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The Maritime Zones in the Mediterranean:

A Country-by-Country Presentation

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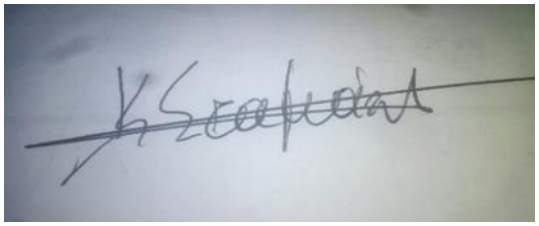

The Maritime Zones in the Mediterranean: A Country-by-Country Presentation

Key words: Mediterranean Sea, maritime zones, delimitation, unilateral acts, bilateral agreements, official protests, results vis-à-vis third states.

Abstract

The Mediterranean Sea is bordered by twenty-two states. The maritime zones that each Mediterranean state has established and/or delimited until October 2020 by unilateral acts, bilateral agreements or in compliance with judgments rendered by international judicial organs, are listed following a country-by-country approach. The frequency of occurrence of each one of the abovementioned delimitation modes is then counted and turned into percentages. Given the Mediterranean's spatial narrowness and subsequent close geographic relation in which the coasts of the surrounding states are located in respect with each other, not all maritime zones of all states can be extended to the maximum allowable by international law limit. Consequently, overlapping claims are common, same as are protests against delimitation exercises. The protests lodged before the United Nations are catalogued by taking -again- a country-by-country approach. The dissertation closes with a brief overview of the results of delimitations vis-à-vis third states.

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CHAPTER 1

INTRODUCTION

1.1 Introduction

Viewed from an international Law of the Sea perspective, the Mediterranean is characterized by its spatial narrowness, in the sense that the twenty-two states surrounding it, cannot extend all of their sea zones to the maximum allowable by international law limit. This narrowness and close geographic proximity at which the Mediterranean states lie in relation to each other, make overlapping claims to maritime zones quite a frequent event, resulting in the delimitation endeavour's high degree of difficulty. The elevated difficulty deters states from specifying their sea space: not all of them have demarcated all maritime zones to which they are entitled. The demarcated ones, though, are presented in this dissertation by taking a country-by-country approach.

More precisely, Chapter 1 gives a brief account of the international legal framework regarding maritime zones under the 1982 United Nations Convention on the Law of the Sea (UNCLOS). Chapter 2 presents the established and/or delimited sea spaces in the Mediterranean. The presentation is based on information retrieved mainly from the United Nations (UN) webpages, and, to a limited extent, from official websites making Mediterranean states' national legislation available to the public. The author has made efforts to collect as much information on the established maritime boundaries in the Mediterranean as possible, but by no means purports to have compiled an exhaustive list of the established maritime zones. The body of acts that has been made known by the Mediterranean states to the UN, is presented in its entirety. However, there may be national legal instruments or interstate agreements that have not been communicated by the states to the UN. Some such texts have been retrieved from other official and reliable sources indeed, but only because the author was already aware of their existence -and where to find them. It could therefore not be ruled out that more such -not registered with the UN- legal instruments on

Mediterranean maritime zones exist, of which the author is unaware. Hence, the endeavour's incompleteness is highly possible.

Chapter 3 first enquires into the states' preferred modes of delimitation. The number of unilateral acts, bilateral agreements and bilateral agreements incorporating judgements delivered by the International Court of Justice (ICJ), is counted and turned into percentages. Secondly, the Chapter delves into the matter of protests against action taken on delimitation. The Mediterranean states' unilateral acts and bilateral agreements on maritime boundaries that have given rise to official complaints before the UN by other Mediterranean states, are catalogued by following -again- a country-by-country approach. Chapter 3 closes with a glimpse of the results of bilateral agreements vis-à-vis third states.

In concluding Chapter 4 the main findings of the research are presented in a succinct manner.

1.2 The maritime zones under the 1982 UNCLOS regime: A brief overview of the legal framework

Under the 1982 UNCLOS regime (henceforth UNCLOS or the Convention), all coastal, island or archipelagic states are entitled to the following maritime zones: Territorial Sea (TS) or Territorial Waters (TW), Contiguous Zone (CZ), Exclusive Economic Zone (EEZ) and Continental Shelf (CS).[1]

In the **TS** or **TW**, it is **sovereignty** that is exercised by the coastal state. The sovereignty extends to the air space over the TS, as well as to its bed and subsoil (Art. 2). The TS can extend to a maximum limit of **12 nautical miles (nm)** (Art. 3), measured seaward from normal (Art. 5) or straight baselines (Art. 7). Failing agreement between two states whose coasts are opposite or adjacent to each other, neither of the states is entitled to extend its TS beyond the median line, unless, by reason of historic title or other special circumstances, the adoption of a different delimitation line is necessary (Art. 15).

[1] The internal waters -their legal status being almost identical to that of the land territory (Παπασταυρίδης, 2017:335; Ρούκουνας, 2015:259)- are not counted among the maritime zones.

The coastal state exercises **control** within its **CZ** (Art. 33). The control refers to the prevention and punishment of **customs, fiscal, immigration or sanitary laws** infringements. The CZ can occupy the sea space to a maximum breadth of **24 nm** from the baselines. The state's control in the same area can be extended to the protection of **objects of an archeological and historical nature** (Art. 303).

In the **EEZ**, which is adjacent to the TS, the coastal state has **sovereign rights** to explore and exploit, conserve and manage the natural resources of the waters, seabed and subsoil. It also has **jurisdiction** to establish artificial islands, installations and structures, to conduct scientific research, and to protect and preserve the marine environment (Art. 55, 56). The zone's outer boundary can lie no further than **200 nm** from the baselines (Art. 57). It is delimited by agreement on the basis of international law, in order for an equitable solution to be achieved (Art. 74). The EEZ **needs to be proclaimed**, as the state's sovereign rights in it do not exist *ipso facto* and *ab initio* (Παπασταυρίδης, 2017:360; Ρούκουνας, 2015:324-325).

The **CS** comprises the seabed and subsoil of the submarine areas that extend beyond the TS, until a distance of **200 nm** from the baselines (minimum breadth), or until the outer edge of the continental margin, wherever the margin extends beyond 200 nm from the baselines (maximum breadth). In the latter case, though, the CS cannot exceed 350 nm from the baselines, or 100 nm from the 2,500 meters isobath (Art. 76). In the CS the state exercises **sovereign rights** for the purpose of exploration and exploitation of its natural resources (Art. 77). These sovereign rights are exclusive, of a functional nature, and exist ***ipso facto* and *ab initio***, namely, they are inherent to the state's sovereignty, existing as long as the latter exists. Therefore, the CS **needs not be proclaimed**, and any such act of proclamation is of a mere declaratory and not constitutive character (ICJ Reports 1969, North Sea CS Cases, Judgment, para. 39; Παπασταυρίδης, 2017:354; Ρούκουνας, 2015:318-319). The CS is delimited in the same fashion as the EEZ (Art. 83).

All parts of the sea that are not included in the EEZ, in the TS or in the internal waters of a coastal or island state, or in the archipelagic waters of an archipelagic state, constitute the **High Seas (HS)**, as per Art. 86 of the UNCLOS. In the HS, all states enjoy freedom of navigation, freedom of overflight, freedom to lay submarine cables

and pipelines, freedom to construct artificial islands, freedom of fishing, and freedom of scientific research (Art. 87.1).

In the next Chapter (Chapter 2) the unilateral and bilateral action that the Mediterranean states have taken in order to determine their sea space, will be presented.

CHAPTER 2

THE MARITIME ZONES IN THE MEDITERRANEAN: A COUNTRY-BY-COUNTRY PRESENTATION

2.1 Introduction

Until the thirty-first of July 2019, a hundred sixty-eight states and entities had become members to the Convention. From the twenty-two states bordering the Mediterranean Sea, Israel, Syria and Turkey are not parties to the UNCLOS (United Nations Division for Ocean Affairs and the Law of the Sea/DOALOS/UNCLOS Status Table, 2019). However, due to the fact that in its most part the Convention reflects customary law (Association Suisse pour le Dialogue Euro-Arabo-Musulman/ASDEAM, 2012:10; Blake and Topalovic, 1996:6; Oral *et al*, 2009:12; Παπασταυρίδης, 2017:321; Ρούκουνας, 2015:243), non-signatories or states that have not ratified the UNCLOS, invoke or *de facto* implement its provisions in delimiting their maritime boundaries.

The legal status of many sea areas in the Mediterranean remains that of the HS, as not all states have proclaimed and/or delimited all of the zones to which they are entitled. Furthermore, *sui generis* (Caffio, 2016:94; Oral *et al.,* 2009:11; Papanicolopulu, 2007:382), or *residual*, *new* (Ρούκουνας, 2015:359), or *new* (Στρατή, 2012:67) zones, which are not explicitly provided for in the UNCLOS, *e.g.,* Ecological or Fisheries Zones (FZ), have been established by some Mediterranean states. In this Chapter, the established maritime zones in the Mediterranean will be presented by taking a country-by-country approach: which zones has each of the twenty-two Mediterranean countries established, and by what means (ICJ judgments incorporated into agreements, arbitral awards, interstate agreements, unilateral acts).

2.2 The maritime zones in the Mediterranean: A country-by-country presentation

The world economy turns into what is termed as Blue Economy, *i.e.* economy that relies on sea-based mineral and food resources. Consequently, the delineation of maritime boundaries increasingly becomes a matter of paramount importance for many states facing the sea (Hasan *et al.,* 2019:89), since it is the legal safety generated by delineation that allows them to not only explore and exploit the resources that lie within their sea boundaries, but also effectively take precautionary and remedial measures in order to protect their sea space from environmental dangers and unauthorized exploitation. However -and despite this seaward tendency- of an estimated five hundred twelve (or four hundred twenty, according to Ndiaye, 2015:494) potential maritime boundaries that could be established worldwide under the UNCLOS regime, less than half have actually been demarcated (*ibid*; Newman, n.d., in Hasan *et al.*, 2019:90).

The delimitation of maritime boundaries is a procedure that requires painstaking efforts, even from states in front of which lie vast spreads of ocean space, *e.g.*, some Afrikan and North and South American ones. Needless to say, the operation is even more challenging where many states share the coasts around a limited water expanse, like the Mediterranean Sea (Bastianelli, 1982:320). The latter is bordered by twenty-two countries (DOALOS/Coastal States of the Mediterranean Sea, 2012), while it is at no point wider than 400 nm (Oral *et al.*, 2009:54). Therefore, the states cannot extend their maritime zones, especially their CS and EEZ, but in many cases even their TS, to the furthest allowable by international law limit. It is characteristic that, if all Mediterranean states established an EEZ, the entire sea's legal status would be the one of the EEZ (Kariotis, 2007:59) -except for the TW, where states exercise sovereignty. In other words, any Mediterranean country's claims to the fullest breadth of one or all of the zones provided for in the UNCLOS, must at some point coincide or overlap with (potential) claims made by one or more of its neighbours (Stergiou and Karagianni, 2019:92).

Spatial narrowness and geographic proximity -and subsequent technical difficulties in apportioning the sea space- is only one of the reasons why parts of the Mediterranean remain undelimited. The inherent difficulty of any delimitation, coupled with its

politicization in an attempt to simultaneously accommodate sovereign rights and economic interests, turns the whole operation into a thorny issue (Stergiou and Karagianni, 2019:55). Legal uncertainties, political differences, long-standing conflicts, security concerns, and the economic, strategic and environmental implications of the delimitation of especially the CS and EEZ further aggravate already demanding situations, in a way that delimitation in some cases becomes hard to be envisaged (Bastianelli, 1982:319, 334; Dundua, 2006:79; Hasan *et al.*, 2019:89; Iseri and Bartan, 2019:117). As a result, the materialization of the cooperation obligation that Art. 122 and 123 of the UNCLOS impose upon states bordering enclosed or semi-enclosed seas such as the Mediterranean, regarding the exercise of their rights and performance of their duties under the Convention (Caffio, 2016:96; ICJ Reports 1985, Libyan Arab Jamahiriya/Malta CS Case, Judgment, paras 47, 53, 73; Oral *et al.*, 2009:11), appears to be a remote prospect in many instances where delimitation should be tried to be achieved through cooperation.[2]

Notwithstanding the inherent technical difficulties and the loaded context in which delimitations are generally pursued, almost all Mediterranean states have demarcated either all or some of their maritime zones by means of ICJ decisions, interstate agreements or unilateral acts. Following a country-by-country approach, the sea zones and/or borders that have been established and/or delimited until October 2020 in the Mediterranean, are presented below.

2.2.1 Albania:

Albania acceded to the UNCLOS in 2003 (DOALOS/UNCLOS Status Table, 2019).

[2] Oral *et al.* (2009:11) perceive the 'cooperation obligation' to be referring to a number of instances, *including* management and conservation of marine living resources, scientific research and developing policies (emphasis added), as per UNCLOS Art. 123. Part IX of the UNCLOS, and Art. 123(d) in particular, impose upon states in semi-enclosed seas a 'general' (ASDEAM, 2012:15) obligation for cooperation with regard to the implementation of the article's provisions, among which are 'the exercise of their rights and the performance of their duties under this Convention' (Art. 123, para. 1). Similarly, Caffio (2016:96) suggests that states are bound by the duty of cooperation that Art. 123 imposes upon them, even when establishing maritime zones. -*Cf.* Στρατή (2012:2), who argues that the cooperation obligation covers only the areas of fishing activities, environmental protection and scientific research. – *Cf*. Papastavridis (2020:15) suggesting that no such obligation of cooperation exists, as per the wording of Art. 123 '*should*'.

TS: Albania claimed a 10 nm TS in 1952, a 12 nm TS in 1970, and a 15 nm TS in 1976 (Blake and Topalovic, 1996:14). By a Decree issued in 1990, Albania modified the breadth of its TS from 15 to 12 nm. In measuring the 12 nm breadth of its TS, Albania employs the method of straight baselines, which were also established by the 1990 Decree.

CS with Italy: In 1992 Albania and Italy delimited their respective CS (DOALOS/Albania Legislation and Treaties, 2009).

Single maritime boundary with Greece: In 2009 Albania and Greece signed an agreement establishing a single maritime boundary between them. The agreement is not in effect (and not lodged in the DOALOS by either country), as Albania has not ratified it, following its nullification in 2010 by the Albanian Constitutional Court on grounds referring to both domestic and international law infringements (Cenaj, 2015:147; Constitutional Court of the Republic of Albania Decision No. 15/2010; Ndoj, 2015:1, 2).

2.2.2 Algeria:

Algeria signed the UNCLOS in 1982 and ratified it in 1996 (DOALOS/UNCLOS Status Table, 2019).

TS: By virtue of a Decree issued in 1963, the breadth of Algeria's TS is 12 nm. In measuring the breadth of its maritime zones, Algeria employs the method of straight baselines, which were established by another Decree, in 1984 (DOALOS/Algeria Legislation and Treaties, 2020).

CZ/Archeological Zone (AZ): In 2004 Algeria declared a CZ/AZ of 24 nm from the baselines (DOALOS publications/Law of the Sea/LoS Bulletin 57/2005, p.116).

FZ: In 1994 Algeria established by Decree (Art. 6) a FZ, whose breadth ranges from 32 to 52 nm (western-eastern border respectively) (DOALOS/Algeria Legislation and Treaties, 2020).

EEZ: In 2018, by Decree No. 18-96, Algeria established a 200 nm EEZ. Art. 2 of the above Decree provides for the modification of the EEZ's breadth, when necessary, if bilateral agreements are concluded with states whose coasts are opposite or adjacent

to the Algerian ones (relevant Maritime Zone Notification/MZN 135/2018; DOALOS publications/LoS Bulletin 97/2019, p.48).

Temporary, all-purpose boundary with Tunisia: In 2002 Algeria and Tunisia signed an agreement by which a six-year, all-purpose boundary was set. The agreement entered into force in 2003 (DOALOS publications/Treaty Series Volume 2238/2004, No. 39821, pp. 197-218; DOALOS/Algeria Legislation and Treaties, 2020). At the end of the provisional period, on December 4 2009, a definitive agreement was concluded between the two countries (Στρατή, 2012:127), but neither Algeria nor Tunisia have communicated it to the UN (DOALOS/Algeria Legislation and Treaties, 2020; DOALOS/Tunisia Legislation and Treaties, 2020; DOALOS publications/Bulletin repertory/bilateral and trilateral treaties, n.d.; DOALOS publications/Bulletin repertory/national legislation, n.d.).

2.2.3 Bosnia and Herzegovina (BH):

In 1994 BH succeeded the Socialist Federal Republic of Yugoslavia (SFRY) in the UNCLOS (DOALOS/UNCLOS Status Table, 2019).

Sea border with Croatia: BH's coastline is only 23 km long[3] (European Commission Country Report BH, 2011:2). The country shares a sea border with Croatia. By an agreement signed in 1999, but not rarified (*ibid*), the two states reaffirmed and mutually recognized their land, sea and air borders as they were at the time of the dissolution of the SFRY (DOALOS/BH Legislation and Treaties, 2009). With respect to the sea border in particular, Art. 4(3) of the 1999 agreement recognizes it as established in accordance with the UNCLOS. However, neither the 1999 agreement, nor the DOALOS website (DOALOS/BH Legislation and Treaties, 2009; DOALOS/Croatia Legislation and Treaties, 2020) contain any more specific information on the delimitation, besides a general reaffirmation of the sea border. Nevertheless, and regardless which delimitation method is used, fact remains that BH's TS is encircled by Croatian internal waters (Blake and Topalovic, 1996:41; Papanicolopulu, 2007:383). In this sense, the only zone that BH possesses, and which has therefore been delimited, is the TS (de Vivero, 2010:50; European Commission

[3] According to Blake and Topalovic (1996:34) BH's coastline is 21.2 km long. Z-shaped as it is though, the actual length of the sea-frontage is 10 km (*ibid*).

Country Report BH, 2011:2). More precisely, the establishment of a straight baseline system by the SFRY in 1965, results in Croatia's internal waters completely surrounding BH's narrow access to the Adriatic (Blake and Topalovic, 1996:12; Στρατή, 2012:126). BH's vessels' navigation towards the HS is facilitated by the implementation of Art. 8(2) of the UNCLOS, as vessels that do not fly the Croatian flag retain the right of innocent passage through the Croatian waters that have acquired the status of 'internal' after the adoption of the system of straight baselines.

2.2.4 Croatia:

Croatia succeeded the SFRY to the UNCLOS in 1995 (DOALOS/UNCLOS Status Table, 2019).

TS: Croatia has a 12 nm TS. Straight baselines are used for the measurement of the breadth of all its sea belts (Art. 19, 20 of the 1994 Croatian Maritime Code).

Sea border with BH: BH and Croatia reaffirmed their sea border delimitation in 1999 (*supra,* 2.2.3 BH).

CS with Italy: In 1968 Italy and the SFRY signed an agreement on the delimitation of their respective CS. Croatia succeeded the SFRY to the agreement, which is still effective between the two countries, insofar the delimitation of the Croatian and Italian CS is concerned. Art. 43 para. 2 of the 1994 Croatian Maritime Code expressly stipulates that the CS boundary laid down in 1968 remains in effect between Croatia and Italy (DOALOS/Croatia Legislation and Treaties, 2020).

Besides the aforementioned succession to the 1968 agreement with Italy, in 1992 Croatia declared itself to be succeeding the SFRY in the 1958 Geneva Convention on the CS, and that the determination of its CS limits in general -therefore, its CS border with Italy too- lies in accord with the above Convention (Blake and Topalovic, 1996:14; United Nations Treaty Collection/UNTC/Status of the 1958 Geneva Convention on the CS, 2020).

EEZ: Art. 33-42 of the 1994 Croatian Maritime Code give a definition of the Croatian EEZ, and describe the rights to be exercised within it. The EEZ will extend

from the TS's outer limit up to the outer limit permitted by international law for the EEZ, but it has not yet been proclaimed and/or delimited.

Ecological and Fisheries Protection Zone (EFPZ): In 2003 certain elements of the EEZ were proclaimed by virtue of a Decision adopted by the Croatian Parliament. In correspondence with these elements, an EFPZ was established instead of a complete EEZ. The EFPZ extends to the furthest outer limit allowed by international law. Pending the conclusion of agreements with countries with opposite or adjacent coasts to the Croatian ones, the 1968 agreement between Italy and the SFRY, as well as the 2002 Protocol on the Interim Regime between Croatia and the State Union of Serbia and Montenegro (SM),[4] offer the provisional outer limits of the Croatian EFPZ. In 2004 the Croatian Parliament amended its 2003 Decision, inasmuch as it exempted the European Union (EU) member-states from the implementation of the EFPZ's legal regime, in view of the conclusion of the fisheries partnership between Croatia and the EU (DOALOS/Croatia Legislation and Treaties, 2020; DOALOS publications/LoS Bulletin 55/2004, p.31).

The Croatia/Slovenia arbitration: In compliance with an arbitration agreement signed in 2009, in 2012 Croatia and Slovenia submitted their land and sea border dispute to the arbitration tribunal they established towards that end. The tribunal delivered its final award in 2017 (Permanent Court of Arbitration/PCA Case 2012-04 Final Award, 2017). For the delimitation of the countries' TS in the Piran Bay, the well-established two-stage 'equidistance/special circumstances' method was applied. What is more, the rules applicable in delimiting the TS, were deemed by the tribunal to be applicable in delimiting the zones beyond the TS as well, notwithstanding their different legal regime (*ibid*, esp. para. 1000). However, the tribunal did not proceed to any such delimitation of zones beyond the TS, as Slovenia's claims to a CS were rejected (*ibid*, esp. para. 1103). Last, the tribunal determined a 2.5 nm wide Junction Area for Slovenia to be accessing the HS through Croatia's TS, as Croatia has not yet established an EEZ (*ibid*, esp. para. 1083).

However, the award has not been implemented. Due to procedural irregularities, and the owing to them reconstitution of the tribunal, Croatia notified the latter that it disengages itself from the violated arbitration agreement on the basis of Art. 60 of the

[4] The SM has ceased to exist since 2006. The succession of SM, as well as the Protocol on the Interim Regime between Croatia and SM, are more extensively treated below (2.2.15 Montenegro).

Vienna Convention on the Law of Treaties (VCLT, 1969). It did not participate in the resumed proceedings, and does not recognize the award to be producing any legal consequences neither for Croatia, nor for Slovenia, in the sense that -in Croatia's view- Slovenia cannot unilaterally enforce it (Aceris Law, 2017). Conversely, Slovenia adheres to the award, considering it to be binding on both parties (Slovenia's Communication dated 14 February 2018, available from DOALOS/Croatia Legislation and Treaties, 2020).

2.2.5 Cyprus:

Cyprus signed the UNCLOS in 1982 and ratified it in 1988 (DOALOS/UNCLOS Status Table, 2019).

TS: According to the Territorial Sea Laws No. 45 of 1964 and No. 95(I) of 2014, the Cypriot TS extends to 12 nm, the departure points for the measurement of which being the points that constitute the straight baselines that the country has drawn (Geographical coordinates, 1993; MZN 6/199) (DOALOS/Cyprus Legislation and Treaties, 2020).

TS with the United Kingdom (UK): The British Sovereign Base Areas (SBAs) of Akrotiri and Dhekelia enjoy a 3 nm TS (Treaty between the UK, Greece and Turkey, 1960; Exchange of notes (with Declaration) between the UK and Cyprus concerning the administration of the SBAs, 1960; Exchange of notes between the UK and Cyprus concerning the future of SBAs, 1960). However, it is not clear whether the term 'TS' is adequate when referring to the military bases' sea area, as the latter is a *sui generis* zone -and not TS (Στρατή, 2012:78). The SBAs, although 'sovereign' by name, are in essence established with restrictions referring to the military activities that the UK is allowed to conduct within them (Συρίγος, 2005:267-290, in Στρατή, 2012:78, υποσημ. 135).[5] According to *the land dominates the sea* principle,[6] maritime entitlements originate only from sovereignty over the land, and any other legal regime

[5] *Cf.* Σβολόπουλος (2017:275), suggesting that the UK relinquished sovereignty over Cyprus, but retained the right to *fully exercise* it over Akrotiri and Dhekelia (emphasis ours).

[6] The international jurisprudence on the principle is rich and consistent. Indicative case-law: PCA 1909, Grisbadarna Case, Award, p.4; ICJ Reports 1951, Fisheries Case, Judgment, p. 133; ICJ Reports 1969, North Sea CS Cases, Judgment, para. 96; ICJ Reports 1978, Aegean Sea CS Case, Judgment, para. 86; ICJ Reports 1993, Greenland-Jan Mayen Case, Judgment, para. 80; ICJ Reports 2001, Qatar Vs Bahrain Case, Judgment, para. 185; ICJ Reports 2009, Black Sea Case, Judgment, para. 77.

apart for sovereignty over the land does not confer upon states any rights to sea space. The fact that the UK has so far made no official claims to zones beyond the TS (Στρατή, 2012:78), is consistent with the above position that the SBAs are 'sovereign' only by name (also, *infra*, 2.3.22 UK).

CZ/AZ: In 2004 Cyprus proclaimed a 24 nm CZ/AZ.

CS: The Continental Shelf Law No. 8/1974, regulates the exploration and exploitation of the Cypriot CS. The northern and northwestern outer limits of the Cypriot CS (and EEZ) were determined in 2019 (MZN 144/2019).

EEZ with Egypt: In 2003 Cyprus and Egypt signed an agreement on the delimitation of their respective EEZ.

EEZ proclamation: When the delimitation agreement with Egypt was signed in 2003, Cyprus had not yet proclaimed an EEZ. In 2004 the law that proclaimed the EEZ, also determined it to be extending 200 nm from the baselines. By the EEZ and CS Laws No. 64(I) of 2004 and No. 97(I) of 2014, Cyprus consolidated its EEZ and CS in one legal instrument. The EEZ (and CS's) northern and northwestern outer limits were determined in 2019 (*supra*, Cyprus/CS).

EEZ with Lebanon: In 2007 Cyprus and Lebanon signed an EEZ delimitation agreement, which was ratified by Cyprus the same year (ASDEAM, 2012:16; Στρατή, 2012:109, υποσημ. 179). Lebanon, on the other hand, did not ratify it. By the Council of Ministers Decision No. 51/2009, and Decree No. 6433/2011, Lebanon adopted a different demarcation line, and deposited with the United Nations Secretary-General (UNSG) a new set of coordinates (MZN 85/2011), in line with its unilateral demarcation of 2009 (ASDEAM, 2012:7-10, 12-13, 17, 19; DOALOS/Lebanon Legislation and Treaties, 2020; Meier, 2013:3-4; Stergiou and Karagianni, 2019:55, 85-86).

EEZ with Israel: In 2010 Cyprus and Israel jointly delimited their EEZ (all legal instruments concerning Cyprus, available from DOALOS/Cyprus Legislation and Treaties, 2020).

2.2.6 Egypt:

Egypt signed the UNCLOS in 1982 and ratified it the following year (DOALOS/UNCLOS Status Table, 2019).

TS: By a 1951 Decree, as amended in 1958, Egypt established a TS of 12 nm, measured in essence from straight baselines, although the term 'straight baselines' is not used in the text. By another Decree issued in 1990, Egypt explicitly established a system of straight baselines, which made known to the UN (Note Verbale of May 2 1990) (DOALOS/Egypt Legislation and Treaties, 2020).

CZ: Egypt has a 24 nm CZ (DOALOS/table of claims to maritime jurisdiction, 2011).

CS: In 1958, Egypt and Syria -then constituent states of the United Arab Republic (UAR) (Cassese, 2012:98; Χατζηβασιλείου, 2018:182)- jointly decided (Presidential Decision No. 151/1958) to exercise rights of sovereignty over their CS, in accordance with the 1958 Geneva Convention on the CS,[7] although neither Egypt nor Syria were signatories to it (UNTC/Status of the 1958 Geneva Convention on the CS, 2020). The afore Presidential Decision was communicated by Egypt to the UN (DOALOS/Egypt Legislation and Treaties, 2020).

EEZ proclamation: Egypt has established an EEZ in the Mediterranean (DOALOS/table of claims to maritime jurisdiction, 2011; European Commission Country Report Egypt, 2011:5), but it has not registered any relevant national legislation with the UN (DOALOS/Egypt Legislation and Treaties, 2020).

EEZ with Cyprus: In 2003 Cyprus and Egypt delimited their EEZ (DOALOS/ Egypt Legislation and Treaties, 2020).

EEZ with Greece: In 2020 Egypt and Greece partially delimited their EEZ (text not to date communicated to the UN by either Egypt or Greece; Dendias, 2020a; Hellenic Parliament/Agreement between the Hellenic Republic and the Arab Republic of Egypt on the Delimitation of the EEZ between the two countries, 2020).

2.2.7 France:

[7] There is no *expressis verbis* mention of the 1958 Geneva Convention on the CS in the Presidential Decision. Nonetheless, even the tenor of the 1958 Decision alone leaves no doubt as to where the inspiration of the therein definition of the CS, as well as the description of the rights pertaining to it, was drawn from.

France signed the UNCLOS in 1982 and ratified it in 1996 (DOALOS/UNCLOS Status Table, 2019).

TS: In 1967 France defined by Decree the straight baselines from which the breadth of its TS in the Mediterranean is measured. The 1967 determination of straight baselines was repealed and replaced by the one contained in Decree No. 958/2015. France's TS in the Mediterranean extends to 12 nm from the baselines (Law No. 71-1060/1971; Decree No. 681/2018).

TS with Italy: In 1986 France and Italy delimited their TS in the Strait of Bonifacio by agreement.

CZ/AZ: France has a 24 nm CZ (Act of December 31 1987; DOALOS/table of claims to maritime jurisdiction, 2011). In 1989 it established a 24 nm AZ (Act 89-874/1989).

CS: By Act No 68-1181/1968, France regulated the exercise of its sovereign rights on its CS. The afore Act does not contain any sort of delimitation of the said zone, nor does it provide for bilateral delimitation. It can be said to be a piece of national legislation of a highly 'technical' character, that further specifies the way in which the rights on the French CS are exercised, and not a legal instrument that altered the map of maritime zones in the Mediterranean at the time of its adoption and implementation, given that the CS needs not be proclaimed, but only delimited. It is brought in only for reasons of systematic presentation of acts on maritime zones.

Ecological Protection Zone (EPZ): In 2003 France established an EPZ (Law No. 346/2003,[8] implemented by Decrees No. 33/2004 and 397/2007[9]).

EEZ: By Decree No 1148/2012,[10] France proclaimed an EEZ in the Mediterranean, thus substituting the previously established EPZ.

[8] Available from https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000236767&dateTexte= (Accessed August 20 2020).

[9] Both Decrees available from https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000431632&dateTexte=20070322 (Accessed August 20 2020).

[10] Available from https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000026483528&categorieLien=id (Accessed August 20 2020).

All-purpose boundary with Monaco: In 1984 France and Monaco set an all-purpose maritime boundary between them (all legal texts available from DOALOS/France Legislation and Treaties, 2020, except those referenced in footnotes 8, 9, 10). More precisely, by force of the 1984 agreement, Monaco acquired an 88 km long and 3.16 km wide sea corridor, which is totally enclosed by the French sea zones (Στρατή, 2012:171).

Single maritime boundary with Italy: According to Caffio (2016:91), in 2015 France and Italy signed an agreement on the delimitation of their TS and other zones under their national jurisdiction. More specifically, they defined the limits of their TW and CS, as well as of the French EEZ and Italian EPZ. However, the agreement has not been deposited before the UN by either France or Italy (DOALOS/France Legislation and Treaties, 2020; DOALOS/Italy Legislation and Treaties, 2020; DOALOS publications/Bulletin repertory/bilateral and trilateral treaties, n.d.). What is more, the agreement is not retrievable from the official site of the French Republic either (Légifrance, n.d.), where the country's legislation is available in its totality.

2.2.8 Greece:

Greece signed the UNCLOS in 1982 and ratified it in 1995 (DOALOS/UNCLOS Status Table, 2019).

TS: Greece has a 6 nm TS. For the purpose of regulating civil aviation, the air column extends 4 nm beyond the TS, *i.e.* to a total of 10 nm from the normal baselines the country uses to measure its sea space (Decree of 6/18 September 1931; DOALOS/table of claims to maritime jurisdiction, 2011; Law No. 230/1936; Law No. 2289/1995 as amended by Law No. 4001/2011).

TS with Turkey: The Athens Protocol of 26 November 1926 is the basis upon which the maritime area of the Evros estuary is defined. More precisely, the median line of the flow of the river Evros marks the border between Greece and Turkey, and is extended in the sea area up to the distance of 3 nm[11] from the shore (Hellenic Republic/Ministry of Foreign Affairs/MFA/maritime boundaries, 2018; Στρατή, 2012:151-152).

[11] The Protocol defines the 1 nm to be equal to 1609.31 meters (Στρατή, 2012:151, υποσημ. 219).

The delimitation of the marine area south of the island of Samos, between the Dodecanese islands and the Turkish coast, is effected in conformity with the Agreement of 4 January 1932 and the Protocol of 28 December 1932, signed between Italy and Turkey. By Art. 14(1) of the Paris Peace Treaty of 1947, Italy ceded sovereignty of the Dodecanese islands to Greece. Consequently, Greece succeeded Italy in the relevant provisions of the 1932 Agreement and Protocol, which determine the sea border between Greece and Turkey in the said area (Hellenic Republic/MFA/maritime boundaries, 2018; Σβολόπουλος, 2017:260; Στρατή, 2012:152).

CS: Law No. 2289/1995, as amended by Law No. 4001/2011, defines the outer limit of the Greek CS (and EEZ, once declared) to be a median line between Greece's CS and its neighbouring states' waters, unless otherwise determined by delimitation agreements.

CS with Italy: In 1977 Greece and Italy delimited their respective CS (DOALOS/Greece Legislation and Treaties, 2020).

EEZ with Egypt: *Supra*, 2.2.6 Egypt.

EEZ with Italy: In 2020 Greece and Italy delimited their EEZs (text not to date communicated to the UN by either Greece or Italy; Dendias, 2020b; Hellenic Parliament/Agreement between the Hellenic Republic and the Italian Republic on the delimitation of their respective maritime zones, 2020).

2.2.9 Israel:

Israel is not a party to the UNCLOS (DOALOS/UNCLOS Status Table, 2019). It has signed the four Geneva Conventions on the Law of the Sea (1958), and ratified the Convention on the TS and CZ, the Convention on the HS, and the Convention on the CS. It has not ratified the Convention on Fishing and Conservation of the Living Resources of the HS (UNTC/Status of the 1958 Geneva Conventions, 2020). It nonetheless implements certain provisions of the UNCLOS that constitute customary law (*e.g.*, those regarding the EEZ).

TS: In 1990 Israel extended its TS from 6 to 12 nm, measured from normal baselines (TW Law No. 5717/1956; TW Law No. 5750/1990).

EEZ with Cyprus: *Supra*, 2.2.5 Cyprus (DOALOS/Israel Legislation and Treaties, 2020). Israel had not proclaimed an EEZ prior to the signing of the 2010 agreement with Cyprus. By signing it, Israel at the same time proclaimed it (Στρατή, 2012:82 υποσημ. δ).

2.2.10 Italy:

Italy signed the UNCLOS in 1984 and ratified it in 1995 (DOALOS/UNCLOS Status Table, 2019).

TS: Italy has a 12 nm TS (Navigation Code of 1942, as amended by Law No. 359/1974, Art. 2), measured from straight baselines (*ibid*; Decree No. 816/1977).

TS with France: In 1986 France and Italy delimited their TS in the Strait of Bonifacio by agreement (DOALOS/Italy Legislation and Treaties, 2020).

TS with Slovenia: In 1975 Italy and the SFRY concluded an agreement on the delimitation of their TS in the Gulf of Trieste (UNTC/Treaty of Osimo, 1975). Slovenia succeeded the SFRY in the above agreement (*infra*, 2.2.17 Slovenia).

EPZ: By Legislative Decrees No. 41/2004 and 286/1998 (Στρατή, 2012:41, υποσημ. 63, 64), Law No. 61/2006 and Presidential Decree No. 209/2011 (DOALOS/Italy Legislation and Treaties, 2020), Italy established an EPZ in the north-west Mediterranean, the Ligurian Sea and the Tyrrhenian Sea. According to the above Law and Decrees, the EPZ's outer limits are defined by agreements between Italy and its neighbouring countries, or, pending such agreements, by reference to a provisional equidistance line. Although named EPZ, Italy's jurisdiction within the zone covers not only the protection and conservation of the marine environment, but of the underwater cultural (archeological and historical) heritage too, in line with the 2001 United Nations Educational Scientific and Cultural Organization (UNESCO) Convention on the Protection of the Underwater Cultural Heritage.[12]

[12] Because of the nature and content of the jurisdiction exercised within its limits, Στρατή (2012:41, 133) refers to the zone as a *de facto* archeological one.

CS: By Art. 1 of Act 613/1967, and amendments to Act No. 6/1967, the Italian CS is defined to be extending to a depth of 200 meters, or to whatever depth admits of exploitation of the seabed's natural resources, unless differently demarcated in agreements with neighbouring states.

CS in the Strait of Sicily and the southern expanse of the Ionian Sea: By a 2012 Decree, Italy demarcated its CS in the Strait of Sicily and southeastwardly in the southern expanse of the Ionian Sea.

CS with Albania: *Supra,* 2.2.1 Albania.

CS with Croatia: *Supra,* 2.2.4 Croatia.

CS with Greece: *Supra,* 2.2.8 Greece.

CS with SM: The 1968 agreement between Italy and the SFRY concerning the delimitation of their CS, was operative between Italy and SM as a successor state of the SFRY. Although the State Union of SM has ceased to exist since 2006, the agreement is still registered on Italy's DOALOS page under 'Serbia and Montenegro' (DOALOS/Italy Legislation and Treaties, 2020). By virtue of Art. 60 of the Constitutional Charter of SM, it is Serbia that succeeded the SM to membership in the UN, its organs and organizations, while both Serbia and Montenegro separately and individually undertook the responsibility to abide by the treaties signed by the State Union of SM. Furthermore, insofar Montenegro is concerned, by a letter dated October 10 2006, and addressed to the UNSG, the then newly independent country stated that it decided to succeed to the treaties to which SM was a party or signatory. Therefore, Montenegro succeeded SM in the 1968 agreement on the CS between Italy and the SFRY (UNTC/Historical Information Montenegro, Serbia and Montenegro, Yugoslavia (former), n.d.).

CS with Slovenia: Slovenia, as a successor state of the SFRY, is bound by the 1968 agreement between Italy and the SFRY concerning the delimitation of their CS (UNTC/Historical Information Slovenia, Yugoslavia (former), n.d.). However, the arbitration tribunal award on the dispute between Croatia and Slovenia -which is recognized by Slovenia indeed- rejected Slovenia's claim that it is entitled to a CS (*supra*, 2.2.4 Croatia/Slovenia arbitration).

CS with Spain: An agreement was signed between Italy and Spain in 1974.

CS with Tunisia: An agreement was signed between Italy and Tunisia in 1971 (DOALOS/Italy Legislation and Treaties, 2020).

Single boundary with France: *Supra*, 2.2.7 France.

EEZ with Greece: Italy has not proclaimed an EEZ (DOALOS/Italy Legislation and Treaties, 2020; DOALOS/table of claims to maritime jurisdiction, 2011). In 2020 it delimited its EEZ with Greece (*supra*, 2.2.8 Greece).

2.2.11 Lebanon:

Lebanon signed the UNCLOS in 1984 and ratified it in 1995 (DOALOS/UNCLOS Status Table, 2019).

TS: Lebanon has a 12 nm TS, measured from normal baselines (Decree No. 138/1983).

EEZ with Cyprus: *Supra*, 2.2.5 Cyprus.

EEZ: Lebanon established an EEZ and defined its limits on the basis of geographical coordinates, by Decree No. 6433/2011 (DOALOS/Lebanon Legislation and Treaties, 2020).

2.2.12 Libya:

Libya signed the UNCLOS in 1984, but has not ratified it (DOALOS/UNCLOS Status Table, 2019).

TS: Libya has a 12 nm TS, measured from straight baselines (Act No. 2/1959; Decision No. 104/2005).

CS with Malta/ICJ: In 1976 Libya and Malta signed a special agreement for the submission before the ICJ of their difference concerning the delimitation of their CS. The instruments of ratification were exchanged in 1982 (DOALOS/Libya Legislation and Treaties, 2020). In its judgement, rendered in 1985, the ICJ defined the principles and rules of international law that apply to the delimitation of the CS between Libya and Malta, as well as the way in which the principles and rules can in practice be

applied (ICJ Reports 1985, Judgment, p.13). In implementation of the Court's judgment, the two countries delimited in 1986 their CS by agreement (DOALOS/Libya Legislation and Treaties, 2020).

CS with Tunisia/ICJ: In 1977 Libya and Tunisia signed a special agreement for the submission of their questions regarding their CS delimitation before the ICJ. More particularly, the Court was asked to identify the principles and rules that should apply to delimitation, taking into account the equitable principles and relevant circumstances that characterize the area, as well as to clarify the practical employment of the applicable principles and rules. The judgment was delivered in 1982 (ICJ Reports 1982, Judgement, p.18). In 1984 Tunisia filed before the Court against Libya an application for the revision and interpretation of the 1982 judgment. After the application was rejected as inadmissible in 1985 (ICJ Reports 1985, Judgment, p.192), Libya and Tunisia concluded in 1988 a delimitation agreement in compliance with the 1982 judgment (DOALOS/Libya Legislation and Treaties, 2020).

Fisheries Protection Zone (FPZ): By Decisions No. 37/2005 and 105/2005 of the General People's Committee, and adjacent Declaration, Libya declared a provisional FPZ of 62 nm from the external TS boundary, *i.e.* to a distance of (12+62=) 74 nm from the straight baselines. The FPZ was thereby declared to be in effect until the establishment of an EEZ (DOALOS/Libya Legislation and Treaties, 2020).

EEZ: In 2009 Libya declared an EEZ extending to the maximum allowable by international law breadth, unless delimitation with neighbouring states is needed (Decision No. 260/2009 in DOALOS publications/LoS Bulletin 72/2010, p.78).

Single maritime boundary with Turkey: In 2019 Libya and Turkey signed a Memorandum of Understanding (MoU) on the delimitation of their respective maritime jurisdiction areas in the Mediterranean. A single boundary was agreed for both the CS and the EEZ (DOALOS/Libya Legislation and Treaties, 2020).[13] However, the MoU does not produce legal results, as the delimitation it purports to conclude, directly contravenes international law of the sea. Under the UNCLOS regime (Art. 74, 83), only states whose coasts are either opposite or adjacent to each other can delimit the sea space between them. Since there is no opposition or

[13] The MoU's submission before the DOALOS in early October 2020, made this late addition to the dissertation possible.

adjacency relation connecting the Libyan coasts with the Turkish ones, no maritime entitlements originate from the MoU for either of the signatories.

2.2.13 Malta:

Malta signed the UNCLOS in 1982 and ratified it in 1993 (DOALOS/UNCLOS Status Table, 2019).

TS: Malta's TS extends to 12 nm from the straight baselines it has established (TW and CZ Act of 1971, as amended by Acts of 1975, 1978, 1985, 2002).

CZ: Malta has a 24 nm CZ (*ibid*).

FZ: Malta has established a FZ of 25 nm (*ibid*).

CS: By virtue of the CS Act (1966, 1983, 2002) Malta determined its CS to be extending to a depth of 200 meters, or, beyond the depth of 200 meters, until the point where exploitation is feasible, unless delimitation with opposite states is required. In the absence of such delimitation agreements, the Maltese CS is by the afore Act determined by reference to a median line between Malta and its opposite states (DOALOS/Malta Legislation and Treaties, 2010).

CS with Libya/ICJ: *Supra,* 2.2.12 Libya.

2.2.14 Monaco:

Monaco signed the UNCLOS in 1982 and ratified it in 1986 (DOALOS/UNCLOS Status Table, 2019).

TS: Monaco has a 12 nm TS (Ordinance No. 5094/1973). In its Code of the Sea (Act No. 1.198/1998, Book II, Title I, Art. L.210.2), reference is made to the Franco-Monegasque delimitation of 1984, as the legal instrument determining Monaco's TW (DOALOS/Monaco Legislation and Treaties, 2009).

All-purpose boundary with France: *Supra,* 2.2.7 France.

2.2.15 Montenegro:

By a definitive signature in 2006, Montenegro became a party to the UNCLOS (DOALOS/UNCLOS Status Table, 2019).

Montenegro has not made available to the UN any information about its maritime zones (DOALOS/Montenegro Legislation and Treaties, 2015; DOALOS/table of claims to maritime jurisdiction, 2011). It is a successor state of the State Union of SM, which was, in turn, a successor state of the SFRY (UNTC/Historical Information Montenegro, Serbia and Montenegro, Yugoslavia (former), n.d.). Therefore, Montenegro inherited the SFRY's claim to 12 nm TS (Blake and Topalovic, 1996:14), and is bound by the 1968 agreement between Italy and the SFRY concerning the delimitation of their CS (Papanicolopulu, 2007:383), according to the customary and positive law of state succession, and the *uti possidetis juris* principle that agreements on boundaries or of territorial character remain unchanged (Cassese, 2012:98-99, 106; Reports of International Arbitral Awards/RIAA, 1985, Guinea/Guinea Bissau, Award, para. 40; Ρούκουνας, 2015:481-484; VCLT Art. 62.2, 1969; Vienna Convention on Succession of States in respect of Treaties, 1978, esp. Art. 11, 12). The 1968 CS agreement is published on Italy's DOALOS page under 'Serbia and Montenegro', although the State Union has ceased to exist since 2006 (DOALOS/Italy Legislation and Treaties, 2020). Italy has furthermore deposited coordinates that are compliant with the 1968 CS agreement (MZN 5/1996). Montenegro has not on its part deposited the 1968 agreement before the UN, nor has it made available a relevant MZN (DOALOS/Montenegro Legislation and Treaties, 2015).

TS: Montenegro has a 12 nm TS (Papanicolopulu, 2007:382; Στρατή, 2012:83).

Although the presentation of protests against demarcation acts lies beyond the scope of this chapter -whose aim is to present action on sea space taken by states, regardless validity of the respective acts and third countries' objections to them- in the absence of legislation regarding Montenegro's own sea zones, we have chosen, as an exception, to present Montenegro's lodged complaints instead. The reason for this 'exceptional' treatment is because legislation by which Montenegro considers itself to be bound, is presented in the letters of complaints it has addressed to the UNSG. Firstly, in July 2014 Montenegro communicated to the UNSG as the depositary of the UNCLOS, its protest against Croatia's unilateral action to issue contractual

permissions to foreign concessionaries for the exploration and exploitation of hydrocarbons in non-delimited EEZ between the two countries. More specifically, it objected to Croatia's action as contravening the 2002 Protocol on the Interim Regime along the Southern Border between Croatia and the Federal Republic of Yugoslavia (FRY), which forbids unilateral actions until a definitive settlement is achieved. Secondly, in December 2014 Montenegro lodged in the DOALOS a second official complaint on the same issue. Thirdly, in May 2015 another letter of protest regarding the afore unresolved matter was addressed to the UNSG. The letter also expressed Montenegro's standpoint on Croatia's unilateral declaration of an EFPZ, which Montenegro regards as unlawful (DOALOS/Montenegro Legislation and Treaties, 2015). Following the above, although Montenegro has not registered with the DOALOS the 2002 Protocol on the Interim Regime along the Southern Border between Croatia and the -then- FRY, considers it to be valid and in effect between Croatia and Montenegro as a successor state of the FRY, given that the issue is yet to be settled in a definitive manner.

2.2.16 Morocco

Morocco signed the UNCLOS in 1982 and ratified it in 2007 (DOALOS/UNCLOS Status Table, 2019).

TS: Morocco has a 12 nm TS, measured from straight baselines (Act 1.73.211/1973; Art. 1, 2 of Decree No. 2.75.311/1975).

CZ: Morocco has a 24 nm CZ (Art. 7 of Act No. 1-181/1980, promulgated by Law No. 1-81-179/1981).

Exclusive Fishing Zone (EFZ): In 1975 Morocco established an EFZ in the Mediterranean and in the Strait of Gibraltar. The EFZ's external limit was the median line between the Moroccan and the opposite state's coast (Art. 4, 5 of Decree No. 2.75.311/1975). The EFZ has been replaced by the EEZ (Art. 9 of Act No. 1-181/1980, promulgated by Law No. 1-81-179/1981).

EEZ: By force of Act No. 1-181/1980, promulgated by Law No. 1-81-179/1981 (esp. Art. 1-6), Morocco established a 200 nm EEZ (DOALOS/Morocco Legislation and Treaties, 2018), but it remains unclear whether the EEZ takes effect in the

Mediterranean. According to one standpoint, the EEZ it is not enforced in the Mediterranean (European Commission Country Report Morocco, 2011:2, 7), whereas, according to another (Στρατή, 2012:83), it is questionable whether the EEZ is effective in the Mediterranean.

2.2.17 Slovenia:

Slovenia succeeded the SFRY to the UNCLOS in 1995 (DOALOS/UNCLOS Status Table, 2019).

TS: Slovenia has a 12 nm TS, measured from straight baselines (Maritime Code, 2001, Art. 5, 13 paras 1, 2).

TS with Italy: In Art. 4 of its EPZ and CS Act of 2005, Slovenia recognizes the 1975 delimitation of the TS between Italy and the SFRY in the Gulf of Trieste (UNTC/Treaty of Osimo, 1975) as legally binding. More particularly, Article 4 of the 2005 Act stipulates that the 1975 delimitation line of the TS, also defines the provisional borderline of Slovenia's EPZ -hence, Slovenia (indirectly) reaffirms the agreement as effectively providing for the settlement of the Italian-Slovenian marine border to date (Act of 2005 on EPZ and CS, Art. 4, in DOALOS publications/LoS Bulletin 60/2006, pp.56-57).

CS: Slovenia's legislation regulates the exercise of its sovereign rights in its CS. It furthermore reaffirms the CS's outer limit to be the same as the one defined in the 1968 agreement between Italy and Yugoslavia on the delimitation of their CS (Act of 2005 on EPZ and CS, Art. 1, 2, 5.2, in DOALOS publications/LoS Bulletin 60/2006, pp.56-57). To be reminded, Slovenia's claim of being entitled to a CS was rejected by the arbitration tribunal that adjudicated the land and marine border dispute between Croatia and Slovenia (*supra*, 2.2.4 Croatia/Slovenia arbitration).

CS with Italy: *Supra*, 2.2.10 Italy.

EPZ: In 2005 Slovenia declared an EPZ whose provisional external border towards Italy was affirmed to be the one set in the 1968 CS agreement between Italy and the SFRY. The border's definitive settlement will be effectuated by agreement between Slovenia and its neighbouring states (Act of 2005 on EPZ and CS, Art. 1, 3, 4, 5.1, in

DOALOS publications/LoS Bulletin 60/2006, p.56; DOALOS/Slovenia Legislation and Treaties, 2018). To be noted once more, the arbitral award did not recognize Slovenia any rights to zones beyond the TS (*supra*, 2.2.4 Croatia/Slovenia arbitration).

2.2.18 Spain:

Spain signed the UNCLOS in 1984 and ratified it in 1997 (DOALOS/UNCLOS Status Table, 2019).

TS: Spain has a 12 nm TS, measured from straight baselines (Act No. 10/1977; Royal Decree No. 2510/1977).

CZ: Spain has a 24 nm CZ (DOALOS/table of claims, 2019; also, in Royal Decree No. 1315/1977 under *I. General Provisions*, mention is made of the already established 24 nm CZ, but no *ad hoc* national legislation by which the CZ was established is available from DOALOS/Spain Legislation and Treaties, 2020).

CS with Italy: Italy and Spain delimited their CS in 1974.

FPZ: By Art. 1 of the Royal Decree No. 1315/1977, an FPZ was established in the Mediterranean. From west to east, the FPZ initially extends to 49 nm, and then follows an equidistance line up to the point of the maritime boundary with France.

EEZ: By Art. 1 and 2 of the Royal Decree No. 236/2013, an EEZ was proclaimed in the Northwest Mediterranean. The EEZ was furthermore defined to be extending 46 nm from the coordinate point of departure in the northwest, and then to be following eastward a median line until the sea border with France (Art. 1), unless modification by agreement is required (Art. 2) (DOALOS/Spain Legislation and Treaties, 2020).

2.2.19 Syria:

Syria is not a signatory to the UNCLOS (DOALOS/UNCLOS Status Table, 2019). It is not a signatory to any of the 1958 Geneva Conventions either (UNTC/Status of the 1958 Geneva Conventions, 2020).

TS: By virtue of Law No. 28/2003, Syria has a 12 nm TS (Chapter III, Art. 4), measured from straight baselines (Chapter II, Art. 2).

CZ: Syria has a 24 nm CZ (Law No. 28/2003, Chapter IV, Art. 19).

CS: Law No. 28/2003, Chapter VI, Art. 26 stipulates that the outer edge of the continental margin marks the outer limit of Syria's CS (also, *supra*, 2.2.6 Egypt/CS, for the Decision of the UAR to exercise rights of sovereignty over its CS).

EEZ: Syria proclaimed an EEZ of up to 200 nm from the baselines (Law No. 28/2003, Chapter V, Art. 21), subject to the provisions of international law (DOALOS/Syria Legislation and Treaties, 2020).

2.2.20 Tunisia:

Tunisia signed the UNCLOS in 1982 and ratified it in 1985 (DOALOS/UNCLOS Status Table, 2019).

TS: Tunisia has a 12 nm TS, measured from straight baselines (Act No. 73-49/1973; Decree No. 73-527/1973).

CZ/AZ: Tunisia has established a 24 nm CZ/AZ (DOALOS/table of claims to maritime jurisdiction, 2011; Law No. 86-35/1986, Journal Officiel de la République Tunisienne, no. 31, 13-16 mai 1986, in Papanicolopulu, 2007:382).

CS with Italy: A CS delimitation agreement was signed between Italy and Tunisia in 1971 (DOALOS/Tunisia Legislation and Treaties, 2020).

CS with Libya/ICJ: *Supra*, 2.2.12 Libya.

FZ: Tunisia established off the Gulf of Gabès a FZ up to the 50 meters isobath (DOALOS/table of claims to maritime jurisdiction, 2011).

EEZ: By Act 50/2005 Tunisia proclaimed an EEZ which extends to the maximum allowable by international law length, unless its outer boundaries need to be defined otherwise by agreement with neighbouring states (DOALOS/Tunisia Legislation and Treaties, 2020).

Temporary, all-purpose boundary with Algeria: *Supra*, 2.2.2 Algeria.

2.2.21 Turkey:

Turkey is not a party to the UNCLOS (DOALOS/UNCLOS Status Table, 2019). It is not a party to any of the 1958 Geneva Conventions either (UNTC/Status of the 1958 Geneva Conventions, 2020).

TS: Turkey has a 6 nm TS in the Aegean Sea. Its legislation does not provide for straight baselines (Act No. 2774/1982 and relevant Decree No. 8/4742 in DOALOS/Turkey Legislation and Treaties, 2020; DOALOS/table of claims to maritime jurisdiction, 2011).

TS with Greece: *Supra*, 2.2.8 Greece.

Single maritime boundary with Libya: *Supra*, 2.2.12 Libya.

2.2.22 UK:

The UK acceded to the UNCLOS in 1997 (DOALOS/UNCLOS status table, 2019).

There is a pending question whether the characterization of the UK as a Mediterranean state is accurate. The UK is listed as a coastal state of the Mediterranean Sea on the DOALOS page (DOALOS/Coastal States of the Mediterranean Sea, 2012). The reason for the UK's inclusion in the list of Mediterranean states is its sovereignty over Gibraltar, as well as the Akrotiri and Dhekelia SBAs in Cyprus. However, the British sovereignty over Gibraltar is contested by Spain, while, as mentioned above (2.2.5 Cyprus), the UK's sovereignty over the military bases of Akrotiri and Dhekelia has been argued to be only nominal. As a result, the unclear legal regime of the Rock and of the Akrotiri and Dhekelia military bases has given rise to the question whether the UK should be portraying among the Mediterranean states, or not.[14]

The debate on Gibraltar is still open between Spain and the UK, of which fact the following instances are indicative. Upon drafting the EU's Marine Strategy

[14] Papanicolopulu (2007:3) includes the UK in the Mediterranean states, with a general reference to its 3nm TS in the Mediterranean (*ibid*), and a specific one to its 3 nm TS in the Akrotiri and Dhekelia SBAs (*ibid*, p.4).

Framework Directive (EU MSFD, 2008), and EU's consultations with its member-states, Spain objected to the UK's inclusion among the countries bordering the Western Mediterranean. The objection resulted in the omission from the MSFD of any reference to the Mediterranean states by name (Στρατή, 2012:77-78). In the same vein, the adjacent to the EU-UK Withdrawal Agreement Protocol on Gibraltar (2019:143-145), makes it clear that its provisions are without prejudice to the legal positions of Spain and the UK regarding sovereignty and jurisdiction over Gibraltar. In addition, it stipulates that it is to be implemented in conformity with the constitutional orders of both Spain and the UK, while it imposes on both countries a cooperation obligation between them.

Conversely, never has an issue of the UK be characterized as an Eastern Mediterranean state because of its SBAs in Cyprus arisen (Στρατή, 2012:77-78).[15] However, although the UK is not referred to as an Eastern Mediterranean country, the SBAs legal regime remains in doubt (*supra*, 2.2.5 Cyprus). The controversy reflects, among other instances, in the adjacent to the EU-UK Withdrawal Agreement Protocol on the British SBAs in Cyprus (2019:136-142), which provides for the implementation of the EU Law in respect of certain policy areas in the SBAs, exempting them from the British legal order -a derogation from sovereignty that is not compatible with the very essence of the notion (Cassese, 2012:63, 66, 71, 93; Newton and Van Deth, 2010:20).

The disputed legal status of the territories in question, *i.e.* Gibraltar and the SBAs in Cyprus, has additional implications for the delimitation of the adjacent to them sea space, since it is the land that is the legal source of power over the sea. Rights to sea zones emanate from sovereignty over land, and cannot exist independently from the latter, according to '*the land dominates the sea*' principle.[16]

Gibraltar's waters: The dispute between Spain and the UK over Gibraltar goes as back as the 1713 Treaty of Utrecht, by whose force Gibraltar was 'transferred' from the Spanish to the English Crown. What exactly was 'transferred' is the main point of contention between the two countries: Spain claims that it was possession -and by no means sovereignty- of the town, castle and port (with its limited expanse of water)

[15] Στρατή (2012:77, 82-84) does not include the UK in her comprehensive table of the sea zones of the Mediterranean countries.
[16] Indicative case-law on the principle in footnote 6, *supra*, 2.2.5 Cyprus/TS with the UK.

that was passed to the British. It rejects British claims to TS, since the prerequisite of sovereignty over the land, from which the right to TS emanates, is not met. The UK, on its part, argues that in 1713 Spain relinquished sovereignty over Gibraltar, and passed it to Great Britain. Furthermore, the UK interprets the Treaty of Utrecht broadly, so as for the waters of the Algeciras Bay and around the Calpense Isthmus to be included in what was -in its view- granted to the British in 1713 (de Vivero, 2009:77; Lincoln, 1994:286, 292, 307; O'Reilly, 1999:67, 68, 76).

Upon ratification of the UNCLOS in 1997, Spain declared that it does not recognize any rights or situations relating to the sea area of Gibraltar, that are not *expressis verbis* included in the Treaty of Utrecht (UN Treaty Series, Vol. 1835/1998, pp.91-93).

In response, upon acceding to the UNCLOS in 1997, the UK declared that its sovereignty over Gibraltar, including its TW, is beyond doubt, and that it rejects the afore Spanish declaration as unfounded (UN Treaty Series, Vol. 1984/2001, pp.494-496).

Notwithstanding the non-recognition of Gibraltar as a British sovereign territory by Spain, fact remains that a 3 nm 'jurisdiction' or 'TS' zone around Gibraltar has been established by the UK. The zone is restricted to 2 nm on the west side (Bay of Algeciras), where the Spanish and British waters (of any nature they might be, although Spain does not recognize them to be falling under any British authority, sovereignty, competence or jurisdiction) are demarcated by a median line (European Commission Case Study Report: the Alboran Sea, 2011:5; O'Reilly, 1999:76, citing British FM Quin).

The TS of Akrotiri and Dhekelia SBAs: *Supra,* 2.2.5 Cyprus/TS with the UK (DOALOS/UK Legislation and Treaties, 2020).

2.3 Synopsis

In this Chapter, an overview of the situation in the Mediterranean, insofar the established and/or delimited maritime boundaries are concerned, was given. More particularly, the sea zones that each one of the twenty-two states that border the Mediterranean Sea has established, were catalogued. Besides the zones that are

verbatim provided for in the UNCLOS, the list includes *sui generis*, *new* or *residual* zones, such as the Ecological and Fisheries ones, that certain Mediterranean states have created.

Notwithstanding the fact that considerable portions of the Mediterranean have been delimited by unilateral acts, bilateral agreements and bilateral agreements incorporating ICJ judgements, there still remain undetermined areas, whose legal status is that of the HS.

In the next Chapter, first, the frequency of occurrence of each delimitation mode -*i.e.* unilaterally, bilaterally, by international adjudication- will be counted. The Chapter will then delve into the matter of third states' reactions to unilateral acts and bilateral agreements, and will close with a brief examination of the results produced by delimitations vis-à-vis third states.

CHAPTER 3

ESTABLISHMENT AND/OR DELIMITATION OF SEA ZONES IN THE MEDITERRANEAN BY UNILATERAL ACTS, BILATERAL AGREEMENTS, ICJ JUDGMENTS: A FREQUENCY COUNT AND RESULTS VIS-À-VIS THIRD STATES

3.1 Introduction

In this Chapter, first, the frequency of occurrence of each mode of establishing and/or delimiting maritime zones -*i.e.* unilaterally, bilaterally, by international adjudication- will be counted and turned into percentages. How well-respected and recognized by third states these unilateral and bilateral acts are? Do they procure legal certainty for the states that have taken the respective action? These two questions will make the Chapter's second focal point. And, to be more specific, first, the protests against unilateral and bilateral activity regarding maritime delimitation will be presented by taking (again) a country-by-country approach. Next, the results of bilateral delimitation agreements vis-à-vis third states will be in brief examined from both a legal and a practical point of view.

3.2 The established and/or delimited sea zones in the Mediterranean in numbers: A frequency count of the delimitation modes

Sixty-eight (68) acts establishing and/or delimiting maritime zones in the Mediterranean have been counted in total: Forty-seven (47) unilateral acts, nineteen (19) bilateral agreements, and two (2) bilateral agreements incorporating ICJ judgments.

3.2.1 Introductory points of clarification: What counts in the frequency count?

Before proceeding to the Chapter's first focus, namely the frequency count of each delimitation mode, some points of clarification should be made.

In some cases, a unilateral act is followed by a bilateral agreement, which either reaffirms or modifies the unilateral act. These cases are not counted among the unilateral acts, but among the bilateral agreements, as the bilateral agreement supersedes the previously taken unilateral action. However, in the case of Monaco, the delimitation of its TS in a unilateral manner in 1973 is counted separately from the all-purpose boundary delimitation agreement with France in 1984, which also provides for the delimitation of Monaco's TS. This is because the 1984 agreement's primary focus was the establishment of the single maritime boundary for zones beyond the TS -and not the delimitation of the latter, which in any case could be established to the extent of 12 nm only by Monaco. Needless to say, the 1984 agreement is also counted separately (amongst agreements establishing all-purpose boundaries).

Conversely, in some cases the bilateral agreement does not enter into force, because it is at a later time not recognized or ratified by one of the signatories, who either unilaterally adopts a different delimitation line, or does not take any further action apart from stating their non-recognition of the agreement. In this case, the bilateral agreement is not counted. What is counted is the more recent, unilateral act -if one such exists.

Certain sea zones have been partially delimited by one or more bilateral agreements, while segments of theirs have been delimited unilaterally. These waters are listed as delimited in both a unilateral and a bilateral manner, and each act is counted separately because it refers to a different sea portion -albeit appertaining to the same state.

Another instance that calls for a special mention, is when in one national legal instrument more than one sea zones are established and/or delimited (the case of Syria is characteristic, as all sea zones that the country has were promulgated and/or their

breadth determined by Law 28/2003). In this case, many acts are counted, one for each zone on which action has been taken.

The acts establishing *sui generis, residual* or *new* zones are not counted if they are followed by an act which establishes a complete EEZ, and they refer to the same sea area. In this case, only the EEZ act is counted.

The 1968 and 1975 agreements between Italy and the former SFRY are counted separately for each successor state of the latter (provided the specific successor state is entitled to sea areas delimited by the agreements).

The 1932 Agreement and Protocol between Italy and Turkey are counted as one agreement between Greece and Turkey.

The 2015 agreement on the establishment of a single boundary between France and Italy is not counted because the author has been unable to retrieve it from an official site (UN, French Republic). It was presented in Chapter 1 -with reference to one scientific article from an authoritative source- only for reasons of systematic presentation of all[17] acts on sea zones in the Mediterranean.

The bilateral agreements that have been concluded in compliance with ICJ judgments make a category of their own, that is to say, they are not classified with the bilateral agreements in general.

The Croatia/Slovenia Arbitration Award is not counted, since it was not followed by a delimitation agreement -and is not registered in the DOALOS in any case.

Last, the frequency count does not pretend to be analytical, as it does not further subcategorize the unilateral and bilateral acts according to criteria of validity, legality, opposability or recognition by third states. It is merely an effort to compile a comprehensive list of all acts having to do with sea zones and boundaries in the Mediterranean, and count them, regardless of their being valid, legal, or contested by third states.

3.2.2 Unilateral acts: 47

[17] At least those that the author has been able to find.

In this section, the Mediterranean states' unilateral acts by means of which some or all of the sea zones to which they are entitled have been established/delimited, are presented. More precisely, out of a total of sixty-eight (68) acts on maritime zones, forty-seven (47) are unilateral. The number of unilateral acts can be broken down as follows.

On the TS: 19

Nineteen (19) of the forty-seven (47) unilateral acts refer to TSs (Albania, Algeria, Croatia, Cyprus, Egypt, France, Greece, Israel, Italy, Lebanon, Libya, Malta, Monaco, Morocco, Slovenia, Spain, Syria, Tunisia, Turkey).

On the CZ/AZ: 9

Nine (9) of the forty-seven (47) unilateral acts refer to CZs (Algeria, Cyprus, Egypt, France, Malta, Morocco, Spain, Syria, Tunisia). By three (3) of these acts an AZ was created at the same time (Algeria, Cyprus, Tunisia), while France created it at a later time: two years after creating a CZ, it extended its control as per UNCLOS Art. 303, thus establishing an AZ.

On the CS: 7

Seven (7) of the forty-seven (47) unilateral acts refer to the CS (Cyprus, Egypt, Greece, Italy/outer limit, Italy/Strait of Sicily, Malta, Syria).

On the EEZ: 9

Nine (9) of the forty-seven (47) unilateral acts refer to EEZs (Algeria, Egypt, France, Lebanon, Libya, Morocco,[18] Spain, Syria, Tunisia).

On *sui generis*, or *residual*, or *new* zones: 3

[18] On whether Morocco's EEZ takes effect in the Mediterranean, *supra*, 2.2.16 Morocco.

Three (3) of the forty-seven (47) unilateral acts refer to *sui generis*, or *residual*, or *new* zones: One (1) unilateral act establishes an EFPZ (Croatia); One (1) establishes an EPZ (Italy); One (1) establishes a FZ (Malta).

3.2.3 Bilateral agreements: 19

The delimitation of parts of the Mediterranean has made the subject[19] of nineteen (19) bilateral agreements, which can be categorized as follows.

On the TS: 5

Five (5) of the nineteen (19) bilateral agreements apportion -entirely or partially- the TS between neighbouring Mediterranean states (BH-Croatia, Cyprus-UK, France-Italy, Greece-Turkey, Italy-Slovenia).

On the CS: 6

Six (6) of the nineteen (19) bilateral agreements determine CS limits (Albania-Italy, Croatia-Italy, Greece-Italy, Italy-Montenegro, Italy-Spain, Italy-Tunisia).

On the EEZ: 4

Four (4) of the nineteen (19) bilateral agreements demarcate EEZs (Cyprus-Egypt, Cyprus-Israel, Egypt-Greece, Greece-Italy).

On single, all-purpose boundaries: 4

Four (4) bilateral agreements provide for single, all-purpose boundaries. These agreements have been concluded between Algeria and Tunisia, Croatia and Montenegro, France and Monaco, and Libya and Turkey. However, it is to be

[19] It goes without saying that not all agreements are exclusively on maritime delimitation, as some regulate more subject-areas. Whether exclusively dealing with sea spaces or not, the agreements of both types are counted herein, as long as they provide for maritime zones (too).

admitted that their comprehensive categorization under this title is to some extent arbitrary. While the France-Monaco and Libya-Turkey agreements provide for all-purpose boundaries indeed,[20] the agreements between Algeria and Tunisia, and Croatia and Montenegro exhibit particularities.

For one, the temporary agreement between Algeria and Tunisia expired in 2009, while the definitive agreement, signed on December 4 2009 (Στρατή, 2012:127), has not been submitted to the UN (DOALOS/Algeria Legislation and Treaties, 2020; DOALOS/Tunisia Legislation and Treaties, 2020; DOALOS publications/Bulletin repertory/national legislation, n.d.; DOALOS publications/Bulletin repertory/bilateral and trilateral treaties, n.d.). Considering the great amount of time that has elapsed since 2009, there emerges the question whether the parties consider the provisional (or even the definitive) agreement to be (still) in force, all the more so because Algeria has been meticulous enough to register with the UN other materials since 2009 -but not the 2009 definitive agreement.

For another, the Croatia-Montenegro 'agreement' refers to the limits established by the 1968 delimitation agreement on the CS between Italy and the SFRY, and by the 2002 Protocol on the Interim Regime along the southern border between Croatia and the State Union of SM. Both agreements are legally binding, and the two successor countries of the SFRY (*i.e.* Croatia and Montenegro) recognize them as such, but there is no *ad hoc* agreement on a single boundary between them. More specifically, Croatia makes use of the two legal instruments in order to define both its CS and the provisional limits of its EFPZ, until an EEZ is declared. The fact that the boundaries that were laid in 1968 and in 2002 are used for the determination of both the Croatian CS and EFPZ (and future EEZ), is what decisively weighed towards the two legal instruments that bind Croatia and Montenegro to be categorized as an 'agreement' determining a single boundary, as, in the author's view, they would not perfectly fit with any of the other classifications either (DOALOS/Croatia Legislation and Treaties, 2020; DOALOS/Montenegro Legislation and Treaties, 2015) (also, *supra*, 2.2.4 Croatia, 2.2.15 Montenegro).

3.2.4 ICJ judgments: 2

[20] For the Libya-Turkey MoU's legality, *supra*, 2.2.12 Libya

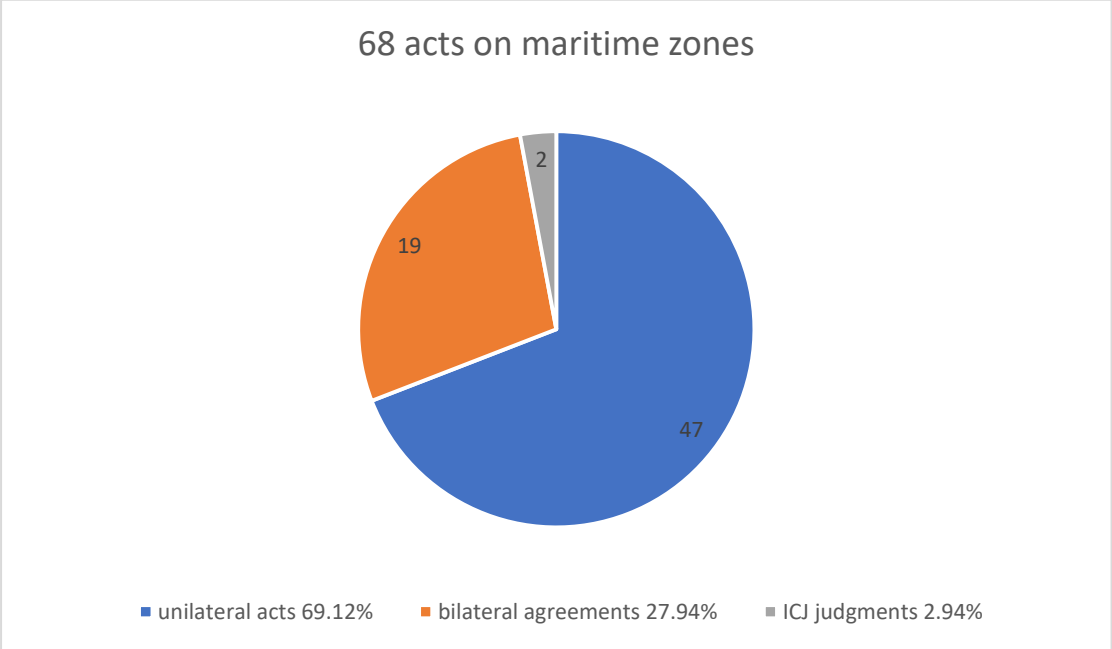
The ICJ delivered two judgments on equal cases about the delimitation of the CS between Mediterranean states (Tunisia/Libya, 1982; Libya/Malta, 1985). The litigants adhered to the ICJ judgements, which were incorporated into two bilateral agreements (DOALOS/Libya Legislation and Treaties, 2020; DOALOS/Malta Legislation and Treaties, 2010; DOALOS/Tunisia Legislation and Treaties, 2020).

3.3 The frequency count of the delimitation modes turned into percentages

The majority of the sixty-eight (68) acts on maritime zones are unilateral: 47 acts, or 69.12%. The next preferred means of action is the conclusion of bilateral agreements: 19 agreements, or 27.94%, while the frequency of occurrence of recourse to international judicial mechanisms and abidance by their rulings is slender, with 2 ICJ judgments making a 2.94%. The above frequency count is visualized in the pie chart below (Figure 3.1).

Figure 3.1

Frequency count of the modes of establishing and/or delimiting maritime zones in the Mediterranean, until October 2020



Source: Based on information from DOALOS/Coastal States of the Mediterranean Sea/countries' pages.

3.4 An attempt to explain some surface aspects of the frequency count

What has become evident from the frequency count is a strong preference in state practice for the sea zones to be determined unilaterally (69.12%). As a general remark, this tendency is consistent with the 1951 ICJ Judgment on the Fisheries Case, where the Court pointed to the act of delimitation being necessary unilateral, because only the coastal state is competent to undertake it, although the act's validity in respect of third states is judged under international law (ICJ Reports 1951, Fisheries Case, Judgment, p.132).

Some unilateral acts provide for the redetermination or specification of the thereby set boundaries upon negotiations with neighbouring states, where need be.[21] On the other hand, regarding unilateral acts which do not provide for joint delimitation,[22] not all sea areas lie in direct proximity with sea areas to which other states lay claims, making it in such cases unnecessary to jointly delimit the sea space. This is especially the case with the TS, which, owing to its moderate breadth, is the less likely of all zones to coincide with another TS, while it takes precedence of all other sea belts, in the event of overlapping claims (Agreement on the CS between Italy and the SFRY, 1968; International Tribunal of the Law of the Sea/ITLOS, Bangladesh/Myanmar, Award, 2012, para. 169; PCA Case Eritrea/Yemen maritime delimitation, Second Stage Award, 1999, para. 160; Reports of International Arbitral Awards, UK/France CS Case, 1977-1978, paras 187, 202). In addition, the fact that the TS is the only maritime zone over which the coastal state exercises *sovereignty*, makes it all the more likely for a unilateral mode to be opted for, even when some of the TS's extreme points should be commonly agreed upon between neighbouring states. In this sense, the higher rate at which unilateral acts occur is to some extent justified, because it is the TS that is more often unilaterally delimited (19/47 unilateral acts, *supra*, 3.2.2).

In contrast with unilateral action, the majority of bilateral agreements refers to zones beyond the TS (5 agreements on TS, 6 on CS, 4 on EEZ, 4 on single boundaries). The explanation for the borders beyond the TS to be more often bilaterally delimited, could be twofold. First, in comparison with the TS, the outer edge of the CS and the EEZ can be set at a considerable distance from the shore, making overlapping claims the norm (Chatham House, 2006:1) even in conditions of relative spaciousness. Secondly, the UNCLOS treats the delimitation of the TS on the one hand, and of the EEZ/CS on the other, differently (Art. 15, 74, 83). Same goes for international

[21] Such acts are the following: Algeria/EEZ Decree; Croatia/EFPZ Decision; Cyprus/CS Law, CZ Law, EEZ Law, EEZ and CS consolidation Laws; Egypt/TW Decree; France/TS Law; Greece/TS Law (*lato sensu*, provides for differentiated breadth), CS Laws; Italy/Navigation Code and Law on TS, EPZ Decrees and Laws, CS Act, Decree on CS in Strait of Sicily; Lebanon/EEZ Decree; Libya/EEZ Decision; Malta/CS Act; Morocco/TS Act, EEZ Act; Spain/TS Act, EEZ Decree; Syria/Law 28-2003 on EEZ (*lato sensu*, subject to the provisions of international law); Tunisia/EEZ Act; Turkey/TS Act.

[22] Such acts are the following: Albania/TS Decree; Algeria/TS Decree, CZ Decree; Cyprus/TS Laws; Egypt/CS Decision; France/CS Act, CZ-AZ Act; Israel/TS Laws; Lebanon/TS Decree; Libya/TS Act; Malta/TS-CZ Act; Monaco/TS Ordinance; Morocco/TS-EFZ Decree; Syria/Law 28-2003 on TS, CZ, CS; Tunisia/TS Act. To be noted, although Monaco's Ordinance on TS did not provide for future joint delimitation, it was followed by the Franco-Monegasque agreement indeed.

jurisprudence (two-stage approach to TS delimitation;[23] three-stage approach to CS/EEZ delimitation[24]). Consequently, there is a higher degree of uncertainty with regard to the applicable rules to the EEZ/CS demarcation, in comparison with the rules applicable to the TS (Lando, 2017:615-616, 618, 619; Papastavridis, 2020:25; Παπασταυρίδης, 2017:383-385; Stergiou and Karagianni, 2019:92-94). Therefore, joint action appears to be a necessity more often for the delimitation of the EEZ/CS than for the delimitation of the TS, as the only way conducive to a higher level of legal safety -albeit not the utmost, if not all potentially affected states take part in the delimitation process, and the border has not been defined by international judicial fora, which give due consideration to third states' claims too (also, *infra*, 3.6).

Another evidenced tendency in the Mediterranean state practice is the reluctancy to recourse to international dispute settlement mechanisms for clear-cut solutions to the problems posed by delimitation. With all its spatial narrowness and subsequent difficulties in agreeing the sea borders, the Mediterranean has made the subject of only two ICJ judgments on maritime delimitation (Libya/Malta; Libya/Tunisia) -and one arbitral award that was not implemented (Croatia/Slovenia).

Last, another element that became evident from the above presentation, is the distinct chronological pattern that the Western and Eastern Mediterranean countries have followed in establishing their maritime zones. The Western Mediterranean countries have since the 1960s taken the lead in concretizing their maritime entitlements (in 1968 France regulated in great detail the exploration and exploitation of its CS natural resources; in 1968 Italy and the SFRY jointly delimited their CS; in 1975 Morocco declared an EFZ -to mention but few). The fact that the Western Mediterranean countries assumed early action on maritime zones is closely linked to the discovery of massive natural gas reserves in Algeria in the 1950s, and their exploitation starting 1962 upon independence. Libya came second, exporting Liquefied Natural Gas

[23] Indicative case-law: ICJ Reports 1993, Greenland-Jan Mayen; ICJ Reports 2001, Qatar Vs Bahrain; PCA Case Eritrea/Yemen, 1999. However, the two-stage method has been slightly modified in ICJ Reports 2007, Nicaragua Vs Honduras; ITLOS, 2012, Bangladesh/Myanmar; PCA Case Bangladesh/India, 2014. For an in-depth analysis, Lando, 2017.

[24] Indicative case-law: ICJ Reports 1969, North Sea CS Cases; ICJ Reports 2009, Black Sea Case; ICJ Reports 2012, Nicaragua Vs Colombia, Judgment of November 19 2012; ICJ Reports 2007, Nicaragua/Honduras. Also, in the Ghana/Côte d'Ivoire Case, although the ITLOS Special Chamber applied the same methodology for both the TS and the CS/EEZ delimitation, it noted that it did so because of the parties having made such a request, while pronouncing that under the UNCLOS regime the rules for the TS and the CS/EEZ delimitation are distinct (ITLOS Reports of Judgments 2017, Ghana/Côte d'Ivoire, Judgment, paras 258-262).

(LNG) since 1971 (Albinyana and Mane-Estrada, 2018:29, 31-33, 35-37; Stergiou and Karagianni, 2019:48; Winrow, 2008:175). In other words, the discovery of natural resources in the Western Mediterranean came hand-in-hand with the realization of the necessity for the creation of a 'safe' environment for their exploitation. Thus, not only the countries that were proved to be well-endowed with natural resources, but also those that were dependent on them, or those that were about to embark on exploration enterprises, took decisive steps towards the creation of a legal environment facilitating exploration and exploitation.

The early awareness of the imperative -even existential- need to determine the sea space that the Western Mediterranean states have exhibited, stands in sharp contrast with the belated reaction of the Eastern ones. The majority of sea zones in the Eastern Mediterranean started being demarcated in the 2000s, with the second decade of the century also seeing a spike in maritime delimitations. Same as above, maritime delimitation and offshore discoveries of natural resources were interrelated. The Eastern Mediterranean states took an interest in maritime zones after the discoveries of combined oil and gas offshore reserves in the area. With the exception of Egypt,[25] where exploration started in 1954, and which has since 1958 been feeding both its domestic and international market with oil following an integrated policy on the matter -which includes a renewed scheme for the exploitation of its Zhor offshore field, that was discovered in 2015 (Καραγιάννη, 2018)- the Eastern Mediterranean countries were lagging behind. The year of 1999, when the first discoveries off the coast of Gaza were made, was a turning point inasmuch as it sparkled interest in exploration in the area. The exploration activities were fruitful: many offshore fields were discovered one after the other, resulting in the assured deposits, as well as the prospect of more reserves, becoming the driving force behind a series of maritime delimitations in the Eastern Mediterranean during the last two decades (ElBassoussy, 2018:72-74, 77; Elshazly and Khodeir, 2018:354; Khadduri, 2012:112; Stergiou, 2016:381; Stergiou and Karagianni, 2019:12, 54, 55-56). At present, a comparison of the maps of the delimited maritime areas of the Western and Eastern Mediterranean, would not reveal any marked differences between the two, although the Eastern

[25] Syria has since the mid-1960s also engaged in commercial oil production, albeit to a lesser degree (US Energy Information Administration, 2013).

Mediterranean natural gas, with the exception of the Tamar and Zhor fields, still remains largely undeveloped (Stergiou and Karagianni, 2019:176).

3.5 Third states' reactions to unilateral acts and bilateral agreements on sea zones

Unilateral acts and bilateral agreements alike have given rise to official complaints and protests by third states, addressed to the UNSG and the state(s) that have taken the respective action. The delimitation exercises that have been challenged by third states, as per the letters of protests and Notes Verbales deposited with the DOALOS, are summarized in the table below (Table 3.1).

Table 3.1

Third states' objections to delimitation acts

Country	**Country's actions contested by other states**	**Country's objections to other countries' action on delimitation**
Algeria	Algeria's EEZ coordinates contested by Italy and Spain	Algeria contested Italy and Spain's EEZ coordinates
Croatia	Croatia's EFPZ coordinates contested by Italy (and Slovenia, despite the award pronouncing Slovenia entitled only to TS)	
Cyprus	- Cyprus-Egypt EEZ delimitation contested by Turkey - Cyprus-Israel EEZ delimitation contested by Lebanon	- Cyprus contested Turkey's CS coordinates (contained in letters and notes, no *ad hoc* national legislation available from DOALOS) - Cyprus contested Libya-Turkey EEZ MoU
Egypt	- Cyprus-Egypt EEZ delimitation contested by Turkey - Egypt-Greece EEZ delimitation contested by Turkey	Egypt contested Libya-Turkey EEZ MoU
France	France's EEZ coordinates contested by Spain	France contested Spain's EEZ coordinates

Table 3.1 (continued)

Third states' objections to delimitation acts

Country	**Country's actions contested by other states**	**Country's objections to other countries' action on delimitation**
Greece	Egypt-Greece EEZ delimitation contested by Turkey	- Greece contested Turkey's CS coordinates (contained in letters and notes, no *ad hoc* national legislation available from DOALOS) - Greece contested Libya-Turkey EEZ MoU
Israel	- Israel's TS and EEZ northern limit contested by Lebanon - Cyprus-Israel EEZ delimitation contested by Lebanon	Israel contested Lebanon's EEZ coordinates
Italy	Italy's EEZ coordinates contested by Algeria	- Italy contested Algeria's EEZ coordinates - Italy contested Croatia's EFPZ coordinates
Lebanon	Lebanon's EEZ coordinates contested by Israel and Syria	- Lebanon contested Israel's TS and EEZ northern limit - Lebanon contested Cyprus-Israel EEZ delimitation
Libya	Libya-Turkey EEZ MoU contested by Cyprus, Greece, Egypt and Syria	

Table 3.1 (continued)

Third states' objections to delimitation acts

Country	**Country's actions contested by other states**	**Country's objections to other countries' action on delimitation**
Spain	Spain's EEZ coordinates contested by Algeria and France	Spain contested Algeria and France's EEZ coordinates
Syria		- Syria contested Lebanon's EEZ coordinates - Syria contested Turkey's CS coordinates - Syria contested Libya-Turkey MoU
Turkey	- Turkey's CS coordinates contested by Cyprus, Greece and Syria - Libya-Turkey MoU contested by Cyprus, Egypt, Greece and Syria	- Turkey contested Cyprus-Egypt EEZ delimitation - Turkey contested Egypt-Greece EEZ delimitation

Source: Based on information from DOALOS/Coastal States of the Mediterranean Sea/countries' pages/additional relevant materials.

The protesting states consider the relevant delimitation acts to be unlawful, having prejudiced their legal rights and interests, and encroaching on sea areas that the protestants perceive as appertaining to them by legal right. From a general perspective, the presence of grievances alone indicates that not all -potentially- claimant states have participated in the delimitation operation. It could therefore be maintained that in some cases, when states decide to take action regarding their sea zones, they tend to be resorting to the 'avoidance strategy' of acting alone or in synergy with one more state, with which their differences are not irreconcilable,

although lack of consultation with all potentially affected states takes a toll on the 'respectability' of the action under consideration.

Needless to say, the reasons for this *modus operandi* are manifold, with political considerations playing a prominent role in the formation of alliances that may lead to delimitation agreements -and *vice versa*. As the examination of the underlying causes for the apportionment of the sea space between certain states and by the exclusion of others, lies beyond the scope of this dissertation, whose end-goal is to merely catalogue the activity undertaken until October 2020 on maritime delimitation in the Mediterranean, we refrain from elaborating on the above matter, and proceed to the final section, where the results of maritime delimitation agreements vis-à-vis third states will be examined in short.

3.6 The results of bilateral agreements vis-à-vis third states, at a glance

The relationships between parties and non-parties to either interstate agreements or disputes resolved before international courts and tribunals, are regulated mainly by Art. 34 of the VCLT, Art. 94(1) of the UN Charter, Art. 59 of the ICJ Statute, and Art. 296(1) of the UNCLOS. Art. 34 of the VCLT stipulates that a treaty does not create either obligations or rights for a third state without its consent. Art. 94(1) of the UN Charter reads that each member of the UN undertakes to comply with the decision of the ICJ to which it is a party. Art. 59 of the ICJ Statute defines the Court's decisions to have no binding force except between the parties and in respect of the particular case. Finally, Art. 296(1) of the UNCLOS defines the court and tribunal decisions to be final and binding only on the parties to the dispute. Therefore, it is the general principle *pacta tertiis nec nocent nec prosunt* that defines the relationship between parties and non-parties to a delimitation agreement which is the outcome of either a negotiation or a judicial process. From the point of view of a third state, any such agreement is a *res inter alios acta*, producing no legal results for the third state (ICJ Reports 1954, Monetary Gold Case, Judgement; Fitzmaurice, 2002:38, 43; Lisztwan, 2012:193-194; Ρούκουνας, 2015:124).

Given that approximately half of all sea borders globally involve potential tripoints, the significance and broad field of potential implementation of the afore-presented legal framework becomes evident. Especially in semi-enclosed seas and concave coastlines, where overlapping claims are common, potential tripoints abound. Rare as they are, the same cannot be said of the trilateral agreements (Lathrop, 2005:3305, 3308, 3310; Xu, 2019:94-95). In the Mediterranean in specific, no trilateral agreement has so far been concluded (*supra*, Chapter 2), although there are hardly any boundaries which would not involve a tripoint. All maritime boundaries in the Mediterranean have been determined either unilaterally or bilaterally, and, unlike the trilateral agreements, protests against them are quite common (*supra*, 3.5). So, how can the legal framework be materialized in concrete protection for third states whose rights are -potentially- violated?

To start with, when an international adjudication organ is seized of a maritime delimitation case between two disputing parties, effort is made so as for third states' rights and interests not to be prejudiced, regardless whether the third states have asked for permission to intervene or not, and regardless whether the permission has been granted or not.[26] Towards the end of third states' rights and interests remain unaffected, the delimitation lines drawn by the adjudication organs are oftentimes directional, leaving the terminus undefined (Charney, 1994:250-251; Listzwan, 2012:194; Tanaka, 2004:397, 400; Xu, 2019:94, 126).

Neigbouring states' rights and interests are given due consideration in some unilateral acts too: some of them leave the door open for future delimitation with neighbouring countries (*supra*, 3.4, footnote 21). Similarly, some bilateral agreements delimit the sea zones between neighbouring states only partially, stopping short of areas where third states' claims -potentially- exist. However, in some unilateral acts and bilateral agreements they are disregarded, resulting in third states strongly protesting against them (*supra*, 3.4, footnote 22; 3.5).

[26] Indicative case-law: ICJ Reports 1969, North Sea CS Cases, Judgment, para. 69; ICJ Reports 1982, Tunisia/Libya, Judgment, paras 33, 133B(1); ICJ Reports 1985, Libya/Malta, Judgment, paras 21, 22, 68, 69, 76; RIAA 1985, Guinea/Guinea Bissau, Award, paras 92-94; ICJ Reports 1986, Burkina Faso/Mali, Judgment, para. 47; ICJ Reports 2001, Qatar Vs Bahrain, Judgment, paras 221, 222, 249; ICJ Reports 2002, Cameroon Vs Nigeria: Equatorial Guinea intervening, Judgment, para. 238; ICJ Reports 2007, Nicaragua Vs Honduras, Judgment, para. 312; ICJ Reports 2009, Black Sea Case, Judgment, para. 114; ICJ Reports 2012, Nicaragua Vs Colombia, Judgment, para. 228; ICJ Reports 2018, Costa Rica Vs Nicaragua, Judgment, paras 121, 123, 144, 157, 164; PCA Case Eritrea/Yemen, 1999, Award, paras 46, 136, 164.

Therefore, although a delimitation agreement, being a *res inter alios acta*, does not produce legal consequences for a non-party, it can produce objections nonetheless, if the non-party perceives it as infringing upon its own rights and interests. In other words, the delimitation acts produce consequences beyond the legal sphere: they produce tangible reactions. In this sense, it is essential that parties to an agreement practice self-restraint so as for the legal rights and interests of third states remain unaffected (Xu, 2019:91). Additionally, from a practical point of view, third states' rights and interests need to be to some extent accommodated in every delimitation, notwithstanding the unquestionable nature of the *res inter alios acta* principle, because only a properly delimited and recognized by third states boundary will eventually allow those that have established it, to workably enforce the legal rights deriving from the establishment act vis-à-vis third states (Oral *et al.*, 2009:11). As Ndiaye (2015:493) put it, it is of vital importance for neighbours not to be leaving the maritime areas between them undelimited, because stable and long-lasting relations hinge upon delimitation acts. May we add that, in order for neighbourly relations to be established or maintained, and protests and grievances to be avoided, it does not take only two, but most often three -or even more- neighbouring countries.

3.7 Synopsis

In this Chapter, the frequency of occurrence of unilateral acts and bilateral agreements on maritime delimitation in the Mediterranean has been counted. The Mediterranean states have taken action on the matter sixty-eight (68) times in total. No trilateral agreement has thus far been concluded, notwithstanding the fact that potential tripoints abound. Both the unilateral and bilateral delimitation exercises have given rise to protests by neighbouring states, that perceive their legal rights and interests to have been infringed upon by the said actions.

CHAPTER 4

Conclusion

The dissertation treated the subject of the established and/or delimited maritime zones in the Mediterranean Sea. The zones explicitly provided for in the UNCLOS, as well as the *sui generis*, *residual* or *new zones* that the twenty-two Mediterranean states have established and/or delimited until October 2020 were presented following a country-by-country approach. The Mediterranean states have taken action regarding the establishment and/or delimitation of maritime zones 68 times in total: 47 times the action was unilateral, 19 times bilateral, while recourse to international judicial fora does not appear among the Mediterranean states' preferred means of delimitation. The ICJ was seized of maritime delimitation cases only twice, and rendered equal judgments, which were furthermore incorporated into bilateral agreements between the litigant states (Libya/Malta; Libya/Tunisia). To be noted, unlike the ICJ judgments, the arbitral award on the Croatia/Slovenia delimitation case was not implemented.

Not all Mediterranean states have established/delimited all of the sea zones to which they are entitled under the UNCLOS regime. Consequently, the legal status of parts of the sea remains that of the HS. This is partly due to the fact that the spatial narrowness that characterizes the Mediterranean, makes the delimitation process a challenging operation, as not all zones can be extended to the maximum allowable by international law limit. Any Mediterranean country's claims to maritime zones of the fullest breadth, will unavoidably coincide or overlap with claims made by its neighbours. Hence, the intricate nexus of coinciding and overlapping claims to sea areas deters states from defining the sea space.

The inherent difficulty of the apportionment of the sea space among the Mediterranean states is in some cases aggravated by factors whose nature is irrelevant to the technical challenges of the delimitation process, *e.g.*, political considerations, long-standing conflicts. These factors, lying beyond the scope of the dissertation, have not been examined. On the other hand, fact remains that they oftentimes reflect in the official protests against delimitation acts. However, tense, underlying conditions are

not the only factors which bring about grievances against delimitation acts. Many a time states perceive their legal rights and interests *per se* to have been violated by a delimitation act, which thus gives rise to objections against it. The states' protests, wherever they may be deriving from, have also been catalogued by taking a country-by-country approach.

Another instance that called for a special mention, was the distinctive chronological pattern that the Western and Eastern Mediterranean states have followed regarding maritime delimitation. As a rule, the former have since the 1960s realized the necessity for the determination of the sea space -and have proceeded with it since then. The latter have only lately, in general since the 2000s, exhibited an interest in delimiting their sea belts. Needless to say, both Western Mediterranean states' prompt reaction and Eastern Mediterranean states' belated one are the result of discoveries of offshore oil and natural gas fields in the Mediterranean Sea.

Last, with respect to the results produced by bilateral agreements vis-à-vis third states, it is the fundamental principle of *pacta tertiis nec nocent nec prosunt*, that regulates the relations between parties and non-parties to an agreement, as for a non-party any agreement is a *res inter alios acta*. Therefore, no legal consequences are produced by a bilateral delimitation agreement for a third state. Nonetheless, the same cannot be said of the practical consequences, as bilateral agreements on delimitation do give rise to objections by third states that challenge the thereby demarcations of the sea space. An accommodationist approach to the matter would contribute towards protests be avoided, as it would involve effort on the part of acting states so as for third states' legal rights and interests to be accommodated in bilateral agreements. The said approach is exemplified in the well-established ICJ case-law of drawing an arrowheaded, directional delimitation line, which stops short of areas where third states' rights potentially exist. The relevant case-law could set an example for state practice too. Finally, as tripoints in the Mediterranean abound, trilateral agreements could function as a conducive factor and tool towards the establishment of workable, respected maritime boundaries.

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