Chapter 9

Offshore Energy: Troubled Waters in the Eastern Mediterranean Sea

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The Eastern Mediterranean Sea has always been to the forefront of history. Great civilizations thrived on its shores, the impact of which is still felt today and informs our understanding of the contemporary world. Throughout the centuries to the present, the region remains an avenue for the movement of people, either as large numbers of illegal immigrants who seek the opportunities of Fortress Europe and beyond, or as tourists who crave the sun and the sea. It remains one of the busiest crossroads for navigation, a strategic hub for the carriage of goods by sea and the deployment of naval forces. Ancient feuds survive and are vested in present-day rivalries. New sources of energy add to regional security concerns.

This chapter explores the challenges created by the multiplicity of legal rules and regimes applicable in the Eastern Mediterranean Sea, keeping in mind the jurisdictional problems that arise in such a geographically compact area.

I A Multitude of Challenges

The extreme diversity of the region, that includes nearly 20 States of varying social and economic features and situated at opposite stages of development and political (in)stability, is further accentuated by the diversity of the relevant legal regimes and the multiplicity of the applicable legal rules and regulations.

The multiple uses of the regional maritime domain, with navigation, fishing and recreation claiming equal precedence, need to be taken into account for an optimum regulatory balance; the overall regulatory framework applicable in the Eastern Mediterranean is the result of a very complicated balancing exercise between conflicting uses and overlapping jurisdictional claims. The resulting patchwork has two characteristics, one part of a global trend and the

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other specific to the area. First, whereas in the past the prevalent uses of the seas, i.e. navigation and fishing, run in parallel, there is an increasing tendency to fence off particular areas dedicated to a specific single use, i.e. specially protected areas or safety zones around offshore oil rigs, gas platforms or windmills. Second, the trend towards exclusivity of use in specific areas may prove to be especially problematic in the Eastern Mediterranean, since the area is so crowded.\footnote{Faraj Abdullah Ahnish, The International Law of Maritime Boundaries and the Practice of States in the Mediterranean Sea (Oxford: Oxford University Press, 1993); Tullio Treves, “The High Seas as Potential Exclusive Economic Zones in the Mediterranean,” in Perspectives of International law in the 21st Century: Liber Amicorum Professor Christian Dominicé in Honour of His 80th Birthday, eds. Marcelo Cohen, Robert Kolb, Djacoba Liva Tehindrazanarivelo (Leiden; Boston: Martinus Nijhoff, 2012), 175–189.} Indeed, there is one point off the west coast of the Peloponnese where adjacent, overlapping and conflicting maritime claims come together in an elaborate millefeuille construction.

1 A Multitude of Sources

The multiplicity of regulatory systems is particularly evident in the energy sector. Oil and gas exploration and exploitation necessitates the construction and use of offshore installations, subject to one legal regime,\footnote{United Nations Convention on the Law of the Sea, adopted 10 December 1982, UNTS 1833 (entered into force 16 November 1994) (UNCLOS), Articles 60 and 80. See also Maria Gavouneli, Pollution from Offshore Installations (London; Boston: Graham and Trotman/Martinus Nijhoff, 1995); Seline Trevisanut, “L’enlèvement et la Gestion des Plates-Formes et Installations Offshore Abandonnées ou Désaffectées,” in Droit de la Mer et Émergences Environnementales = Law of the Sea and Environmental Emergencies, eds. Gemma Andreone, Andrea Caliguri and Giuseppe Cataldi, (Naples: Editoriale Scientifica, 2012), 193–217.} and pipelines, subject to a different, and somewhat older legal regime.\footnote{Articles 79 and 112 UNCLOS.}

Windmills are the principal alternative source of energy at sea; newer contraptions are designed to utilize wave power, sea currents or the difference in the salinity of coastal waters to produce electrical power. A common characteristic in the offshore oil and gas sector is the need for extensive spatial requirements to be commercially effective. The presence of wind-farms or other power-generation facilities at sea raises safety concerns for other users of the oceans and inevitably tempts coastal states to cordon off such areas. This type of exclusivity of use interferes with the enjoyment of other uses of the seas and thus further aggravates the balance of interests in the marine area under the principle of “due regard” to the rights of other users who access the