2, e.g. to interests or other earnings on the accounts, payments due under contracts concluded prior to the date of freezing (Art. 2 n. 6). In connection to any contract or transaction, see also Art. 5.

It is worthy of note that under Council Decisions 2022/2186 and 2023/2488 the Council has confirmed but not extended restrictive measures to other individuals at this time.

6. An Association Process with Many Downs and Few Ups but No Way Back

The 2022 Communication on EU enlargement policy concerning Turkey was published on 12 October 2022. The Türkiye 2023 Report on 8 November 2023⁵⁵. Despite the threat of reduced pre-accession assistance and financial support as a result of illegal drilling activities in the Eastern Mediterranean, Turkey is still recognized as a key partner of the EU and has been a candidate country since December 1999. The Association agreement between Turkey and the EU was signed in 1964, and the Customs Union was established in 1995 – both are, fortunately and wisely – still in force. Negotiations for Turkey’s accession to the EU began in October 2005, but only one of the 16 chapters has been provisionally closed, and the negotiations appear to be at a standstill⁵⁶. The Report raises serious concerns about the state of reforms in Turkey despite repeated commitments to EU accession. The Report notes a deterioration in democracy, the rule of law, fundamental rights, and the independence of the judiciary. Although there were some positive developments, as acknowledged by the Commission, there was also evidence of backsliding in many areas.

From the start, the previous Report 2021 specifically highlighted the deterioration of the relationship between Turkey and the EU also due to «repeated violations of Greek airspace by Turkish fighter jets in the Aegean and threatening Turkish statements regarding the sovereignty of Greek islands, and against Cyprus». In addition, Turkey (referred to by its official name *Türkiye* in the document) has continued its military exercises in Cypriot maritime zones and unlawfully disrupted survey activities in the Cypriot Exclusive Economic Zone (EEZ) with its warships. All these tensions in the Aegean Sea and Eastern Mediterranean threaten good neighbourly relations and undermine regional stability and security even though Turkey did not engage in any unauthorised drilling activities in the Eastern Mediterranean during the 2023 reporting period.

As for the Common Foreign and Security Policy (CFSP) and the Common Security and Defence Policy (CSDP), Turkey continues to participate in the EUFOR and ALTHEA Operations, despite the complex background due to ‘events’ in the Eastern Mediterranean and particularly to the unilateral Turkish foreign

⁵⁵ Commission Staff Working Document, Türkiye 2022 Report, Accompanying the document, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2022 Communication on EU Enlargement Policy SWD(2022) 333 final; Commission Staff Working Document, Türkiye 2023 Report, Accompanying the document, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2023 Communication on EU Enlargement Policy SWD(2023) 699 final.

⁵⁶ Türkiye 2022 Report, 130.

policy towards Syria and Libya. In this framework, Turkey is the largest non-EU troop contributor⁵⁷.

However, as a general policy, Turkey does not align itself with EU restrictive measures, including economic sanctions, that fall outside the UN framework. Notably, it has refused to support sanctions against Russia in connection to the Ukraine war. Additionally, Turkey troublingly continues to prevent the accession of EU member States, namely Cyprus, to international organizations⁵⁸.

Furthermore, the fact that Turkey's NATO membership is interconnected with the EU-NATO cooperation framework and legally complex historical situations complicates efforts to approach EU restrictive measures concerning Turkey. Turkey's NATO membership plays an important role in this regard, presenting obstacles to interpretation. The 2022 Report refers to Turkey building a genuine organization-to-organization relationship. Additionally, the Turkish Parliament for a long time refused to ratify the accession of two EU member States, Finland and Sweden, to NATO⁵⁹.

Anyway, the European Council has repeatedly stated that the EU has «a strategic interest in a stable and secure environment in the Eastern Mediterranean and in the development of a cooperative and mutually beneficial relationship with Türkiye».

However, the EU reserves the right to use all options and instruments available to defend its interests and those of its member States in response to any new unilateral or provocative actions that breach international law. Accordingly, Turkey must respect the sovereignty and territorial integrity of all EU member states, fully comply with international law, and work to de-escalate tensions in the Eastern Mediterranean and promote good neighbourly relations «in a sustainable way»⁶⁰.

The conclusions of the Türkiye 2022 and 2023 Reports on the Enlargement Process include continuing 'broad' engagement in monitoring reforms and developments in Turkey through the bodies set up under the Association Agreement.

7. Defending the EU's Interests and Strategic Partnerships through a Soft Approach, Sustainable Remedies and Openness to Talks: Concluding Remarks

As this article draws to its conclusion, it is clear that the EU's targeted restrictive measures against Turkey serve as a red light and warning signal. While remaining a soft and balanced tool, these measures aim to pressure Turkey, on the one hand, into restoring good neighbourly relations, respecting international law, and limiting

⁵⁷ eeas.europa.eu/eufor-althea/eufor-bosnia-herzegovina-military-operation-althea_en?s=324.

⁵⁸ Above n. 55, 125.

⁵⁹ See the NATO Secretary General, Mr. Stoltenberg's speech citing Finland and Sweden on more security for NATO, nato.int/cps/en/natohq/opinions_210454.htm; [theguardian.com/world/2024/jan/23/turkish-parliament-meets-vote-sweden-membership-nato](https://www.theguardian.com/world/2024/jan/23/turkish-parliament-meets-vote-sweden-membership-nato).

⁶⁰ Above n. 55, 130. The reference to sustainability can be seen as a flexible strategy that combines the use of incentives (the 'carrot') and pressure or deterrent measures (the 'stick'). How this strategy is interpreted with regard to Turkey remains a matter of perspective.

harm to trade and economic relations. On the other, they also protect the EU's internal balance in relation to Greece and Cyprus claiming EU rights and security interests granted by international law. Currently, only two individuals are listed in the Annex to the Council Decision and subject to measures. Additionally, within a different legal framework, one Turkish shipping company (not Turkey itself) has been blacklisted by the EU for violating the arms embargo on Libya⁶¹.

In fact, an examination of the EU's relationship with Turkey appears to reveal that the EU's approach has been consistent in recent years. The EU has been cautious not to threaten or disrupt 'sensitive' but significant trade relations, migration policies, and rapidly evolving geostrategic interests in the medium and long term.

In its Conclusions adopted in June 2022⁶², the European Council expressed deep concern over Turkey's repeated actions and statements⁶³. It emphasized Turkey's obligation to respect the sovereignty and territorial integrity of all EU member States, intending in particular Greece and Cyprus. Recalling its previous conclusions, the Council 'expects' Turkey to fully comply with international law, de-escalate tensions for the sake of regional stability in the Eastern Mediterranean, and, as clearly observed in the previous section, promote good neighbourly relations in a sustainable way. This specification allows the EU to evaluate situations on a case-by-case basis and consider softer reactions.

On the other hand, the wide-ranging and detailed Türkiye 2022 Report⁶⁴ recalls the 2019 Council's conclusions and the Commission's proposal to reduce, among other things, pre-accession assistance to Turkey for 2020. The 2019 Council's conclusions also invited the European Investment Bank to review its lending activities in Turkey⁶⁵. Despite these measures, the European Council emphasized that Turkey remains the EU's sixth-largest trading partner and that the EU is Turkey's largest. This statement carries significant weight. As a result, bilateral financial assistance projects will continue to focus on priorities linked to the fundamental pillars of the enlargement strategy and building more resilient and sustainable economies and societies after the impact of the Covid-19 pandemic. Fortunately, the Customs Union has not been suspended.

Turkey's cooperation is essential in crucial areas, such as migration policy, public health, climate, green transition, security, and counter-terrorism. Its support for Ukraine's sovereignty and territorial integrity (though without adopting sanctions against Russia), condemnation of Russia's invasion and military aggression, and mediation efforts regarding the war have been positively valued by both the Commission and (previously) the European Parliament⁶⁶.

⁶¹ Above n. 12.

⁶² European Council Conclusions, 24.06.2022, EUCO 24/22, CO EUR 21 CONCL 5.

⁶³ See for instance the previous statement of the Member of the European Council, SN18/21.

⁶⁴ Above n. 55, Annex I.

⁶⁵ *Ibidem*.

⁶⁶ Resolution on the 2021 Commission Report on Turkey, A9-0149/2202, 5, 7. The Parliament emphasizes the need to restore relations based on dialogue, respect, and mutual trust.

In this context, it is worth noting that the 2022 and 2024 UN Secretary General Reports on the ‘Mission of Good Offices in Cyprus’ highlight the European Commission’s ongoing support for the work of both the UN missions in Cyprus, the UNDP, and the Committee on Missing Persons in Cyprus, thus contributing to the implementation of confidence-building measures⁶⁷.

In this regard, we might tentatively say that just as in health matters related to the Covid-19 pandemic, and to the shared reaction to Russia’s aggression against Ukraine since March 2022, there is also (and already) a common European Union’s External Political vision and action, among others, in supporting and endorsing the UN in its approach to the Cyprus issue. The Commission carries out this action autonomously within its sphere of competencies and *acquis*.

As previously mentioned, Council Decisions 2022/2186 and 2023/2488 extended selected restrictive measures without adding any further individuals or companies to the list of targeted persons. Meanwhile, critical situations in the Eastern Mediterranean have subsided somewhat, but they could flare up again at any moment, with no potential settlement in sight.

Anyway, a change of paradigm in the approach to the Eastern Mediterranean dispute between Greece and the European Union, Turkey and other States involved could be helpful, and wise for the planet. This new perspective focuses on climate threats and natural disasters’ ones. These are particularly dangerous for the concerned geographical area, the Mediterranean⁶⁸. Shifting the focus away from delimiting maritime zones with natural gas resources towards cooperation strategies to combat environmental risks could give the area and all of us a breath of fresh air, in the true sense of the word⁶⁹.

In this regard, as previously mentioned, the UN Secretary-General’s Report for Good Offices in Cyprus strongly endorses cooperative action between the Greek and Cypriot communities and emphasizes its own commitment to strengthening environmental peace-building projects. Given the drastic and dramatic effects of climate change and the increasing frequency of wildfires and floods in the Eastern Mediterranean region, particularly on the island of Cyprus, the Report strenuously emphasizes that the Technical Committee on Environment, established, among others, as part of the UN Mission of Good Offices in Cyprus, is underutilized⁷⁰. Cooperation between the two sides on these important issues should be encouraged through the existing UN committees working on the crisis management.

This clear wording reflects the urgency to focus diplomatic efforts across the Mediterranean and use our remaining time and resources wisely for the sake of our future. Strictly adhering to traditional legalistic approaches could leave us ill-equipped to prevail in the battle against climate threats or natural disasters and thus

⁶⁷ UN Secretary-General Report 2022, para. 49 and UN Secretary General Report 2024, para 41 and para 42, above n. 23.

⁶⁸ Above n. 15.

⁶⁹ A. Stergiou, *The Greek-Turkish Maritime Dispute*, cit., 97-107.

⁷⁰ Above n. 23, para. 39.

the struggle to establish good neighbourly relations and a sustainable, far-reaching vision across the Mediterranean.