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of Nikolaos Tzafas

Student's Registration Number: 73400119200023

"Demilitarization regimes in contemporary international law: the Greek case and beyond"

Examination Board:

Photini Pazartzis, Professor (Supervisor)

George Kyriakopoulos, Assistant Professor

Anastasios Gourgourinis, Lecturer

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To the unknown Greek islander,

for intertemporally being a guardian of the Aegean

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“And he likes having thought of it so well

He says again, Good fences make good neighbors”[1]

[1] Frost, R., 1914. Mending Wall, North of Boston collection, The Gutenberg Project, p.24.

Introduction

At first glance, it seems almost paradoxical that the exact content of demilitarization, has not been crystalized yet by international law theory, despite the fact that the notion, has concerned heavily the legal literature, for more than a century. This must be one of the reasons why demilitarization is intertemporally challenging and intriguing. Surely, another reason for it, is the perplexity of the term. Indeed, demilitarization, as a subject matter, seems to be trapped between separate academic fields, namely international law and international relations. At the same time, it is a legal obligation that attempts to balance the notion of state sovereignty, with that of peace and security. Consequently, every study focused on this legal concept, is both arduous yet exciting.

Especially, the dispute regarding the Aegean islands' demilitarization, i.e. the Greek case, constitutes the perfect example, in order to shed some light to this obscure term and examine its relevance and validity in the context of contemporary international law. Evidently, the literature concerning this case, is quite rich and the expressed positions are multiple and divergent. The inquiry is also extremely relevant, as Turkey raises the matter of Aegean's demilitarization on a constant basis.

The present work, also discusses the status of some extraterritorial demilitarization regimes, exposing their legal nature and peculiarities. Each and every approach to these regimes, is always critical, since it reflects the heavy interest of the international community as a whole, to the status and the resilience of the common heritage of humankind.

This paper purports to approach the notion of demilitarization, mostly under legal terms and elaborate on some facets that are not so obvious and are infrequently exposed by literature. In order for the result to be doctrinally coherent, it is deemed necessary to dedicate the first Chapter to the historic evolution of the term, so as to clarify all the different formats that the notion has acquired throughout history and categorize them appropriately. Subsequently, the second Chapter will address in detail three pioneering demilitarization regimes pertaining some extraterritorial spheres, namely Antarctica, Outer Space and Seabed. The third Chapter, constitutes the core of the dissertation and within it, it is being analyzed the exact legal framework that governs the demilitarization of the Aegean islands. In this part, it is also displayed the aggregate of both Greek and Turkish argumentation, on the three distinct demilitarization zones of the Aegean, i.e. the islands of the Straits (Lemnos and Samothrace), the Central Aegean islands (Lesvos, Chios, Samos, Ikaria) and the Dodecanese Islands. Lastly, the fourth chapter contains the conclusions of this comparative exam.

Chapter 1- The historic evolution of demilitarization; a concept with many faces.

Though demilitarization as a notion, is not unfamiliar in international practice and legal theory, no acknowledged definition of the term exists. This chapter, is an attempt to approach the legal aspects of demilitarization and unravel its contemporary meaning. But, for the result to be doctrinally coherent, first it is necessary to examine the historic evolution of the term and the variance of forms that has acquired.

1.1 Demilitarization throughout history; from disarmament to peace and security

Demilitarization as a legal regime, thrived in the 19th century, in parallel with the institutionalization of international law, but the concept has roots deep in the past. The notion, is omnipresent in human history, alongside with the phenomenon of war. Demilitarization, both as practice and as a theoretical concept, evolved side by side with mankind and this evolution, partially overlapped with other akin concepts, like disarmament and neutralization, or even sectors of studies, predominantly humanitarian law. As it would be displayed below, four historical periods can be construed as the most important steps in the transformative trajectory of demilitarization; Ancient years, Early Christian years and Medieval Times and the modern period, which is further divided to the first period, from the 18th Century, until the First World War and the second period, from the First World War till today.

1.1.1 The ancient years

Demilitarization at its early stage, was merely an attempt to regulate and constrain some aspects of war and under this scope, the concept shares some origins with humanitarian law. This volition, can be detected in the early history of various civilizations.

To start with, Hindus had totally abolished the use of poisoned spears[2] and they exercised a clear-cut distinction of civilians and belligerents, prohibiting the targeting of the former[3]. An example of demilitarization, in a form closer to the modern standards, can be found in the ancient history of Egypt and the Roman Empire. Specifically, after a battle around 1260 BC, Egyptian and Hittite rulers, decided to create a neutral zone between their territories, as was the option of Romans and Parthians centuries after that, following their clash in the years 58-63 AC. Those, are two early -yet profound- appearances of the buffer zone, a strategic choice that is frequently applied, in the modern international field.

An iconic paradigm of a victor imposing a demilitarization regime to the defeated side, stems from the conflicts between Sparta and Athens, in ancient Greece. Most famously, the Peloponnesian War, ended victoriously for Sparta and a critical term of the surrender of Athens, was the demolition of its Long Walls, that connected the city-state of Athens, with the port of Piraeus and the destruction of its naval power. The Long Walls, were dismantled in 404 BC and according to Xenophon, the demolition was accompanied by the sound of musicians playing the flute[4]. However, soon Athens realized its vulnerable position against Sparta and commenced an

[2] Radhika, RV. 2017. Revisiting the Ancient Indian Laws of Warfare and Humanitarian Laws. IndraStra Global, Vol.3, issue 3, p.3, available in: https://www.ssoar.info/ssoar/bitstream/handle/document/50993/ssoar-indrastraglobal-2017-3-rv-Revisiting_the_Ancient_Indian_Laws.pdf?sequence=1.
[3] Sinha, M.K. 2005. Hinduism and International Humanitarian Law. International Review of the Red Cross. Volume 87, No 858, p.291-292, available in: https://international-review.icrc.org/sites/default/files/irrc_858-4.pdf.
[4] Ξενοφών, Ελληνικά, 2.2.11, available in: https://www.greeklanguage.gr/digitalResources/ancient_greek/library/browse.html?text_id=32&page=14.

attempt to fortify the city against the constant threat of its opponent[5]. Two centuries later, it was the time of Sparta to be defeated and be affected by the restrictions of a demilitarization regime. The pre-Hellenistic alliance of the Achaean League, enforced an even stricter demilitarization plan, that included not only the tearing down of Sparta's walls, but also the abolishment of the militaristic training system, that was in use for centuries[6]. Another pertinent example is reported by Herodotus, which consulted the Persian King Cyrus to ban the use of weapons for the defeated Lydians and impose an educational system focused on music and shopkeeping, instead of martial arts, so as to eliminate their combatant ability and their will to fight[7]. The famous historian, argued that this way *"[the Lydians] will become women, instead of men and thus will pose no danger or threat to you".* Another famous story of a victorious power, demanding the reduce of the military capacity of its defeated enemy, comes from ancient Rome and the infamous clash with Carthage. Even before the total destruction of the city, Carthage was blackmailed in 201 BC to demolish its city walls (a common practice in premodern times), to eliminate the majority of its fleet and destroy its precious war elephants, while also undertook the obligation not to deploy any military power to the adjacent region[8].

The most extraordinary case of early demilitarization, regarded the Indian emperor Asoka. This ruler participated in only one war, in the year 269 BC, the cruelties of which sickened him and so he adopted a firm antimilitaristic approach[9]. He tried to alter the pro-military social environment of the era, by enforcing strict legislation that forbid the killing, not only of humans but also of animals, while in the same time he renounced war and initiated organized Buddhist missionary efforts in his empire and beyond[10]. He also managed to reduce effectively the military budget and personnel. This unilateral attempt of demilitarization, constituted a very ambitious plan -even by today's standards- and the most intriguing element was that Ashoka, aimed at a radical social reformulation and he didn't constrain himself to minor political decisions, about the decrease of the importance of military power.

1.1.2 The new religions' era and the Medieval years.

The advent and rise of the new world religions, as well as the change of weaponry used in battle, created new opportunities for the confinement of the effect of military power. For example, in 634 AC the Muslim caliph Abu Bakr mandated his troops not to harm the fruit trees and the domestic animals of their opponents and so cause an unnecessary loss of supplies[11].

But it was Christianity, that generated some serious initiatives, especially between the 9th and the 11th century AC, like the "Peace of God". This religious attempt, which was based on the pacifistic underpinnings of the Cristian doctrine, is being considered by many as the *"first mass peace*

[5] Ibid, in 4.4.18.
[6] Stearns,P.N. 2013. "Demilitarization in the Contemporary World" ed. by Peter Stearns, University of Illinois Press, p. 7, available in: http://www.jstor.org/stable/10.5406/j.ctt3fh618.
[7] Ibid.
[8] For the full punitive terms of the Roman-Cartage Treaty, see: Serrati, J. 2006. Neptune's Altars: The Treaties between Rome and Carthage (509-226 BC). Cambridge University Press, available in: https://www.jstor.org/stable/4493392?seq=1#metadata_info_tab_contents.
[9] Stearns, P.N., supra note 6, p.7.
[10] Draper, G.1995. The Contribution of the Emperor Asoka Maurya to the development of the humanitarian ideal in warfare. International Review of the Red Cross, No 305, also available in: https://www.icrc.org/en/doc/resources/documents/article/other/57jmf2.htm.
[11] Stearns, P.N., supra note 6, p.7-8.

movement in history"[12]. The goal of this religious motion was to limit the targets of war, reduce the means of exercising belligerent acts and also moved even further to declare truce, for some certain periods of time. So, under modern terms we could argue that the movement's ambitions, were balanced between disarmament and pacifism, constituting a premature expression of humanitarian law. The arms control, was indeed a critical topic in the Medieval Cristian world, a fact emphatically illustrated by the prohibition of crossbow, as *"unfit for Cristian use",* by the Second Lateral Council of 1139[13]. This pro-demilitarization tendency, was reinforced by the Protestant Reformation, which allowed various religious groups, such as the Quakers, to express their open prohibition to the use of arms.

In the Middle Ages, at least in the European space, the idea of demilitarization started to be applied more and more frequently and some new aspects of the notion came to light. The demilitarization of a delimited area, the demolition of fortifications or the prohibition of reconstruction of defense infostructure, are inherent elements of peace treaties throughout this era, which is reaffirmed in several legal texts of the 17th and 18th century. An early occurrence of this concept, was the 1559 Treaty of Cateau-Cambrésis, between France and Spain, which included a direct prohibition of constructing fortifications in the area of Thérouanne. In the same vein, the Peace Treaty, between Spain and the Low Countries (Münster 1648), ordered the demolition of fortifications, in the border regions of Flanders and along the Scheldt River. The Treaty, also contained a general prohibition, against the establishment of military constructions and strategic canals in this region[14].

The same year was signed the Treaty of Westphalia (1648), which constituted the peace settlement in the aftermath the Thirty Years' War, between the Holy Roman Empire and the French alliance. This peace arrangement, is often identified by many scholars, as the origin of many crucial concepts, such as state sovereignty and the subsequent principles of the inviolability of borders and non-interference in the domestic affairs of a State. The impact of the said agreement was so intense that legal specialists of the 18th and 19th century were considering the Treaty *"…-next to Grotius' De lure Belli ac Pacis libri tres (1625) - as the very birth of the classical ius publicum Europaeuni."*[15]. This legal text, attempted to limit the potential of a future clash, between the aforementioned powers and provided under Article 118, for the constraint of the combatants, to a level that was considered by each ruler as *"necessary for its own security".* The provision in subject, stands as a really rare example of a semi-voluntary demilitarization status, that was put forward by the victor of a war to the defeated part, setting aside the prevailing pattern of revanchism. Despite France, which didn't proceed to limitations of its military power, Sweden on the other hand, took advantage of the opportunity and revisited its whole strategy, by dismissing its territorial aspirations and moving closer to a neutrality position, that was maintained even in the two World Wars[16].

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[12] Backman, C.R, 2003. The Worlds of Medieval Europe, Oxford University Press, p.210.
[13] Van der Veen, V. 2012. Crossbows and Christians: The Church's ban of the crossbow. Medieval Warfare, Vol 2, n.2, p.3, Available in: https://www.jstor.org/stable/48577944?seq=1#metadata_info_tab_contents.
[14] Spiliopoulou-Åkermark S, Heinikoski S, Kleemola-Juntunen P, 2018. Demilitarization and International Law in Context: The Åland Islands1st ed., Routledge Focus, p.11.
[15] Lesaffer, R., 1997. The Westphalia Peace Treaty and the Development of the Tradition of the Great European Peace Settlements prior to 1648. Grotiana, vol.18, p. 72.
[16] See more in: Kent, N. 2008. A concise history of Sweden: The World Wars and Swedish neutrality, Cambridge University. For the demilitarization attempts of Sweden after the WW2 see: Holmberg, A, 2015. A demilitarization process under challenge? The example of Sweden. Defense Studies, vol. 15 n.3, p. 235-253.

1.1.3 Institutionalization of the notion; from the 18th century to the First World War

Moving forward to the second half of the 18th century, we can find various treaties among European States, formulated to limit the arsenal of the signatories or deprive a delimited area of its military power, aiming to reduce the interstate tension. For example, in 1768, Denmark ceded several islands in the mouth of the Elbe River to Hamburg and it was provided that no fortification was to be installed on them[17]. Few years later, the Naval Limitation Pact of 1787, between England and France, was signed in this exact frame. By virtue of this agreement, these two powerhouses of the era, assumed the obligation not to develop their fleets, beyond peace levels[18]. Though the French Revolution, put a hold to the effort of military control, the treaty above resulted in the avoidance of war over influence in the Netherlands. Finally, in the 18th Century thrived the pacifist literature that was centered around the idea of finding alternatives to the retrogressive concept of war. In this period of time, the idea of an international organization, with an objective of limiting the conflict among States was first planted, while both Jean-Jacques Rousseau and Immanuel Kant, declared the need of mankind to aim at *"perpetual peace"*[19].

In the 19th century, the notion of demilitarization started to formalize, alongside with the institutionalization of international law. The steady decline of Ottoman Empire, the advent of nation-States and the extensive colonialism of the era, created a nexus of international relations that gave rise to various commitments, for the purpose of establishing borders and shaping conditions of war and peace[20].

At the same time with this change of tide in international relations, demilitarization also took place in one of its purest and more traditional forms, i.e. imposed to the defeated part of a war by the victors of it. This time in history, the "victim-State" was France, which was obliged, by the Congress of Vienna, in the aftermath of the Napoleonic Wars, to limit drastically its military capacity and destroy some of its important fortifications, as a way to prevent the recurrence of any future aggression[21]. In 1832, only a few years after the establishment of the modern Greek State, Turkey declared that it had no intention of stationing troops to the -occupied at the time- island of Samos, in the Aegean Sea, marking a rare paradigm of a unilateral declaration that entailed legal consequences, regarding the demilitarization of an area[22].

Moreover, after the end of the Crimean War, on 1856, Sweden, Finland and Russia concluded a Treaty, regarding the demilitarization of the small archipelago of the Aland islands, in the Baltic Sea[23]. Later, the status of the region will be reinforced, by an agreement of 1921, which also imposed the obligation of complete neutralization. Though the Islands, were technically part of the Finish State, they actually remained under the "tutelage" of the League of Nations. The agreement provided for the obligatory character of demilitarization, even if the State that exercises

[17] Spiliopoulou-Åkermark, S, Heinikoski S, Kleemola-Juntunen P., supra note 14, p.12.
[18] Keefer, S.A, 2011. Great Britain and Naval Arms Control: International Law and Security 1898-1914. The London School of Economics and political Science, p.18.
[19] See more in: Kant, I. 1795. Perpetual Peace: A Philosophical Sketch, available in: https://www.mtholyoke.edu/acad/intrel/kant/kant1.htm.
[20] Spiliopoulou-Åkermark, S, Heinikoski S, Kleemola-Juntunen P., supra note 14.
[21] Stearns, P.N., supra note 6, p.9.
[22] Spiliopoulou-Åkermark, S, Heinikoski S, Kleemola-Juntunen P., supra note 14.
[23] Ibid.

Sovereignty over the islands changed[24]. This provision, indicates the will of the parties to construe the prohibition of militarization as an international servitude[25]. This demilitarization regime is probably the most long-lived, and certainly one of the most stable, since it is in force more than 150 years, without any serious legal implications or malfunctions[26].

Furthermore, the last quarter of 19th century, was marked by an attempt for further arms control and so, demilitarization as a concept, remained aligned with the development of humanitarian law. This connection, is graphically demonstrated by the St. Petersburg Declaration of 1868, which was the first formal text to renounce some means of warfare. Although the agreement was titled as "Declaration"[27], its binding force is unquestionable, as well as its significance. The parties, officially expressed their will to restrict qualitatively their arsenal, while also -at least typically- eliminated the chance of war between the 19 signatories. In the framework above, the participating States consented to ban completely the use *"of any projectile of a weight below 400 grammes, which is either explosive or charged with fulminating or inflammable substances"* for being considered as a cause of unnecessarily exacerbation of the combatants' injuries. The Declaration of St. Petersburg, not only formally introduced the new concept of military necessity that since governs the choice among means of warfare as a customary rule, but also preluded the following Hague Conventions of 1899 and 1909, which led the foundation for the modern Law of Armed Conflicts.

The effort of controlling armaments continued, particularly with the sponsorship of the Russian Tzar Alexander (who clearly understood Russia's disadvantage in the military field) and resulted in the drafting of several Treaties and Declarations, during the Hague Conventions of 1899 and 1909. These two critical Conventions, that were essentially affected by the increasing impact of the Red Cross organization, succeeded the St. Petersburg Declaration, reiterated its content and in the same time aimed -contrary to its predecessor- at the greater effectiveness of the agreed texts[28].

All 13 Treaties that derived from the Hague Conventions, were left open for accession and contained various provisions that focused heavily on the decrease of the military power of the signatories[29]. The adopted restrictions were both quantitative (e.g. the number of battleships that each country may hold was reduced) and qualitative, meaning that given categories of weapons were renounced in their entirety (e.g. poison gas and biological weapons, Automatic Submarine Contact Mines etc.)[30]. However, the pro-active spirit of the Conventions, alongside with the pious expectations for the organization of a third Convention, were canceled by the eruption of the World War I.

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[24] Spiliopoulou-Åkermark, S., Hyttinen, T, Kleemola-Juntunen, P. 2019. Life on the Border: Dealing with Territorial Violations of the Demilitarised and Neutralised Zone of the Åland Islands. Nordic Journal of International Law, Vol. 88, p.136.

[25] Branka, T. 2017. Demilitarization and neutralization-the case of the Aland islands, p.195. See also below, p.16-17.

[26] Spiliopoulou-Åkermark S, Heinikoski S, Kleemola-Juntunen P., supra note 14, p.178-179.

[27] The full name of the final text was: "Declaration Renouncing the Use, in Time of War, of Explosive Projectiles Under 400 Grammes Weight. Saint Petersburg, 29 November / 11 December 1868".

[28] Blacker, C.D, Duffy, G. (ed).1976. International Arms Control; Issues and Agreements. 2nd Edition. Standford University Press, p.81-82.

[29] Χατζηκωνσταντίνου Κ. 2009. Προσεγγίσεις στο Διεθνές Ανθρωπιστικό Δίκαιο. 2η Έκδοση, εκδ. Ι. Σίδερης, p. 30-34.

[30] Vagts, D. 2000, The Hague Conventions and Arms Control. The American Journal of International Law. Vol. 94, No. 1, p.32-35, available in: https://www.jstor.org/stable/2555229?seq=1#metadata_info_tab_contents.

1.1.4 From World War I to the Cold War

In the aftermath of World War I, the international community concentrated its efforts towards demilitarization, on two pillars; traditional punitive measures and formalization of the notion, through state practice and the development of international organizations.

First and foremost, the predictable pattern of depriving the combatant ability of the defeated party, was once more applied, this time upon Germany. The Treaty of Versailles[31], constituted the spearhead in this attempt, providing for several harsh measures, targeting to the general aim of Germany's demilitarization. Among others, Germany's active army personnel was diminished to 100,000 men[32], conscription as a practice was annulled[33], armored vehicles, submarines[34] and aircrafts[35] were prohibited, while it was permitted for Germany to maintain, no more than six warships. On top of these restrictions, the area of Rhineland was completely demilitarized and stripped from any type of German military presence, by the Treaty of Locarno[36], which also encapsulated the Versailles provisions[37]. All the above restrictions, tragically were to be violated by Nazi Germany in the 1930's.

In the same time with the "punitive-demilitarization" of Germany, the notion of demilitarization evoluted to a more formalized version, through regional practice (mostly bilateral agreements) and the appearance of international organizations, in complementarity with the pacifist movement that arose after the Great War. That was the second axis of demilitarization's progress in the era. More specifically, in the years that followed the end of War World I, a tendency of reducing the armament level, can easily be detected in state practice,. The rationale behind this conscious choice, derived from the thinking that the pre-war armed race, greatly contributed to the outbreak of the clash[38]. Demilitarization through arms control, was considered a tool for stability and peace settlement and that mentality, is visible in various agreements of the interwar years.

In this context, Turkey and the Soviet Union, pledged to maintain the equilibrium of naval power in the Black See, several Central American States signed the Arms Limitations agreement of 1923, which provided for a five-year plan of constraining the size of army personnel and the number of war aircrafts and vessels, only one year after the significant Five Power Naval Limitation Treaty of 1922 (also known as the Washington Treaty)[39]. The later agreement, was signed by some of the most powerful States of the time; United Kingdom, France, USA, Italy and Japan, which assumed the obligation to limit the tonnage of their naval power. It's impressive that more than 60 warships were scrapped, due to the agreed Treaty [40].

In addition, the development of various international organizations, most of them in the general framework of the League of Nations, led to a more institutionalized approach of demilitarization,

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[31] Treaty of Peace at Versailles, 18 June 1919. Allied and Associated Power-Germany, 225 L.N.T.S 188.
[32] Ibid, in Articles 160,163.
[33] Ibid, in Articles. 173-179.
[34] Ibid, in Articles 181-189.
[35] Ibid, in Article 198.
[36] Treaty of Locarno. 16 October 1925. 54 L.N.T.S. 291.
[37] Bederman, D.J. 2002. Collective Security, Demilitarization and "Pariah" States. European Journal of International Law. Vo. 13, No.1, p.124-125, available in: http://www.ejil.org/article.php?article=458&issue=29.
[38] Stearns, P.N., supra note 6, p.10.
[39] Britannica, The Editors of Encyclopedia. "Washington Conference". Encyclopedia Britannica, (online), available in: https://www.britannica.com/event/Five-Power-Naval-Limitation-Treaty.
[40] Ibid.

which was expressed as a notion, through the acts of the mentioned organizations, with the aim of maintaining peace and security in both regional and universal level. The rapid increase of international community's interest in demilitarization matters, was further assisted by the literature of the era, a recurring theme thereof was the need for democratic control of the military forces. European thinkers, especially in the 1920's, stressed the need for thorough arms control and initiated a vivid debate around the matters of demilitarization. For example, the great German sociologist Max Weber, showed up the direct link between militarism and war and stressed the need for democratic control[41].

The end of World War II, will lead once more to the imposition of a strict demilitarization regimes to the vanquished States. The Axis Powers (Germany, Italy and Japan), will be submitted to a nexus of very harsh military restrictions. The 1947 Paris Peace Treaty[42] will order Italy to demilitarize completely the islands Pantelleria, Lambedusa, Lampione, Linosa and Pianosa and partially the larger islands of Sardinia and Sicily[43]. In the same vein, Japan, after the loss in the World War II, was forced by the occupying power, i.e. the United States, to amend its very Constitution, as a guarantee for the non-repetition of aggressive actions. According, to Article 9 of the amended Constitution of 1946, the Japanese people "*renounces forever was as a sovereign right and the threat of use of force as means of settling international disputes"*[44]. After years, Japan bypassed this severe restriction and formulated gradually its own "Self-Defense Forces"[45]. Analogous was the fate in the case of Germany, the demilitarization of which was addressed in the Potsdam agreement, by the victorious powers of the War (the United States, the United Kingdom, the Soviet Union and France). Under this agreement, the country was divided under four occupational zones, one under each occupational power, the German army was dismantled completely and the military industrial base was eliminated[46]. As was the case of Japan, the radical reformation of the German State, was embedded in the county's Constitution and it was only after the passage of decades, that Germany managed to reinstitute an effective defense mechanism.

In the aftermath of the Second World War and in the midst of an internal civil war, we can detect a unique unilateral effort of complete demilitarization, in the case of Costa-Rica, that chose to totally abolish its military powers, in 1948. The competencies regarding state safety and security, were transferred to a power of 1000 policemen and 700 coastal guards[47]. This bold choice derived from the absence of military tradition of the State, the general peace movement that thrived in Latin America and the lack of aggressive neighboring states[48].

Moving to the Cold-War, this particular era was marked by two tendencies; the creation of denuclearization zones and the conclusion of Treaties recognizing a special status, over some areas

[41] For Max Weber's work and the notions of democratic control of armed forces, see: Venice Commission (Council of Europe), Report on the Democratic Control of the Armed Forces, 2008, available in: https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2008)004-e.
[42] Treaty of Peace Between the Allied Powers and Italy, 49 U.N.T.S 126.
[43] Van Dyke, J.M. 2005. An analysis of the Aegean Disputes under International Law. Ocean Development and International Law, Vol 36, No 1, p.78.
[44] Ibid.
[45] For the full spectrum of the imposed prohibitions and restrictions, as long for the gradual post-war remilitarization of Japan, see: Stearns, P.N., supra note 6, p.157-177.
[46] Kingma, K., Schrijver, N. 2015. Demilitarization. Max Planck Encyclopedias of International Law, p.2.
[47] Hoivik, T., Ass, S. 1981. Demilitarization in Costa Rica; A farewell to Arms? Journal of Peace Research. Vol.18, Issue.4, p.10.
[48] For a thorough view of the matter, see: Buscone, P. 2017. The Demilitarization of Costa Rica. (Thesis, College of the Holy Cross). Available in: https://crossworks.holycross.edu/cgi/viewcontent.cgi?article=1011&context=honors.

that constitute common heritage of mankind. The second tendency, regarded the extraterritorial spheres of Antarctica, outer space and the seabed and would be discussed in detail under Chapter 2. As for the matter of denuclearization, the notion really developed in the Cold era context, due to the acute safety concerns of the international community, regarding a nuclear holocaust. With the Cold War as a starting point, several Treaties were concluded with the result of instituting a prohibition of nuclear weapons and activities in multiple areas, rendering them as Nuclear-Free zones. This special demilitarization regime, was applied to multiple regions, such as the Latin America and the Caribbean (Treaty of Latelolco[49]), the South Pacific (Treaty of Rarotonga[50]), South East Asia (Treaty of Bangkok[51]), Africa (Treaty of Pelindaba[52]) and Central Asia (of Semipalatinsk[53])[54].

Lastly, we need to mention the several "safety zones" regimes, that where instituted under the auspices of the United Nations (U.N). Usually, these zones are created between States which deployed belligerent actions, such as the demilitarized neutral zone in the Korean peninsula, after the cease fire of 1953, or the safety zone between Iraq and Kuwait on the First Gulf War, on 1990[55]. This type of safety-demilitarized zones, have been also instituted within the territory of the same State, such as Cyprus, after the Turkish invasion of 1974 and Yugoslavia, during and after the civil strife of 1990's[56].

This short overlook in the history of demilitarization, though not complete, is of great assistance in contemplating the multifaceted content of the notion and further categorizing the term, as it would be attempted to be done in the next section.

1.2 Meaning and different forms of demilitarization

It is generally accepted among scholars of international law, that there is no prevailing definition of the demilitarization concept, despite that the notion is accompanying humankind almost since the eruption of the war phenomenon. Except for the unique nature of the concept, that has been already addressed, i.e. being trapped between the scope of different scientific fields, (mostly international law and international relations), also the fact that demilitarization constitutes a deviation from the traditional view of state sovereignty, is linked with the absent of a single heroic and accepted definition[57].

In other words, demilitarization as a notion, inherently burdens a State to exercise full sovereignty over its territory, reflecting a divergence to the orthodox view of sovereignty, as it derives from the work of Jelinek in the 19th century and more recently from the Montevideo conditions of statehood[58]. The indirect defiance of state sovereignty, since demilitarization renders impossible the full territorial control, maybe explains the hesitation of literature on concluding to a specific

[49] Treaty for the Prohibition of Nuclear Weapons in Latin America, 14 February 1967, 634 U.N.T.S 281.
[50] The South Pacific Nuclear Free Zone Treaty of Rarotonga, 8 August 1985, 1445 U.N.T.S 177.
[51] The Southeast Asia Nuclear -Weapon-Free Zone Treaty of Bangkok, 15 December 1995, 1981 U.N.T.S.
[52] The African Nuclear-Weapon-Free Zone Treaty of Pelindaba, 12 April 1996, 2048 U.N.T.S 93.
[53] The Central Asia Nuclear-Weapon Free Zone Treaty od Semipalatinsk, 8 September 2006, 2970 U.N.T.S.
[54] Branka, T., supra note 25, p.191.
[55] Kingma, K., Schrijver, N., supra note 46, p.3.
[56] Ibid.
[57] Spiliopoulou-Åkermark, S, Heinikoski S, Kleemola-Juntunen P., supra note 14, p.3.
[58] The Montevideo Convention on the Rights and Duties of States (26 December 1933, 165 L.N.T.S 19), defined the requirements for statehood, as follows: a) permanent population, b) defined territory, c) government and d) capacity to enter into relations with other States.

definition. In any case, this section purports to elaborate on the content of the notion, illustrate the different forms and shapes it can acquire and make a distinction with some similar concepts.

1.2.1 Contemplation of demilitarization's content

Demilitarization, first and foremost, constitutes a common restriction of a state's sovereignty, since it deprives it from exercising actions, that are emplaced in the very core of it, such as the development of defense forces. Some authors, support that demilitarization is *"the reduction or even [the] total abolishment of armament and military presence in a certain geographic area"*[59], focusing mainly on the primal element of disarmament and the spatial constraint thereof. The relevant space, that demilitarization is exercised can be a particular territory, area or cosmic body and can be fully or partial[60]. Akin and still relevant, is the definition that Oppenheim offered, in the dawn of the last century: *"Demilitarization is an agreement between two or more states to refrain from constructing fortifications or maintaining in armed forces in a given area, with a view to improving mutual security and preventing border incidents"*[61]. This definition, denotes also the contractual character of the obligation to demilitarize, which bends the otherwise prevailing notion of sovereignty. But, expect for the element of arms control in a particular geographical sphere, demilitarization has a wider meaning, including the diminishing of the state reliance on use of force, the reduction of military expenditures and the competences of the Army in general[62]. So, under this view, the definition of demilitarization as just an act of dismantlement or abolition of arms, is extremely narrow and doctrinally unacceptable.

In other words, demilitarization is a complex process with many sociological connotations, that can be opposed to the concept to the militarization. As militarization, can be described the mobilization of resources for the development of a state's military power[63] and in a sociological and psychological level, the creation of a dense nexus of positive feelings regarding the military and the use of force[64].

On a legal level, the theory is divided, regarding the exact legal character of demilitarization. Some scholars construe the obligation of demilitarization, as an international servitude that benefits a third State, while others have adopted the position that demilitarization is just another contractual obligation and therefore the fate of it, follows the fate of the legal text that created the obligation[65]. The notion of servitudes, derives from civil law and in the international law field, expresses the situation under which, one or more States, assumed the obligation not to exercise certain rights within part or the whole territory, so as to serve a specific legal interest of the other contracting and beneficiary party[66]. An example of international servitude, is the transit of foreign armed forces, through the territory of another State, or the right of a State to fish in the territorial

[59] Kingma, K., Schrijver, N., supra note 46, p.1.
[60] Mamedov, R. 2007. Disarmament and Demilitarization in the Caspian Sea from the Viewpoint of International Law. The Caucasus and Globalization. Vol. 1, Issue 3, p.28.
[61] The definition is quoted in: Branka, T., supra note 25, p.190. The Oppenheimer definition of demilitarization is also considered the most accurate approach by Professor Rozakis in: Μανωλόπουλος, Κ., Βαρβιτσιώτης, Χ, Ροζάκης, Χ. (επιμ.).1977. Η αποστρατικοποίηση των Ελληνοτουρκικών Συνόρων. Πάντειος Ανωτάτη Σχολή Πολιτικών Επιστημών, σελ.7.
[62] Kingma ,K., Schrijver, N., supra note 46, p.1.
[63] Ibid.
[64] Bickford, A. 2015. International Encyclopedia of the Social and behavioral Sciences. 2nd Edition, p.484.
[65] Μανωλόπουλος, Κ., Βαρβιτσιώτης, Χ, Ροζάκης, Χ. (επιμ.), supra note 57, p.18.
[66] For a coherent analysis of the term, see: Potter, P. B. 1915. The Doctrine of Servitudes in International Law. The American Journal of International Law, 9(3), p.627–641, available in: https://www.jstor.org/stable/2187098.

sea of the other party to the agreement. Indispensable elements of an international servitude are the permanent status of it and a special opinion iuris; the agreed (in)action of a State, should always serve the interest of the other party to the agreement. So, it is not enough for a State not to demilitarize a region of its territory, in order for this action to be perceived as an international servitude. On the contrary, it is necessary that this action: a) is based on an international agreement, b) enjoys a permanent status and c) aims at the benefit of the other State[67]. Taking all the above into consideration, we can reasonably arrive to the conclusion that not every demilitarization regime, constitutes an international servitude, but only the agreements that impose this obligation, not just for the protection of the peace and security in an area, but for a specific interest of a certain State[68]. The entailed legal connotation of defining a demilitarization status, as an international servitude and not as another contractual obligation, is the creation of an objective regime. This means that the imposed obligation would operate erga omnes and every State will have the legal stand to demand its fulfillment[69]. Also, any future territorial reformulation and the sovereignty success of a State to a demilitarized area, does not affect the obligation that was assumed from the previous State. Consequently, since the characterization of a demilitarization regime as a servitude, entails a serious alteration of its legal content, the examination should always be performed in concreto, under the specific circumstances of each case.

As was exposed above, demilitarization as a notion is more than the mere elimination of military presence in a precise space. It is a legal obligation, that heavily affects state sovereignty and implicates society as a whole to a transformative process. Furthermore, the distinction between an international servitude and a mere contractual obligation, has great legal consequences as it will be displayed in the analysis of the Greek case.

1.2.2 Distinction between similar notions

At this point, where the legal content of demilitarization has started to unravel, it seems necessary to expose very shortly the distinction between this notion and some similar concepts, namely disarmament, denuclearization and neutralization.

First of all, disarmament can have a twofold relation with demilitarization; it can be either the purpose thereof, or a way that demilitarization is being applicated. Usually, disarmament is an imposed condition in demilitarization agreements, since it constitutes a very effective way to reduce drastically the military capacities of a State, in a certain area. The most common characteristics, of a treaty that introduces disarmament obligations, are the qualitative and quantitative restrictions on certain weapons and some sori of monitoring mechanism[70]. So, disarmament is different from demilitarization and it is actually, either the objective purpose of the legal text that introduces this prohibition or the medium for the success of the treaty's purpose. Secondly, denuclearization is a partial form of demilitarization. In a denuclearized area, not every military activity is prohibited, neither every weapon, but just nuclear activities and nuclear weapons. Several denuclearized regimes exist at the time, such as the sui generis regimes of Antarctica, outer space and seabed, that will be analyzed in Chapter 2.

[67] Μανωλόπουλος, Κ., Βαρβιτσιώτης, Χ, Ροζάκης, Χ. (επιμ.), supra note 57, p.18.
[68] Ibid.
[69] This concept was reaffirmed by Article 42(b)(ii) of the International Law Commission Draft on the Responsibility of States for Internationally Wrongful Acts, 2002, mostly known as ARSIWA.
[70] Bederman, D.J, supra note 37, p.121.

Lastly, there is the notion of neutralization, the distinction of it with demilitarization, is more subtle than the above concepts. These two regimes, can either coincide or occur separately. In a nutshell, neutralization refers to a regime governing a certain territory, area or cosmic body and prohibits the use of this sphere as a base for warfare[71]. Some examples of neutralization regimes are the mentioned Aland islands, the zone of the Suez and the Panama canals,[72] as well as the Svalbard archipelago in the Arctic Ocean[73]. The sui generis regimes, of Antarctica, the Moon and the Seabed, which are both demilitarized and neutralized zones.

The goal of a treaty that neutralizes a region, is to exclude this said area from the sphere of military action, due to a specific importance of it. By virtue of such a treaty, the neutralized area can be used for "peaceful purposes only", as many contemporary legal texts dictate. Neutrality, can be either voluntary, deriving either from a unilateral act (e.g. the case of Switzerland) or a bilateral or multilateral treaty (e.g. the case of the Aland islands) or it can be perpetual, like in the case of Germany and Japan after the World War II[74]. On the other hand, demilitarization is an obligation pertaining both peace time and time of warfare[75]. To conclude with, the critical element that distinguishes the notions of demilitarization and neutralization, is the will of the state parties of a Treaty, to eliminate the possibility of a certain region to participate in any way to a belligerent action.

1.2.3 The Multiple Faces of Demilitarization

At this point, it seems necessary to categorize all the aforementioned facets of demilitarization, for a more thorough view of the notion. This distinction, is sightly arbitrary and definitely not exclusive.

Firstly, intertemporally the most predominant form of demilitarization, was the imposition thereof by the victor of a war to the vanquished party. From the demolition of the Athens' Great Walls after the Peloponnesian War, to the complete disarmament of the Axis Powers in the War World II, the underpinnings of this imposed regimes were the same; a punitive or even revengeful will of the victory powers, against the beaten party of the conflict. On the exact opposite, we can detect another type that the notion has expressed by, i.e the voluntary demilitarization. In this category, are included multiple regimes, that derived from the self-selected policy of a State and not under the force of another State. A predominant example is the case of Costa Rica. A third category, includes all the demilitarization regimes that were created by a bilateral, or multilateral agreement, purporting to minimize the interstate tension. Such examples are the Laussane and the Paris Treaty, that will be analyzed in Chapter 3. Lastly, we can also detect a fourth category of demilitarization forms and that is the U.N imposed status of demilitarization. These regimes, are usually taking the form of a safety or a buffer zone and are deeply intertwined with the notion of peacebuilding.

[71] Mamedov, R., supra note 60, p.28.
[72] Ibid.
[73] Kingms, K., Schrijver, N., supra note 42, p.3.
[74] Branka, T., supra note 23, p.190.
[75] Μανωλόπουλος, Κ., Βαρβιτσιώτης, Χ, Ροζάκης, Χ. (επιμ.), supra note 57, p.7.

Chapter 2- Sui Generis Regimes- Public Commons

As it was displayed so far, a demilitarization regime is frequently the product of a bilateral agreement and almost always it is introduced in an area, that falls mostly within the ambit of state sovereignty. However, this chapter will address three interesting demilitarization regimes, pertaining areas beyond state control; Antarctica, outer space and seabed. The above regimes, share some crucial commonalities; they were imposed by a multilateral agreement, regulating an international sphere, which is considered as global commons[76] or a common heritage of mankind, meaning that these spaces cannot be subject to appropriation, of any kind or to any sovereignty claim[77].

2.1 Antarctica

In the late 1950's, despite the Cold War being at its peak, some great initiatives arose, regarding the scientific cooperation between East and West, which was gravely undermined by the political climate of the era. In this framework, the International Geophysical Year (IGY) was inaugurated in July of 1957. In general, 66 States, with more than 60.000 scientists, participated in this project, that eventually lasted until the end of 1958 and constituted an effort of multiple States to increase the level of interchange of scientific knowledge among the international community, irrespectively of politics. The scientific breakthroughs that were achieved through the IGY, the volition of the United States to change its position upon the status of Antarctica[78] and the doctrine of reciprocal deterrence that governed the international relationships of the United States with the Soviet Union, led the 12 nations that had presence in the continent, to serious negotiations, for the conclusion of a treaty. The preparatory works, were fruitful and the Antarctic Treaty was signed by all 12 nations[79] on December 1,1959 and entered into force on June 23,1961[80]. In the decades that followed the Treaty, multiple related agreements were drafted, among both initial and new state-parties, which specified some of its elements and regulated further the spectrum of obligations that each State assumed. The Antarctic Treaty, alongside with these complementary agreements, constitute the Antarctic Treaty System (ATS). As of October 2021, another 17 States have accessed the Treaty, making the signatories 29. In addition, the existence of 25 non-consultative parties reinforces the ATS and adds a sense of universality to its purpose.

The Antarctic Treaty, provided for the demilitarization of the region and the abolition of nuclear weapons in it, rendering Antarctica the only demilitarized continent and the first nuclearized area

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[76] A thorough analysis of the term in: Hardin, G. 1968. The Tragedy of the Commons. Science, Vol. 162, p. 1243-1248 available in: https://www.hendrix.edu/uploadedFiles/Admission/GarrettHardinArticle.pdf.

[77] Full spectrum of the notion in: Joyner, C.C. 1986. Legal Implications of the Concept of the Common Heritage of Mankind. The International and Comparative Law Quarterly, Jan., 1986, Vol. 35, No. 1, p. 190-199, available in: https://www.jstor.org/stable/759101?seq=1#metadata_info_tab_contents.

[78] The US Department of State, reviewed its policy on Antarctica, in the fall of 1957 and it was President Eisenhower, that eventually proposed to the other 11 States, which were active on Antarctica during IGY, the conclusion of a Treaty, that would guarantee the stability and peace in the continent. See: Watt, L. van der. "Antarctica." *Encyclopedia Britannica*, 28 September 2021, available in: https://www.britannica.com/place/Antarctica.

[79] The signatories were: Argentina, Australia, Belgium, Chile, France, Japan, New Zealand, Norway, South Africa, the Soviet Union, the United Kingdom and the USA.

[80] The Antarctic Treaty,1 December, 1959, 402 U.N.T.S. 71.

in the world. More specifically, the demilitarization regime was introduced by Articles I and V, according to which:

"Antarctica shall be used for peaceful purposes only. There shall be prohibited, inter alia, any measures of a military nature, such as the establishment of military bases and fortifications, the carrying out of military maneuvers, as well as the testing of any type of weapons"[81] *and "nuclear explosions in Antarctica and the disposal there of radioactive waste material shall be prohibited"*[82].

The text of the Treaty, connects the special demilitarized status of the area with the freedom of all States to develop their scientific studies. Exactly that was the reason why the presence of military personnel and equipment was allowed, should it concern scientific reasons only[83] and Article III provided for the free exchange of scientists and scientific observations among the signatories. However, it is open for debate, what is the actual threshold for considering a certain research program as a military and not scientific activity and as technology advances, the line gets more and more thinner[84]. It was impossible for the original signatories to predict the technological progress of the last decades, in fields such as intelligence gathering and astrophysics and so, the regulation gap should be filled in the framework of a new contractual initiative.

While, military equipment and personnel is permitted, as long as it serves scientific purposes, the possibility of an analogous exception, regarding the use of nuclear devices for peaceful purposes, e.g. the operation of nuclear plants or the use of nuclear-powered vessels, is still quite controversial. The matter has indeed divided the scholars. On the one hand, a part of the literature, focuses on the mere textual interpretation of the Antarctic Treaty, which only prohibits the *"nuclear explosions"* in the area and according to this rationale, every other use of nuclear energy is permissible[85]. On the other hand, the view that every use of nuclear energy is renounced by the Treaty, which is consonant to an interpretation that derives from the object and purpose of it, i.e. the peace and stability of Antarctica, has been also expressed and does not lack the necessary legal reasoning[86]. It is the author's view, that the argumentation of the former stance is more convincing. In any case, it is noteworthy that the USA fully operated for a decade (1962-1972), a portable nuclear reactor in the McMurdo Base of Antarctica, that was eventually shut off, due to both financial and environmental concerns[87].

Article VII of the Treaty, regulates monitoring and verification of the contracted parties' actions, by creating a nexus of free inspections and exchange of observers, among the signatories. The aforementioned possibility of free visits, covers all the aspects of state presence

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[81] Ibid, in Article I (1).
[82] Ibid, in Article V(1).
[83] Ibid, in Article I (2). USA, New Zealand and Australia have taken advantage of this possibility in the past. See: Bateman, S. 2013. Is Antarctica demilitarized? Available in: https://www.aspistrategist.org.au/is-antarctica-demilitarised.
[84] Ibid.
[85] For example, see: Musto, R.A. 2019. Antarctic Arms Control at 60: A Precedent or a Pole Apart? available in: Antarctic arms control as past precedent | Polar Record | Cambridge Core.
[86] See: Almond, H Jr. 1985. Demilitarization and Arms Control: Antarctica. Case Western Reserve Journal of International Law, Vol. 17, Issue 2, p.254.
[87] See: Nielsen, H.E.F. 2018. Remembering Antarctica's nuclear past with 'Nukey Poo', available in: https://theconversation.com/remembering-antarcticas-nuclear-past-with-nukey-poo-99934.

in the Antarctica, including but not limited to all ships, aircrafts and facilities of each State. This system of checks and balances, is created as an implementation mechanism, founded on the base of mutual deterrence and the principle of cooperation, while aiming at the maintaining of maximum transparency and the effective application of the agreement. As was mentioned earlier, the highly-developed technology in possession of the States with presence in Antarctica, blurs the line between peaceful and military purposes, rendering the verification process a truly Sisyphean task.

This absolute freedom of state observers, is definitely interlinked with the freezing of all sovereignty claims that were raised by multiple of the signatories, before the Treaty's drafting and clearly indicates the shared belief that Antarctica is recognized, as an area open to every State[88]. At this part, it is necessary to stress, that the Treaty is applicable to the territorial limits of Antarctica (south of 60º South Latitude, as per Article VI, including ice selves) and that the high seas are exempted from the application of the Treaty. The high seas, were to be regulated by the United Nations Convention on the Law of the Sea (UNCLOS).

Lastly, Articles X and XI, reiterate the commitment of the parties to both the U.N Charter and the provisions of the Treaty and set forward as dispute settlement options, the described means of Article 33 of U.N Charter and the International Court of Justice, subject to the consent of all dispute parties.

In conclusion, the Antarctic Treaty, regardless of the real motives of the initial parties, constituted a significant initiative of the power States, towards peace and safety, while at the same time was a landmark arms control agreement. Furthermore, it needs to be stressed, that the Antarctica Treaty led the foundation, for the following demilitarization agreements of the outer space and the seabed and operated as "blueprints" for them, A similar plan, for the imposition of a demilitarization regime in the Arctic, though many States rooted for it, was never came to life for reasons that exceed the scope of the present work. Despite the difficulties of monitoring the ATS, the level of Antarctic Treaty's application, should be considered in general terms as satisfactory. The future of Antarctica's demilitarization status, predictably is not going to be moderated substantially, the Treaty of Antarctica, probably will remain in force and its content more or less the same.

2.2 Outer Space

The launching by the Soviet Union, of the first artificial satellite, Sputnik I, on October 4, 1957 (during the International Geophysical Year, that was mentioned earlier), brought a whole new era for the international community in general and triggered the infamous "space race", between the USA and the Soviet Union. It was clear at the time, that whichever of the two powerhouses prevailed at this undeclared war and gained control over space, would have won an advantageous position, not only in the level of prestige, but also on a practical level, in the turbulent framework of the Cold War. This belief, is transparent in the famous quote of United States' Vice President Lyndon Johnson: *"Control of space means control of the world".* It is interesting that, despite the unwavering will of the two rival states to conquer outer space, the term is yet to be officially

[88] Kurosawa, M. 2008. Encyclopedia pf Violence, Peace and Conflict. 2nd Edition, available in: https://www.sciencedirect.com/science/article/pii/B9780123739858000118.

defined, by any legal text[89], while a debate also exists on whether it is actually useful to conclude on the exact limit of outer space[90]. In general terms, as outer space is called the area above the Earth's atmosphere or air space. The fact that state presence in space, was intertwined with the notion of military predominance on Earth, brought up some serious security concerns and in conjunction with the conceptualization of outer space as a "common heritage of mankind"[91], led to the collective conclusion that the maintenance of peace in outer space, was serving the common interest of all States.

Under this spirit, on 5 August, 1963, the Limited Test Ban Treaty was signed[92], that prohibited nuclear weapon test explosions and any other nuclear explosions, in the atmosphere, in outer space or under water and in environments in which detection is possible outside the territorial limits of the state responsible for the explosion. The Treaty, was rapidly ratified by a serious number of States and entered into force on 10 October 1963.Two months later, on 13 December of 1963, the U.N General Assembly, adopted unanimously the Resolution 1962[93], which recognized outer space, as a "province for mankind" and stipulated that the exploration of it, should be carried out in conformity with the U.N Charter and *"in the interest of maintaining international peace and security and promoting international co-operation and understanding".* The U.N General Assembly had already issued, in the fall of the same year, Resolution 1884, which prohibited the stationing of nuclear weapons and weapons of mass destruction in outer space. These two Resolutions, served as a predecessor of the Outer Space Treaty[94], which broadened their scope and opened for signature on 27 January,1967 and entered into force on 10 October, 1967. As of October 2021, 111 States have signed the Treaty, illustrating that the interest on the peaceful status of the outer space is universal.

By virtue of the Treaty, the signatories assumed certain undertakings regarding outer space. Article I of the agreement, reiterated the content of the aforementioned Resolutions, by stating that every activity which takes place in outer space, including the moon and the celestial bodies, should aim to the benefit of all states, since outer space is part of the heritage of mankind. The demilitarization of space, is introduced by Article IV which states that:

"States Parties to the Treaty undertake not to place in orbit around the Earth any objects carrying nuclear weapons or any other kinds of weapons of mass destruction, install such weapons on celestial bodies, or station such weapons in outer space in any other manner.

The Moon and other celestial bodies shall be used by all States Parties to the Treaty exclusively for peaceful purposes. The establishment of military bases, installations and fortifications, the testing of any type of weapons and the conduct of military manoeuvres on celestial bodies shall

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[89] This oddity is also stated by the United Nations Institute for Disarmament Research in its paper: "Prevention of an Arms Race in Outer Space: A Guide to the Discussions in the Conference on Disarmament", UNIDIR 91/79, p8, available in: https://www.unidir.org/files/publications/pdfs/prevention-of-an-arms-race-in-outer-space-a-guide-to-the-discussions-in-the-cd-en-451.pdf.

[90] See: Sullivan, C.D. 1990. The Prevention of an Arms Race in Outer Space: An Emerging Principle of International Law. Temple International and Comparative Law Journal, vol. 4, no. 2, Fall 1990, p. 212.

[91] Hardin,G., supra note 76.

[92] Limited Test Ban Treaty, 5 August 1963, 480 U.N.T.S 43.

[93] Formally known as "Declaration of Legal Principles Governing the Activities of States in the Exploration and use of Outer Space".

[94] Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, 27 January 1967, 610 U.N.T.S 205.

be forbidden. The use of military personnel for scientific research or for any other peaceful purposes shall not be prohibited. The use of any equipment or facility necessary for peaceful exploration of the Moon and other celestial bodies shall also not be prohibited."

There are a lot of points to comment, on this very Article. First of all, we observe a distinction by the two paragraphs, as for the spatial application of the provision and the allowed purposes in space. Paragraph 1 is applicable to outer space, in orbit around Earth and in all celestial bodies, i.e. space lato sensu[95]. In this area, is prohibited only the use of nuclear weapons and weapons of mass destruction. In the category of the weapons of mass destruction, there are certainly included, besides the nuclear weapons, also the chemical, bacteriological and radiological weapons[96]. On the contrary, at least a textual approach of the text, excludes from the prohibition, laser and other directed-energy weapons[97]. More importantly, the ban is not expanded to conventional weapons, creating a significant gap in the demilitarization regulation of space[98]. In addition, it is noted that only the stationing of this type of weapons is renounced and not their testing on Earth, nor the deployment of them on Earth for the purpose of harming space objects[99]. So, we understand that the first paragraph of Article IV, imposes a status of a partial disarmament.

Despite the common belief that the legal status of the outer space, coincides with that of the Moon and the celestial bodies, Paragraph 2 of Article IV, sets a more concrete demilitarization regime regarding the later. However, some loopholes can also be detected in it.

First of all, the provision refers only to the Moon and the celestial bodies, consciously excluding outer space, making another crack to the disarmament prohibitions. So, the spatial spectrum of application is significantly narrower. Furthermore, this second paragraph mentions the purposes of the use of celestial bodies, which should always be peaceful. It is noteworthy that the first paragraph of the Article, lacks of this certain mention, (that is only present in the Preamble), a choice that is not unintentional.

This inconsistency, reflects the history of this exact phrase, that was subjected to different interpretations by the two prominent spacefaring nations; i.e. the United States and the Soviet Union. The United States, chose to interpret the reference to the *"peaceful purposes*" of each space activity, merely as "non-aggressive", rather than "non-military", while the Soviets adopted a view of the term more closely to international law's orthodoxy, considering every military action, as contrary to the obligation of maintaining peace purposes[100]. The United States consistently argued -since the dawn of the space era- that "peaceful" translates in action as "non-aggressive" and since a State refrains from undermining or attaching another State's sovereignty,

[95] Κουλουμπής, Θ., Χατζηκωνσταντίνου, Κ. 1985. Θέματα αφοπλισμού και ελέγχου των εξοπλισμών. 2η εκδ., εκδ. Παρατηρητής, σ.112.
[96] Menon, P.K.1987. Demilitarization of Outer Space. International Journal on World Peace. Vol.4, No2, p.134, available in: https://www.jstor.org/stable/20751127.
[97] Rosas, A. 1983. The militarization of Space and International Law. Journal of Peace Research, Vol. 20, No. 4, p. 358.
[98] Jackson, N.M. The militarization and weaponization of outer space- From playground to battleground: Legal perspectives. (DPhil thesis, University of Technology Sydney, 2007), p.24.
[99] Ibid.
[100] Charles, A. 2012. Demilitarization of Outer Space; Between "Non-Military and Non-Aggressive", p.2. Available in: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2124338.

the threshold of "peacefulness", is met[101]. This doctrinal approach was chosen strategically, in order to gain legality for its reconnaissance satellites, while at the same time dishearten the deployment of other State's military presence, that could harm its activities. On the other hand, the Soviets identify "peaceful" as "non-military", basing their stance to the aforementioned Antarctic Treaty and to the Treaty on the Non- Proliferation of Nuclear Weapons[102], which included identical references to *"peaceful use"* and were interpreted by the parties as an obligation of abstaining from military actions[103]. Complementarily, the Soviets, argued that Article 33 of the UN Charter, mentions the peaceful methods for solving an international dispute, which are not linked with the use of arms. Lastly, the divergence on the meaning of peaceful uses of outer space, indicate that probably the parties are allowed to resort to self-defense, even collectively, by virtue of general international law[104].

As was the case with the Antarctic Treaty, the Treaty for the Outer Space also provides for a system of free inspections observance of the other State's and that no State can express sovereignty claims[105]. In the same vein, it promotes the cooperation of states in the scientific field as well as peace and security.

The international community, purported to fill the regulatory gap of the Outer Space Treaty, with the conclusion of a new legal text, some years later. More specifically, on 18 December 1979, opened for signature, what was known later as the Moon Agreement[106], which entered into force on 11 July, 1984. This agreement, focuses only to the Moon and the other celestial bodies and reaffirms the provisions of the Outer Space Treaty (prohibition of nuclear and mass destruction weapons, of military installations and fortifications, of weapons testing etc.[107]). The Moon Treaty, just managed to shed some light, on the prohibited activities in the Moon's orbit or trajectory, but failed to enlarge substantially the spectrum of demilitarization to conventional weapons, or to clarify the obscure meaning of *"peaceful purposes",* that was used in the exact same manner. But, the little to none significance of the Treaty, mostly derives from the fact that it has not been signed, until today, by the most notable spacefaring nations (the United States, Russia and China). As of October 2021, 21 States have signed the Moon Treaty[108].

In conclusion, the legal texts that cover the use of space, provide for two demilitarization regimes; one partial for space lato sensu and one more strict regarding the Moon and the celestial bodies. This divergence, was caused by the inconsistent use of the word "outer space" and the lack of unwavering will of the spacefaring nations of the era. Another clear deficiency, is the obscurity that covers the reference to the *"peaceful uses"* of space, that allowed the parties to

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[101] Ibid.
[102] Treaty of the Non-Proliferation of Nuclear Weapons, 5 March 1970, 769 U.N.T.S 161.
[103] For some scholars, the interpretation of the term *"peaceful use(s)",* that is contained in the Antarctica Treaty, should be applied mutatis mutandis, to the same term of the Moon Treaty. See: Cheng, B. 1983. The legal status of Outer space and relevant issues: Delimitation of Outer space and definition of peaceful uses. Journal of Space Law, Vol.11, No.1, p.102, also mentioned in: Χατζηκωνσταντίνου, Κ. 1986. Ο εξοπλισμός του διαστήματος. Εκδ. Παρατηρητής, σελ.58.
[104] Article III of the Treaty, expressly refers to the U.N Charter, so Article 51 of it, stands as a reasonable possibility.
[105] Articles X-XIII and Article II of the Outer Space Treaty respectively.
[106] Agreement Governing the Activities of States on the Moon and Other Celestial Bodies, 18 December 1979, 1363 UNTS 21.
[107] Ibid, in Article III.
[108] https://www.nti.org/education-center/treaties-and-regimes/agreement-governing-activities-states-moon-and-other-celestial-bodies-moon-agreement/.

interpret the term, in a way that can harm the very core of the agreement. Letting all these disadvantages aside, the parties have generally abided to the Outer Space Treaty, but the rapid development of space technology, as well as the distribution of it to more powers, mandates the drafting of a new treaty, that could heal the mentioned weaknesses and set the pace for the true peaceful space exploration in the 21st century.

2.3 Seabed

As it happened with outer space and partially with the Antarctica case, the continuing improvement of technological means, amplified the interest of the international community to the unexplored area of seabed. The vast recourses within the seabed, alongside with the multiplicity of strategic goals that could be achieved by the use of this area, made clear the need for regulation, especially after the impact of the aforementioned Treaties on the Antarctica and the outer space. Part of this necessary regulatory effort, had to be the matter of the military uses of seabed, (either in the form of military activities, or the stationing of weapons to it). It is true that the issue was never addressed officially and all States were dealing with it, only under the customary rules of Law of the Sea, i.e. the freedom of high seas, the state sovereignty over territorial sea etc.[109]. The Geneva Conventions of 1958, codified for the first time some of the notions that consist the Law of the Sea and most importantly, the continental shelf, which is defined as:

"…the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 meters or, beyond that limit, to where the depth of the super adjacent waters admits of the exploitation of the natural resources of the said areas."[110]

The problem with this provision was the technology-dependent character of the definition, because the powerful States were tempted - under the cloak of legality- to gain control over the unclaimed territory and appropriate the seabed to their national jurisdiction[111]. The international community, was facing a situation similar to that it was created a few years back with the major spacefaring states, being in the verge of developing space weapons[112]. So, the solution to this problematic, was again to be found in the form of a treaty with an analogous content to the Outer Space Treaty. This time, the series of events that led to the drafting of the necessary disarmament treaty, were not triggered by a powerful state, nor a nation with great nautical tradition, but from the delegate of the small state of Malta. Malta's Ambassador in the USA, Arvid Pardo, proposed to the U.N Secretary General in August 1967 the establishing of an ad hoc Committee for the purpose of guaranteeing the reserve of the seabed for peaceful use, aiming that: *". the exploration and use of the seabed and the ocean floor should be conducted in accordance with the principles and purposes of the Charter of the United Nations, in the interests of maintaining international peace and security and for the benefit of all mankind"*[113].

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[109] Treves, T. 1980. Military Installations, Structures, and Devices on the Seabed. The American Journal of International Law, Vol.74, No.4, P.811.
[110] Article 67 of the Geneva Convention on the Continental Shelf, 10 June 1964, 499 U.N.T.S 311.
[111] Barry. J.A.Jr. 1972. The Seabed Arms Control Issue 1967-1971, A Superpower Symbiosis? Naval War College Review, Vol 25, No 2, p.89.
[112] Ibid.
[113] United Nations, General Assembly, Annual Report of the Secretary General, Official Records,23rd sess., suppr.1 (A/7201), p. 10-39.

The Committee not only was formed, but the following year was granted a status of permanence and it was assigned to it, the matter of seabed's disarmament, that was previously within the competence of the Conference of the Committee on Disarmament (CCD)[114]. Chairmen of the Committee, were the leading powers of the United States and the Soviet Union and quickly came up with their own draft for the upcoming Treaty. The Soviet Union, proposed the complete demilitarization of the seabed beyond 12 miles and that each State reciprocally could develop installations in the seabed. Once again, the United States' proposal was towards milder regulation and contained a prohibition for only nuclear and mass destruction weapons on the seabed beyond 3 miles. The true subject of debate, that was not openly discussed, was the fate of the submarine surveillance systems. The United States, considered them indispensable for its defense and the Soviets desired their complete ban, through prohibiting each and every military use of the seabed.

The drafting process of the Seabed Treaty, was in need of a way more delicate handling than the Antarctica and the Outer Space Treaty, because the parties with an active presence in seabed, were a lot more than in the other agreements. It was harder to reach a consensus, on the matter of the seabed's legal status, since it affected the majority of States and not just 12 States, as was the case of the Antarctica, or the few spacefaring nations, in the case of the Moon Treaty. What's more, this Treaty had to balance not only peace and security concerns, but also concerns on the constraint of freedom of navigation. The two powerhouses, after two years of negotiations and under the influence of multiple state proposals, reached the final draft, that was introduced for voting in the U.N General Assembly, on December 7,1970. 104 States approved the Treaty[115], only 2 States disapproved (Peru and El Salvador used the voting as a platform for declaring their position on the Exclusive Economic Zone) and 2 States absented (Ecuador and France)[116]. The agreement entered into force on 18 May, 1972.

Article I, displayed the primary obligation of the parties and that is not to "*emplant or emplace on the seabed… any nuclear weapons or any other types of weapons of mass destruction as well as structures, launching installations or any other facilities specifically designed for storing, testing or using such weapons.*". As a limit for the sea-bed zone, is set by Article 12, the area beyond 12 miles from the coast, a distance that should be measured in accordance with the provisions of the 1958 Convention on the Territorial Sea and the Contiguous Zone. Evidently, the reference to this Treaty was a risk, since many of the states hadn't signed it yet. Despite 12 miles, coincided with the outer limit of the contiguous zone, which after the conclusion of the UNCLOS moved even further to 24 nm., universally accepted is the restricted view, under which the prohibition of nuclear activities is applicable until 12 and not 24 nm[117], an interpretation that operates in favor of international law's stability.

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[114] CCD was the enlarged version of a previous international body, the Geneva-based Eighteen-Nation Disarmament Committee (ENDC). See more at: Sullivan, M. J. 1975. Conference at the Crossroads: Future Prospects for the Conference of the Committee on Disarmament. International Organization, 29(2), 393–413. Available in: www.jstor.org/stable/2706361.

[115] Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed and the Ocean Floor and in the Subsoil Thereof, 7 December 1970, 955 U.N.T.S 115.

[116] France strongly supported the solution of the complete demilitarization of seabed. See Young, E. 1971. To Guard the Sea. Foreign Affairs, Vol.50, No.1, p. 146, available in: http://www.jstor.org/stable/20037893. Until today France, has not accessed the Treaty.

[117] Λιάκουρας, Π. 2002. Διεθνές Δίκαιο και Χρήση των θαλασσίων βυθών για Στρατιωτικούς Σκοπούς. Εκδ. Σάκκουλας, σ.142.

Several comment points arise from the first two Articles. On the level of international relations, is obvious the compromise of the two main powers; the Soviet Union manage to secure the 12-miles limit, while the United States prevented the complete abolition of military actions on the seabed. On the legal level, it is obvious that the imposed demilitarization regime, was quite weak. Firstly, a stricto sensu approach of the text, may reasonably lead to the conclusion that any coastal State could implant nuclear weapons in the seabed of its territorial zone or in any case until 12 miles from its coast[118]. Moreover, the temporarily stationing of any nuclear installation or object, e.g. nuclear submarines or nuclear reactors for the support of them, is permissible, since the parties only prohibited the *emplatment or emplacement of nuclear installations and chose to consider submarines as ships, ever if there are anchoring on the seabed*[119]. *So, a nuclear installation is only prohibited, if it depends on the seabed for its functionality.*[120]

Article III provides for the verification system of the parties' obligations. Just like the Antarctic and the Outer Space Treaty, an observance mechanism is instituted, open for use to each party. Specifically, every signatory has by virtue of Article III the right to control the application of its provisions, by investigating activities committed in the seabed beyond the 12 miles limit from the cost. If the "*reasonable doubts"* of the suspicious State remain, after the investigation, then the following steps include the consultation between the two parties and then the conclusion of a solution through the cooperativeness of all the signatories[*121*]. If the nexus of inspections (para I), consultation (para 2), cooperativeness (para 3) and inquires (para 4), does not show results, then the matter of the Treaty's execution, could be brought up to the U.N Security Council[*122*].

Though the Treaty, set forth, by virtue of Article VII a reevaluation system, no significant amendments were committed in the following conventions that took place in Geneva in the years 1983,1989 and 1996.

To conclude with the Seabed Treaty, the introduced demilitarization regime didn't contain some bold regulation, as the proposal of the complete disarmament and abolition of military uses was rejected. Moreover, the observance mechanism was very costly, perplex and quite dysfunctional. However, the application of the Treaty is reasonably considered as satisfactory

Conclusion

In general, the three extraterritorial demilitarization regimes that were exposed above, despite their deficiencies and the sometimes -milder than necessary- regulatory framework that they introduced, they remain relevant and in effect. The multilateral character of the pertinent Treaties, functioned as a guarantee for its application and gave an essence of universality to the demilitarization cause. Evidently, the international community, has to assume once again some bold initiatives, in order to renew the said Treaties, or conclude a new one, under the scope of the 21th century's reality.

[118] Supra note 95, p.155.
[119] Dore, I. 1984. International Law and the Superpowers: Normative Order in a Divided World, Rutgers University Press, p.98.
[120] Supra note 117, p.143-144.
[121] Supra note 115, in Article III (2).
[122] Ibid, in Article III (4).

Chapter 3- An analysis of the Greek Case

This Chapter purports to display all the aspects of the legal debate, regarding the demilitarization of the Aegean islands, starting with the pertinent legal texts and following with the argumentation of both Turkey and Greece.

3.1 Legal Framework

Because the debate regarding the demilitarization of the Greek islands, mostly derives from the interpretation of the pertinent treaties, is of utmost importance to expose at this section, the legal texts that govern the demilitarization status thereof.

The Treaty of London, May 30, 1913[123]

By this agreement, which marked the end of the First Balkan War, the Ottoman Empire, ceded the island of Crete to Greece. Also, Article 5 of the London agreement, conferred upon the "Great Powers" of the era (the Great Britanie, France, Austria-Hungary, Italy and Russia) the right to decide upon the fate of the islands of Eastern Aegean, which were at the time, under the control of Greece. The concession of this right, regarded the following islands: Lemnos, Samothrace, Lesvos (Mytilene), Chios, Samos and Ikaria.

The Decision of the Six Powers, November 14, 1913[124]

The 1914 joint Decision of the "Great Powers", referred to said Article 5 of the London Treaty and reiterated the content of the Treaty of Athens; a Greco-Turkish agreement pertaining territorial matters, that arose from the First Balkan War and by this it reinforced its validity. As for the Northeastern Aegean Islands, both the Treaty and the Decision, stated that Greece would retain possession to all of them, except for Imbros (Gokceada) and Tenedos (Bozcaada). At the same time, the island of Castellorizo (Meis), that is an integral part of the Dodecanese islands, was ceded to Turkey, despite being at the time under the Greek control. The transition of these islands to Greece, was burdened with the obligation not to fortify the ceded islands or use them for any military or naval purpose. It is necessary to mention that Greece, was also forced to withdraw its troops from Northern Epirus and the islet of Saseno (off the southwest coast of Albania), an action that was interlinked with gaining sovereignty over the islands[125]. The later terms, disappointed the Greek side, but finally Greece formally accepted the Decision on 21 February,1914[126]. We should note that Turkey, as the vanquished party of the First Balkan War, did not participate in the preparatory works of the Decision and also issued a Note on 16 February, (one day after the Decision was communicated to it), which had an ambiguous content. That's because Turkey, being disappointed on the Decision's content and the subsequent loss of the Northern Aegean Islands, consciously chose neither to accept nor reject the mentioned Decision[127].

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[123] 107 British and Foreign State Papers, p.856, available in: https://babel.hathitrust.org/cgi/pt?id=mdp.35112103946325&view=1up&seq=718&q1=656. The Treaty was communicated to Greece on February 13, 1914 and thereafter is mostly known in literature as "The 1914 Decision".
[124] Ibid p.893.
[125] Syrigos, A.1998. The Status of the Aegean Sea According to International Law. Sakkoulas/Brulyant, p.426.
[126] Οικονομίδης, Κ.Π. 1998. Θέματα Διεθνούς Δικαίου και Ελληνική Εξωτερική Πολιτική. Εκδ. Σάκκουλας, σελ. 104.
[127] Bölükbaşı, D. 2004. Turkey and Greece, the Aegean Disputes: A unique case in International Law. Gavendisz Publishing, p. 667.

Treaty of Peace Signed at Lausanne, July 24, 1923[128]

The Peace Treaty of Lausanne, was the outcome of the Lausanne Conference of 1922-23 and confirmed the territorial status that was imposed by the Treaty of London and the Decision of the "Great Powers". The Treaty, is considered to be the constituent instrument of Turkey's statehood[129]. The pertinent provision for the sovereignty matters in Northern Aegean is Article 12, which is quoted below:

"The decision taken on the 13th February, 1914, by the Conference of London, in virtue of Articles 5 of the Treaty of London of the 17th-30th May, 1913, and 15 of the Treaty of Athens of the 1st-14th November, 1913, which decision was communicated to the Greek Government on the 13th February, 1914, regarding the sovereignty of Greece over the islands of the Eastern Mediterranean, other than the islands of Imbros, Tenedos and Rabbit Islands, particularly the islands of Lemnos, Samothrace, Mytilene, Chios, Samos and Nikaria, is confirmed, subject to the provisions of the present Treaty respecting the islands placed under the sovereignty of Italy which form the subject of Article 15. Except where a provision to the contrary is contained in the present Treaty, the islands situated at less than three miles from the Asiatic coast remain under Turkish sovereignty."

Article 12, explicitly stressed that Turkey would enjoy full sovereignty over Imbros, Tenedos and the Rabbit Islands (Lagouses), as well as to each and every islet located within 3 miles from Turkish coasts.

Likewise, by virtue of the same Article, Greece gained sovereignty over the islands of the Eastern Aegean (Lemnos, Samothrace, Lesvos, Chios, Samos, Ikaria), that were under its control since the Balkan Wars. The reference of Article 12 to the Six Powers' Decision of 1914 is of great importance because the argumentation of both States, regarding the obligation of demilitarization of the Aegean islands, is partly focused around this reference, as it would be displayed below. In addition, Article 15 covers the matter of sovereignty of the Dodecanese Islands. Turkey ceded 14 islands and "the islets dependent thereon" to Italy, including Castellorizo. As regards to the demilitarization regime of the Greek islands, the relevant provision is found in Article 13, which explicitly forbids the militarization of Lesvos, Chios, Samos and Ikaria, in the way that the following text indicates:

"With a view to ensuring the maintenance of peace, the Greek Government undertakes to observe the following restrictions in the islands of Mytilene, Chios, Samos and Nikaria:

(I) No naval base and no fortification will be established in the said islands.

(2) Greek military aircraft will be forbidden to fly over the territory of the Anatolian coast. Reciprocally, the Turkish Government will forbid their military aircraft to fly over the said islands.

(3) The Greek military forces in the said islands will be limited to the normal contingent called up for military service, which can be trained on the spot, as well as to a force of gendarmerie and police in proportion to the force of gendarmerie and police existing in the whole of the Greek territory".

[128] Treaty of Peace and Exchange of War Prisoners with Turkey, 24 July 1924.
[129] Συρίγος, Α. 2018. Ελληνοτουρκικές Σχέσεις. Εκδ. Πατάκης, σελ. 65.

As the above Article indicates, the demilitarization regime that was enforced upon the islands of the Central Aegean was not of complete nature. Despite, the introduction of a nexus of extensive prohibitions, Greece was not obliged to strip completely these islands from its military presence, as it was allowed to maintain some reasonable powers for its internal peace and order.

The Convention Relating to the Regime of the Straits, Lausanne, July 24, 1923[130]

This Convention was signed at the same time and place, as the Peace Treaty and it is reasonably considered an integral part it. Article 143 of the Peace Treaty, even requires each party to ratify by the same instrument, both the Treaty and the other instruments, that were attached to it. Article 4 of this interlinked agreement, established the demilitarized status of the islands of Lemnos and Samothrace, alongside with Imbros, Tenedos and the Rabbit Islands. The exact nature of the regime was displayed in Article 6, according to which:

"…there shall exist, in the demilitarized zones and islands, no fortifications, no permanent artillery organizations, no submarine engines of war other than submarine vessels, no military aerial organization, and no naval base. No armed forces shall be stationed in the demilitarized zones and islands except the police and gendarmerie forces necessary for the maintenance of order".

This Article, introduced a demilitarization regime, which it contained some very extensive obligations, but also conferred to the two riparian States some minor freedoms, as Greece and Turkey were entitled by Article 6 (7) to *"organize in the said zones and islands… any system of observations and communication"*. In the same context, Greece was given the right to *"send her fleet into the territorial waters of the demilitarized islands".* However, the minor degree of these concessions, cannot overthrow the character of the imposed demilitarization regime, as a complete one[131].

Article 18 of the Treaty, sheds some light to the object and purpose of the agreement, by referring to the will of the contracting parties *"to secure that the demilitarization of the Straits… shall not constitute an unjustifiable danger to the military security of Turkey, and that no action of war should imperil the freedom of the Straits or the safety of the demilitarized zones".* This provision, denotes that the main goal of the Lausanne Treaty, was to ensure both the security of Turkey and the freedom of navigation to the Straits, triggering a vigorous debate between the neighboring States, that will be exposed in detail below.

The same Article, also provided for some further guarantees regarding the protected notions of security and freedom of navigation, stressing that every act which violates these principles, would be tackled by the signatories and "*in any case [by] France, Great Britain, Italy and Japan*", which are the nations empowered to act against this violation and also to refer this matter to the League of Nations[132]. This collective security clause -robust as it may seemed at first- was to fade away the following years, along with the authoritative status of the League of Nations, clearing the way for a new contractual effort, regarding the Straits.

Clearly, the Lausanne Treaty as a whole, finalized the territorial settlement of the Northern Aegean and specified the demilitarization conditions encapsulated within the Six Powers'

[130] Laussane Convention regarding the regime of the Straits, 24 July 1923. 28 L.N.T.S 21-23.
[131] Μανωλόπουλος, Κ., Βαρβιτσιώτης, Χ, Ροζάκης, Χ. (επιμ), supra note 57, σελ. 86.
[132] Supra note 130, Article 18 (2).

Decision of 1914. As this demilitarization regime was enshrined by the Lausanne agreements, a distinction became tangible; the Northern Aegean islands are categorized in two groups, each of one governed by a demilitarization status of different intensity. The islands that are located in the mouth of the Straits of Dardanelles, namely Lemnos and Samothrace were burdened with more restrictions, than the islands of the Central Aegean (Samos, Chios, Lesvos, Ikaria).

The Montreux Convention of 1936[133]

The legal text that has caused the biggest debate between the two States, is the Montreux Convention, which was designed to regulate and reform the regime that governs transit through the Straits[134]. The Treaty, that was signed on 22 June of 1936, renewed the legal status of the region and established a completely new regime[135]. According to the Preamble, the Parties *"resolved to replace… the Convention signed at Lausanne on the 24th of July 1923".*[136] Each side of the dispute, has adopted a different narrative regarding the exact nature of the Montreux Convention and the critical fact of whether it substituted or not the Lausanne Treaty.

The major stipulations of the Lausanne Treaty for the Straits, was the policy of extensive demilitarization of the adjacent islands (falling under both Greek and Turkish sovereignty), the presence in the area of the International Straits Commission (ISC), under the auspices of the League of the Nations and the institution of safety guarantees, by some of the Great Powers (France, Great Britain, Italy and Japan). On 10 April, 1936, Turkey took advantage of its growing power and the steady decline of League of Nations' influence and officially proposed the amendment of the Lausanne regime, with the conclusion of a new agreement. Turkey's momentum resulted in the signing of the Montreux Convention on 20 July,1936, which abolished the three axes of the existing legal status; demilitarization, International Straits Commission and the guarantees of the allied powers. The agreement really set forth a new reality for the Straits, establishing the freedom of navigation, which was the only element of the Lausanne Treaty, that not only remained relevant, but it was actually reinforced. The navigational freedom of the Straits was absolute for the commercial vessels and under complex restrictions for the warships. To sum up, the Montreux Convention, terminated the Lausanne status of the Straits, as it was comprised by the demilitarization prohibitions, the international control mechanism and the collective security guarantees and instead it put forth the element of navigational freedom.

The various opinions, that have been expressed officially by the two States and also on an academic level, will be discussed in detail below.

The Paris Peace Treaty February 10, 1947[137]

Greece was signatory of this Treaty, alongside with the victorious powers of World War II, while Turkey was not, due to the ambiguous position that kept during the war. By virtue of Article 14 (1) of the Treaty, Italy ceded to Greece the *"full sovereignty"* over the 14 major islands of the

[133] The Montreax Convention regarding the regime of the Straits, 20 July, 1936. 173 L.N.T.S 215.
[134] According to the Preamble, the term *"Straits"* contains the area that includes: *"the Straits of the Dardanelles, the Sea of Marmara and the Bosporus"*. Ibid, Para. 1 of the Preamble.
[135] For the historic transformation of the Straits legal regime, see: Rozakis, Ch., Stagos, P., 1987. The Turkish Straits. Martinus Nijhoff Publishers.
[136] Supra note 133, Para. 2 of the Preamble.
[137] Supra note 39.

Dodecanese complex, *"as well as the adjacent islands".* According to Article 14 (2) of the Treaty, these islands *"shall be and shall remain demilitarized"* and the scope and modalities of the notion were stipulated in Annex XIII (D), as follows:

"For purposes of the present Treaty, the terms "demilitarization" and "demilitarized" shall be deemed to prohibit, in the territory and territorial waters concerned, all naval, military and military air installations, fortifications and their armaments; artificial military, naval and air obstacles; the basing or the permanent or temporary stationing of military, naval and military air units; military training in any form; and the production of war material. This does not prohibit internal security personnel restricted in number to meeting tasks of an internal character and equipped with weapons which can be carried and operated by one person, and the necessary military training of such personnel".

Undeniably, the demilitarization regime that was attached to the Dodecanese islands, was very strict and unambiguous, but the matter of the continuance of its applicability is more perplex and will be discussed in a following section.

3.2 Demilitarization of Lemnos and Samothrace

3.2.1 Argumentation of Turkey

Turkey's stance, on the demilitarization status of the Aegean islands that are nearest to the Straits, is derived from a combined interpretation of the pertinent Lausanne Treaty's provisions, the 1914 Decision, as long as with an interpretation of the nature of the Montreux Convention and the after-Treaty behavior of Greece.

First of all, Turkey maintains the position that all the Lausanne provisions regarding demilitarization (Article 12 of the Peace Treaty and Articles 4 and 6 of the Straits Treaty), are definitely in force and the application of the Treaty, wasn't moderated at all, by the conclusion of the Montreux Convention.

More specifically, Turkey's expressed view is that the mentioned Article 12 of the Peace Treaty, regulated not only the sovereignty status of the Aegean islands, as Greece argues, but also the imposed condition of demilitarization. The coexistence of Articles 12 and 13 of the Peace Treaty, is explained by Turkey on the basis that these provisions establish regimes with a different degree of demilitarization (milder for the Central Aegean and stricter for the Northeastern) and not because the former Article refers only to the sovereignty status of the islands and the latter only to the demilitarization thereof[138]. This argument, is complemented by a wide interpretation of the disputed term "sovereignty", that is included in Article 12, in a way that contains also the notion of jurisdiction and control of an area, setting aside the mere "territorial sense" of sovereignty[139]. In other words, the phrase *"regarding the sovereignty of Greece"*, is interpreted by Turkey very loosely, considering that the notion of sovereignty, has not only a territorial impact, but also includes all the obligations assumed by the sovereign State. Bölükbaşi and Pazarci argue, that Article 12 of the Peace Treaty, refers to and at the same time specifies the whole Decision of 1914, that ceded these islands to Greece, under the obligation to remain demilitarized and thus it

[138] Pazarci, H. Το καθεστώς αποσταθεροποίησης των νησιών του Ανατολικού Αιγαίου-Οικονομίδης, Κ.Π. 1989. Το καθεστώς αποστρατικοποίησης των Νησιών του Ανατολικού Αιγαίου. Εκδ. Γνώση, σελ. 154.
[139] Bölükbaşı, D., supra note 127, p. 673.

transformed the content of Greece's jurisdiction over the attributed Aegean islands[140]. So, the demilitarization restrictions that were established by the Lausanne Treaty, are considered an inherent part of Greece's sovereignty.

Turkey projects this argument, even to the point of asserting that a violation of the demilitarization regime, even raises questions as for the sovereignty status of the Aegean islands. The Turkish Ministry of Foreign Affairs, officially states that: *"there is a direct linkage between the possession of sovereignty over those islands and their demilitarized status*[141]". This position, is also expressed in the Turkish literature in the following form: since the demilitarization of these islands constituted a substantive precondition of their cession to Greece and Turkey's consent to the 1914 decision was based on that, the remilitarization of the Straits' region, obscures Greece's sovereignty over the islands. In other words, the sovereignty of Greece over the islands was restricted at the exact moment that it was established[142].

Moreover, Turkey asserts that even if the Lausanne regime is abolished, then the obligation of Greece not to demilitarize its Northern islands, is still in effect through the Six Powers' Decision of 1914[143]. Turkey declares that the said Decision, not only maintains its legal validity, but also moves into further claiming that through the Decision, Greece is also obliged to retain as demilitarized, the rest of the islands whose control was gained under this Decision, i.e Agios Efstratios, Thasos and Psara[144].

The argumentation of Turkey, regarding the continuing application of the Lausanne demilitarization prohibitions, is also based on the fact that no express reference to the islands of Lemnos and Samothrace is contained to the Montreux Convention. Under this view, the signatories of the new Straits agreement, consciously excluded a possible mention to the Northeastern Aegean islands, concerning the annulment of the Lausanne prohibitions, because their intention was to allow only the remilitarization of Turkey. It is a fact that there is no specific mention to Lemnos and Samothrace throughout the agreed text[145]. This is the reason why, the remilitarization of the Turkish Straits was allowed to be applied provisionally, as from 15 August, 1936, despite the Treaty entering into force on November 9, 1936. The said allowance of provisional application was granted by the additional Protocol, that was attached to the Montreux legal text and entered into force on 20 July, 1936, which stressed the following:

"Turkey may immediately remilitarize the zone of the Straits as defined in the Preamble to the said Convention.

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[140] Pazarci, H., Οικονομίδης, K., supra note 138 p. 39.
[141] Available in: https://www.mfa.gov.tr/militarization-of-eastern-aegean-islands-contrary-tp-the-provisions-of-international-agreements.en.mfa.
[142] See: Toluner, S. 1987. The pretended Right to Remilitarize the Island of Lemnos does not Exist. University of Istanbul. The connection between demilitarization and sovereignty is also present in: Yüksel, İ.-Yücel A. The Aegean Disputes. p.11. available in: http://foreignpolicy.org.tr/documents/251202.pdf.
[143] Tulun Ertugrul. T. 2020. Consequences of the Material Breach of the Laussane Peace Treaty. Central for Eurasian Studies, Analysis 28/2020, available in: https://avim.org.tr/en/Analiz/CONSEQUENCES-OF-MATERIAL-BREACH-OF-THE-LAUSANNE-PEACE-TREATY.
[144] Pazarci, H., Οικονομίδης, K., Supra note 138 p. 39.
[145] Ibid, in p. 66.

As from the 15th August, 1936, the Turkish Government shall provisionally apply the regime specified in the said Convention."

So, to sum up this twofold legal assertion; Turkey has adopted a restrictive textual approach of the Treaty and specifically the phrase *"resolved to replace"*, according to which the Montreux Convention, does not substitute its predecessor Lausanne Treaty, as for the demilitarization status of the Northeastern Aegean islands. At any case, the Lausanne regime is considered intact and in full effect, while Greece by deploying military forces to Lemnos and Samothrace, violates the very core of its sovereignty powers, which are derived from the 1914 Six Powers' Decision.

The second category of Turkey's arguments, moves beyond the textual interpretation of the germane texts and focuses around the object and purpose of them, also using in this effort the preparatory works of the said Convention.

As was mentioned above, the Greek islands that are located in the mouth of the Dardanelles, were submitted to a stricter demilitarization regime, due to the security concerns of Turkey. These concerns, were based not only to the imminent proximity (proximité imminente) of them to Turkey's coasts, but also to the recent memories of the 1922 Greco-Turkish War[146]. Turkey's safety concerns, were reflected to the claims it possessed at the Lausanne's Treaty drafting process, regarding gaining sovereignty over Samothrace, for preventing any use of the island by Greeks, as a base for future aggressive activities[147]. The conclusion of the Montreux Treaty, according to the Turkish side, altered the demilitarization regime, insofar it concerned only Imbros, Tenedos and the Rabbit Islands, while maintained the prohibitions for Lemnos and Samothrace. Turkey suggests that the validity of the interpretation above, is proved by the clear goal of the Montreux Convention; guaranteeing Turkey's safety and security[148].

Turkey is convinced that the mere -or at least the major- object of the Montreax Convention was safeguarding its own security, a fact obvious by both the text and the preparatory works of the Treaty. First of all, the notion of Turkish security is displayed -both explicitly and implicitly- multiple times in the agreement. Right from the start, Treaty's Preamble refers to *"the framework of Turkish security",* while another pertinent example is detected in Article 6 and the implied notion that Turkey's safety regulates the way that the agreement is applicated[149].

Moreover, travaux preaparatoire are denoting the purpose of the Draft. Even before the commencement of the proceedings for the new Straits Treaty, Turkey had promoted the reversion of the Lausanne status, based exactly on concerns for its safety. This intention is clear at a Note Verbale that was sent to the League of Nations on 10 March,1936 and according to which Turkey accepted the Lausanne demilitarization status, only because the Treaty also provided for the Great Powers' safety guarantees, but since the guarantees cannot longer protect Turkey effectively, a new Treaty must be concluded[150]. The answer of Great Britain and the Soviet Union to this Note, were also reiterating the fact that the upcoming Convention would regard the matters of safety and security in the Dardanelles[151].

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[146] Bölükbaşı, D., supra note 127, p. 675.
[147] Van Dyke, J.M.,supra note 43, p.74.
[148] Aksu, F. Preservation of Demilitarized Status of the Aegean Islands for the National Security of Turkey, p.121, available in: https://tdpkrizleri.org/images/pdfmakaleler/FAKSU.pdf.
[149] "Should Turkey consider herself to be threatened… the vessels must enter the Straits by day".
[150] Pazarci, H., Οικονομίδης, K., supra note 138, p.73.
[151] Ibid, p.74.

Turkey, complementarily suggests that the annulment of the collective security guarantees, by the Straits Convention, that were given to Turkey by virtue of Article 18 (2) of the Lausanne Straits Treaty, highlights its vulnerable position and the need for protection and because the system of guarantees was lifted, the only way for the peace and safety to be maintained in the area, is the application of the demilitarization Laussane provisions.

This argument of Turkey, has one more crucial connotation. Since the purpose of Montreax was to safeguard Turkey's security, then the vicinity of the Greek islands to its coasts, renders them as an always existing threat and thus, the object and purpose of the Montreax Treaty could only be fulfilled, only if they remain demilitarized for an indefinite period of time. This way, the notion of Greece's sovereignty over the islands, is connected one more time with the obligation of demilitarization; the permanent character of sovereignty, entails the permanence of the demilitarization prohibitions[152].

So, according to Turkey, the Montreax Treaty's object and purpose was to secure its safety and subsequently the demilitarization provisions of Lausanne, regarding Lemnos and Samothrace were meant to be upheld by the signatories, as the preparatory works indicate. Since the military presence in these islands, would always consist a threat to Turkey's safety and security, the condition of demilitarization would be in effect, as long as Greece retains the sovereignty over the Northeastern Aegean's islands.

Lastly, Turkey suggests that Greece also perceived that the demilitarization obligation was still in effect, since it only started to militarize its islands in the 1960's, decades after the Montreax Treaty conclusion. This inaction of the Greek side, is construed by Turkey as an indirect acceptance of the Laussane Treaty's provisions regarding demilitarization.

3.2.2 Argumentation of Greece

The legal narrative that has been adopted by Greece, is consisted by arguments of two types; those that concern the textual interpretation of the Lausanne and Montreax provisions and those that are centered around the object and purpose of the legal texts, as long with the behavior of the two parties after the conclusion of the agreements.

According to the Greek side, the Montreax Treaty's provisions are not obscure at all, as for the fate of the Lausanne legal status. The parties expressed in the Preamble of the Convention that they *"resolved to replace"* the Lausanne Treaty[153]. So, it is stated, in the more unambiguous way possible, that the established Lausanne regime is annulled by the new Treaty, a legal stance that aligns with the interpretational mechanism of the Articles 31-33 of the Vienna Convention for the Law of Treaties, since the ordinary meaning of the phrase *"resolved to replace"*, is that the former Treaty has been abolished[154]. Once this fact becomes clear, then we can understand that the lack of any reference within the Montreax Treaty on the Northeastern Aegean islands and the specific abolishment of their demilitarization status, is absolutely reasonable and normal. Indeed, it would be abnormal -and in fact unprecedented- for a Treaty to mention explicitly, each and every one of the abrogated regulations of a predecessor Treaty. Since the whole Treaty is replaced, every

[152] Μπρεδήμας Α. 2019. Μελέτες Δημοσίου Διεθνούς Δικαίου. Εκδ. Σάκκουλας, σελ. 198.
[153] *"De substituer"* in the French text.
[154] Vienna Convention for the Law of Treaties, 23 May, 1969, 1155 U.N.T.S 331. The majority of the containing provisions, represent customary law and so, are binding for Turkey, which hasn't been a signatory member.

mention to a part of it, would be superfluous[155]. Consequently, the demilitarization undertakings that were introduced by the Lausanne Treaty, were abolished by the Montreax Convention.

The Greek scholars arrive to the same conclusion, through one more legal reasoning. As was mentioned earlier, the annexed Protocol of the Montreax Treaty, provided for the provisional application of the text, as for the demilitarization of the Turkish part of the Straits. This special regulation, is only meaningful under the following interpretation; all parties were allowed to remilitarize their territories, but Turkey would be given the specific advantage of the provisional application, while the rest signatories would enjoy this right after the official entry of the Treaty into force. If only Turkey was allowed to remilitarize the Straits, then there was no reason for the parties to include a provision that only concerned this particular State[156]. This position that completely overthrows Turkey's legal arsenal, lies in conformity with the general interpretational principle of effectiveness, (effet utile), under which among several interpretation of a legal rule, always it should be adopted the one that renders the legal text effective and functional[157]. The reason why the Montreax Convention does not mention specifically Lemnos and Samothrace, (as well it does not mention expressly any of the Turkish islands), is because the demilitarization of them was considered a secondary, subsequent matter. Since the Straits were allowed to be remilitarized, then no specific mention was necessary to be made for the islands of both riparian States[158].

Another divergence, between Greece and Turkey, is detected on the interpretation of infamous Article 12 of the Lausanne Peace Treaty. According to Turkey, even if the Montreax Convention replaced the Lausanne regime, the obligation of demilitarization of the Greek islands remains, since Article 12 of the Lausanne Treaty, specifically mentions the 1914 Decision of the Great Powers, which also contains the condition of demilitarization. Greeks confront this reasoning as following.

Firstly, Article 12, as long as the Greek side interprets it-, concerns exclusively the matter of Greece's sovereignty over the Aegean islands and not to the irrelevant matter of demilitarization of them nor to any other topics that were displayed in the 1914 Decision, such as minority protection and prohibition of contraband. At this point, we need to remember that the demilitarization regime of the Aegean islands, is provided by several independent Articles; Article 13 of the Lausanne Peace Treaty that sets the prohibitions concerning the Central Aegean islands (Lesvos, Chios, Samos, Ikaria) and Articles 4 and 6 of the Lausanne Straits Treaty, which instituted the complete demilitarization regime of the Straits, including the Greek islands of Lemnos and Samothrace. If the demilitarization regime was already imposed by the 1914 Decision, then why the parties bothered to include not only one, but three more Articles pertaining demilitarization into the Lausanne Treaty? The only reason is because Article 12 of the Peace Treaty, only refers to the establishment of the Greek sovereignty over the Aegean islands and sets aside the matter of

[155] Παπαφλωράτος, Ι. 2017. Το νομικό καθεστώς των νήσων του Αιγαίου: Οι απόψεις της Τουρκίας, οι θέσεις τη Ελλάδας και τα ισχύοντα βάσει του Διεθνούς Δικαίου. Εκδ. Σάκκουλα, σελ.77-78.
[156] Οικονομίδης, Κ., supra note 126, σελ. 77-78.
[157] See more in: Lauterpacht, H. 1949.Restrictive Interpretation and the Principle of Effectiveness in the Interpretation of Treaties. British Yearbook of International Law, Vol.27.
[158] Μπρεδήμας, Α., supra note 152, p.200.

their demilitarization, which is regulated by Article 13 of the Peace Treaty and Article 4 of the Straits Treaty[159].

The Turkish view of considering Article 12, as containing an existing obligation, even after the conclusion of Montreax Convention, dictates that the Greek islands would be subject to different regulations with different content. So, according to the Turkish stance, the status of the Central Aegean islands would be governed by both Articles 12 and 13 of Lausanne Peace Treaty, which provide for different degrees of demilitarization. More specifically, as was quoted above, Article 13 stipulates the prohibition of any naval base and fortification in the said islands[160] and also allows for a small military presence *("the normal contingent called up for military service")*[161], while Article 12, according to the Turkish position, not only prohibits the establishment of any fortification, but also every possible military use of the islands[162]. Subsequently, Article 13 provides for a partial demilitarization regime and Article 12 for a complete one and so the later provision covers all the spectrum of the former. The same unreasonable conclusion, stems from the presupposition of the concurring application of Article 12 of the Peace Treaty and Articles 4 and 6 of the Straits Treaty, regarding the demilitarization of Lemnos and Samothrace. Though these provisions seem to be similar, contradictory elements can still be detected, rendering the simultaneous application of the said provisions[163]. Evidently, it would be completely superfluous to include two provisions in the Treaty, regarding the same matter, when the one covers completely the content of the other. Thereafter, the mere existence of Article 13, proves that Article 12 handles only the matter of sovereignty cession of the islands to Greece and not their condition of demilitarization.

Moreover, even if we accept the fact that the demilitarization of the Northeastern Aegean islands was indeed regulated by two sets of provisions, Article 12 of the Peace Treaty on the one and Articles 13 of the same Treaty and Article 4 and 6 of the Straits Treaty on the other, then we have once again to arrive to the conclusion that Article 12 is not producing any legal effect. That is because the same legal matter, i.e. demilitarization of the Aegean islands, is regulated by different set of provisions and so, by virtue of the general principle of "specialia generalibus derogant", the more specific regulation, prevails over the more general. In this case, obviously the more specific set of rules is the combination of Articles 13 of the Peace Treaty and Articles 4 and 6 of the Straits Treaty and not Article 12 of Peace Treaty that has an almost declaratory character.

A similar argument is that, even if we consider that Article 12 indeed contains a positive obligation and it is actually in effect, then again, the Montreax Treaty, as more recent governing the same matter, replaced the Lausanne Treaty (the Straits Treaty expressly and the Peace Treaty implicitly), by virtue of the general principle of "lex posterior derogat legi priori"[164].

As for the application of the 1914 Six Powers' Decision, the Greek side has developed two lines of arguments. Firstly, Greece maintains the unequivocal position that the true nature of the

[159] Οικονομίδης, Κ., supra note 126, σελ. 84-85.
[160] Supra note 128, in Article 13 (1).
[161] Ibid, in Article 13 (3).
[162] Παπαφλωράτος, Ι, supra note 155, p. 15.
[163] For example, Article 12 of the Peace Treaty, contradicts Articles 4 and 6 of the Straits Treaty, as for the stationing of *"police and gendarmerie forces necessary for the maintenance of order";* the former provision prohibits it, while the latter permits it. See: Pazarci, H, Οικονομίδης, Κ., supra note 138, σελ. 157.
[164] Οικονομίδης, Κ.Π, supra note,126, p.87.

Decision, is that of a preparatory text of the Lausanne Treaty. Consequently, the conclusion of the Montreax Convention, annulled the Lausanne Treaty in its entirety, all the preparatory texts included. But even if someone argues that the Great Powers' Decision still exists, Greece stresses that the following formulation of three more specific provisions articulating demilitarization, (Article 13 of the Peace Treaty, Articles 4 and 6 of the Straits Treaty), would only mean that the Decision had only directional powers and its content really became binding to the parties, only after the signing of the following Lausanne provisions. In that way, the Decision has no power by itself and no positive obligation can arise from this text. What is more, the fact that Turkey did not even accept the Decision, while Greece half-heartedly accepted it, indicates that the Decision was never effectuated and remained just a strong suggestion of the Great Powers[165].

Turkey asserts that even Agios Efstratios, Thasos and Psara, should be demilitarized, because these islands, despite not being mentioned in the 1914 Decision, also passed under the control of Greece by virtue of it and Article 12 of the Peace Treaty by referring to the Decision, implicitly expands its content to them. It is really difficult to find merit in this argumentation. Even if we let aside all that has being said, about the termination of the Lausanne Treaty and its preparatory texts, by the conclusion of the Montreax Convention and the true legal nature of the Decision, the position that this mentioned island should be also deprived from any military presence, contradicts the very core of the Montreax Treaty, which expressly dictated on which islands would be subjected to a demilitarization regime[166]. Both the competent Subcommittee and the plenary session of the Montreax Convention, decided to establish a demilitarization regime over the islands and islets that are covered by Article 12 of the Peace Treaty, but were not subjected to Article 13 of the same Treaty and Article 4 of the Straits Treaty[167]. Even this choice of the signatories, i.e to select to demilitarize only specific islands, indicates that they didn't consider that Article 12 contained a general demilitarization obligation[168].

Complementarily, in the Greek literature has been expressed the position that when a Treaty, pertaining matters of sovereignty rights, could be subject to multiple interpretations, it should be adopted the one that entails the least restrictions to state sovereignty[169].This restrictive interpretation, that expresses the pro-Sovereignty stance of International Law, is formally known as the Lotus principle, the validity of it has been confirmed multiple times by international jurisprudence[170].

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[165] Παπαφλωράτος, Ι., supra note 155, p.17.
[166] Pazarci, H., Οικονομίδης, Κ., supra note 138, p.158.
[167] Παπαφλωράτος, Ι., supra note 155, p.
[168] Ibid.
[169] Μανωλόπουλος, Κ., Βαρβιτσιώτης, Χ, Ροζάκης, Χ. (επιμ)., supra note 58 σελ. 77.
[170] For the content of the notion see: Handeyside, H. 2007. The Lotus Principle in ICJ Jurisprudence: Was the Ship ever Afloat? Michigan Journal of International Law. Vol. 29, Issue 1. Some prominent examples of jurisdictional confirmation of the Lotus principle are the cases of:
"German Interests in Polish Upper Silesia (Germ. v. Pol.), 1925 P.C.I.J. (ser. A) No. 6 (Aug. 25)" and "Territorial Jurisdiction of Int'l Comm'n of River Oder (U.K. v. Pol.), 1929 P.C.I.J. (ser. A) No. 23 (Sept. 10)", among of course with the locus clasicus "S.S. Lotus (Fr. v. Turk.), 1927 P.C.I.J. (ser. A) No. 10 (Sept. 7)".

To conclude with the first category of Greece's argumentation, its expressed legal assertions are centered around the position that the Montreax Convention, completely replaced the Lausanne Treaty and subsequently eliminated the demilitarization obligation of Greece over Lemnos and Samothrace. The termination of the demilitarization regime, is dictated by the "orthodox" interpretation of the new Straits Convention and the application of general international law's principles. In the same context, the Greek side considers that the 1914 Decision produces no legal effect whatsoever and so, there is no existing rule that prohibits Greece from remilitarizing its Northeastern islands.

Greece's legal stance, is also consisted of arguments beyond the mere textual interpretation of the germane Treaties focuses on the true object and purpose thereof. Turkey argues that the main reason for the conclusion of the Montreax Treaty, was safeguarding its safety and security and so the demilitarization regime is in effect, so as to not violate the core purpose of the Convention. The preparatory works of the Treaty and the text itself prove the exact opposite.

To start with, Greece strongly suggests that the content of the Montreax Treaty is not obscure at all and so there is no need to recourse to other means of interpretation[171].So, the above argumentation is displayed under the premise that the Text is actually obscure. First of all, the Convention, mostly refers to the notion of freedom of navigation and secondarily to safety and security of the region. It is telling that the very first words of the Preamble, are the following:

"Desiring to regulate transit and navigation in the Straits"

The Greek side considers, that this phrase expresses the primary object and purpose of the Treaty, i.e, the freedom of navigation in the Straits. Any mention to the security of Turkey and the riparian States of the Black Sea, is connected with the fulfillment of the actual purpose of the Treaty.

Article 23 of the Peace Treaty, defines as purpose the freedom of transit and navigation and Greece construes this provision, as setting the one and only purpose of the Treaty, i.e the mentioned freedoms of transit and navigation through the Straits. The demilitarization regime of the Straits was imposed by the Laussane Straits Treaty, in order to serve this purpose. The same provision, instituted the demilitarization status of Lemnos and Samothrace and consequently Greece is also allowed to militarize these islands, on the base of reciprocity and uniform interpretation of Article 23 of the Laussane Peace Treaty[172].

Then, there is the preparatory work that preceded the conclusion of the Treaty which illustrates that the prohibition of demilitarizing Lemnos and Samothrace, ceased to exist, since the Lausanne Treaty was completely replaced by the Montreax Convention. Firstly, even before the commencement of the drafting proceedings, Turkey had made clear that a possible new regime for the Straits, would entail the remilitarization of the complete area, Lemnos and Samothrace included. Very declarative on this matter, is the diplomatic correspondence between the two countries and especially a Note, dated back in 6 May,1936, that the Turkish Ambassador of Athens, sent to the Greek Minister of Foreign Affairs at the time, I. Metaxas. So, Ambassador R. Esref in this Note, expressed the position of Turkey *("in command of my government"* were his

[171] Pazarci, H., Οικονομίδης, K., supra note 138, p.148.
[172] Μανωλόπουλος, Κ., Βαρβιτσιώτης, Χ, Ροζάκης, Χ. (επιμ.), supra note 57, p.97.

exact words), that it consents to the simultaneous remilitarization of Lemnos and Samothrace, along with the rest of the Straits![173].

Evidently, this stance of Turkey, was maintained throughout the drafting process. Turkey itself, submitted a Draft of the formulating Treaty, the title of which was stating expressly that the upcoming text, would replace the Lausanne regime for the Straits[174]. The very Preamble of this Draft, contained the phrase *"[the Parties] decided to be replaced by a new Treaty, the one that was signed in Lausanne on 24 July, 1923, regarding the Straits regime.".*[175] This proposal was introduced to the plenary session of the Convention and without any reservation, was referred to the Drafting Committee (Comité de Rédaction), the President of which was the Greek delegate, N. Politis. This exact phrasing of the Preamble, was slightly altered, but the content remained the same.

The exposed documents of travaux preaparatoire, shows us that not only Greece and Turkey, but all the participators, maintained the position that the formulating Treaty will completely replace the Lausanne legal regime.

For example, the British delegation drafted Article 24, based on the mentioned Turkish proposal of Article 13, which stressed that the formulating agreement "*terminates the Lausanne Treaty*". When this provision was brought into the plenary session, Turkish delegate R. Aras intervened and proposed to remove this provision as superfluous. President Politis, formally stated that since Turkey considers the new Treaty as terminating the Laussane status and the Preamble dictates this relationship between the texts, then there is no reason why not to exclude this exact provision[176]. In addition, the study of the Italian archives, show us also that it was also Italy's unwavering position that the Montreax Agreements will succeed the Lausanne treaty in all matters and that the Northeastern Aegean islands were disengaged from the obligation of demilitarization[177].

What is more, during the ratification process of the Montreax Treaty by the Turkish National Assembly, Minister Aras officially stated that:

"…the provisions concerning Lemnos and Samothrace belonging to our neighbor and friend Greece which had been demilitarized by the Lausanne Convention of 1923, is also being lifted by the Montreax Convention, about which we rejoice similarly.[178]*"*

If any doubt existed, regarding the replacement of the Lausanne Treaty and the subsequent termination of the demilitarization prohibition it contained, the above official statement of the Turkish Minister Aras, completely eradicates it. The official capacity of Aras, as well as the timing and place of his statement, i.e during the ratifying session of the Montreax agreement, while the Turkish Prime Minister (and negotiator of the Treaty) E.Inonou was present, indicate that

[173] Οικονομίδης, Κ.Π, supra note 126, p. 106.
[174] Ibid, p.79.
[175] Ibid.
[176] Ibid, p.80.
[177] See: Greco, V. Η Αποστρατικοποίηση των Νησιών του Βορειοανατολικού Αιγαίου: οι προπαρασκευαστικές συνομιλίες της Λωζάννης μέσα από τα αρχεία του Ιταλικού Υπουργείου των Εξωτερικών. Extremely indicative, is the report of Gussepe Antonio Raineri Biscia, that was contacted in demand of the Italian Wan Navy, after the Montreax agreement, which arrived to the conclusion that Lemnos and Samothrace should not be considered demilitarized anymore and should be treated by Italy accordingly, (p.11 of this present article).
[178] The English translation of the Text is provided by: Toluner, S., supra note 142, p.81.

Turkey's unwavering position was that the demilitarization regime of the Northeastern Aegean islands was completely annulled.

We can argue safely, that under the existing rules of international, each act of a state organ with the capacity of international representation[179], at least within its scope of official capacity, is capable of generating an obligation of the representing State vis a vis the international community[180]. According to this position, even if Turkey hadn't ratified the Montreax Agreement, the obligation of maintaining Lemnos and Samothrace demilitarized would have been acquiesced, by virtue of this unilateral act of Minister Aras. This stance, has not been expressed officially by the Greek State and certainly contains a lot of debating points. But, despite not having binding force, the statement definitely constitutes part of "context" and "subsequent practice", under Articles 31(1) and (3)(b) of the Vienna Convention of the Law of Treaties[181]. On the contrary, Greece has taken the position, that this statement is declaratory of the official Turkish interpretation of the Treaty. This interpretation, though it may not be authentic[182], in combination with the travaux preaparatoire of the Convention, leaves no doubt on whether the said Convention revoked the demilitarization regime of Lemnos and Samothrace.

As long as for this statement, the Turkish side has deployed two arguments. Multiple Turkish scholars argue that the statement of Aras, wasn't an expression of the official Turkish stance, but more of a gesture of good will or express of comity towards Greece, in the context of the smooth Greco-Turkish relations of the 1930's[183]. Also, the fact that the statement of Minister Aras, didn't take place in response of a Greek question, for some Turkish scholars it means that Turkey cannot be held accountable for it[184]. At any case, this action cannot produce any legal effect, because the general behavior of Turkey after the conclusion of the Treaty, deviates from the expressed position of Minister Aras and so, no definite conclusion can be extracted from this act alone[185]. To these assertions, the Greek side claims that there is no merit in arguing that an official speech of a Minister, in the context of a ratification process, has no validity and it is irrelevant to the content of the legal agreement in subject, which by the way was voted unanimously. Turkish Minister Aras, just stated the same position that he and chief delegate Inonou, expressed in the Drafting procedure. The fact that this act, took place not in response of some Greek question regarding Turkish interpretation of the Montreax Agreements, does not contain any legal claim and its irrelevant to the adopted interpretation of Turkey.

The second argument is that the action except for not expressing Turkey's official position on the dispute, it does not constitute an authentic interpretation of the text, since there is no sign that the rest of the Montreax signatories have adopted the same position. As it was mentioned earlier, Greece never suggested that this act constituted an authentic interpretation of the text, but rather

[179] Supra note 154, in Article 7 (2)(a).
[180] The most pertinent case law includes the decisions on: Legal Status of Eastern Greenland (Den. v. Nor.), 1933 P.C.I.J. (ser. A/B) No. 53 (Apr. 5) and the Nuclear Tests (Austl. v. Fr.), 1974 I.C.J. 253 (Dec. 20).

[181] Van Dyke, J.M., supra note, 43 p.79.
[182] The authentic interpretation of a Treaty, requires all the signatories to have expressed the same position.
[183] Pazarci, H., Οικονομίδης, K., supra note 138 p.79-80. Also, in: Bahceli, T.1990. Greek-Turkish relations Since 1955. Westview Special Studies in International Relations 1st ed, p. 148. The official character of the statement, is also questioned by Aksu, F. Supra note,148, p.122.
[184] Toluner, S. supra note p.82, states that *"the Aras statement was not made in response to a Greek question… and thus, does not bind Turkey".*
[185] Ibid, p. 83-85 and also in: Pazarci H., Οικονομίδης, K., supra note 82-83.

an official and valid testament on the Turkish point of view that the demilitarization regime has been terminated.

As for the contention of Turkey, that the abolishment of the guarantees that the Laussane Treaty provided, denotes the maintenance of the demilitarization status of the Greek islands in subject, Greece argues the following. First, that the guarantees were equally provided to all riparian States, around the Straits and so, Turkey has no specific legal stance to demand the militarization of Lemnos and Samothrace due to the annulment of the guarantees' system. Moreover, the Greek side stresses that since the whole region was no longer demilitarized, the guarantees of the Great Powers, do not serve any purpose.

As for the argument of Turkey that Greece was also under the impression that the Laussane Treaty was in effect and consequently only commenced the militarization actions in the 1960's, is rejected by the Greek side, stressing that almost simultaneously with the conclusion of the Montreax treaty, Greece defined Lemnos as an observance territory by the Royal Degree that was issued on 3 April, 1937[186].

3.3 Demilitarization of the Central Aegean Islands (Lesvos, Chios, Samos, Ikaria)

3.3.1 Argumentation of Turkey

The dispute regarding the demilitarized status of the Central Aegean islands (Lesvos, Chios, Samos, Ikaria), is based on complete different legal grounds than the debate concerning the regime of Lemnos and Samothrace. More specifically, the former is regulated by Article 13 of the Lausanne Peace Treaty, instead of the Lausanne Straits Treaty that governed the latter. As was displayed above, the two States debate vigorously, on the exact impact the Montreax Treaty had over the validity of the Lausanne Straits Treaty. However, according to Turkey, this divergence of opinions is irrelevant as for the Central Aegean islands, the demilitarization status thereof is stipulated by another legal text, i.e the Lausanne Peace Treaty[187]. Even if the Lausanne Straits Treaty, is indeed replaced by the Montreax Convention, the obligation of keeping the four islands of Central Aegean demilitarized is not abrogated, since the Laussane Peace Treaty remains in force[188]. So, the first argument of Turkey is that the demilitarization restrictions that were imposed by the Lausanne Peace Treaty, have not been lifted by any subsequent agreement, expressly or even implicitly[189].

Furthermore, the official Turkish stance is that the status of these four islands, is also articulated in Article 12 of the Lausanne Treaty and the 1914 Decision of the Great Powers, that is being referenced by the former. As it was mentioned above, the 1914 Great Powers' Decision, ceded these four islands (among the aggregate of islands that were under Greek control), on condition that they will remain demilitarized. Then, Article 12 of the Laussane Peace Treaty, confirmed the validity of this cession and the following Article 13 specified the modalities of the said demilitarization. So, the exact regime of the restriction that was instituted upon the military presence in the Central Aegean islands, is described in Article 13. Turkey, declares that the combination of these legal texts, constitutes an inherent confinement of Greece's sovereignty over

[186] Pazarci, H., Οικονομίδης, K., supra note 138, p.154.
[187] Van Dyke, J.M, supra note 43 p.80.
[188] Ibid, p.82.
[189] Stivachtis, Y. 1999. The Demilitarization of the Greek Eastern Aegean Islands: The Case of the Central Aegean and Dodecanese Islands, p.103. The Turkish Yearbook of International Relations. Vol 29, p.103.

the Central Aegean islands[190] and that Greece has perpetrated remilitarization actions that exceed the limits set by Article 13, and thus violates the obligation that was undertaken by virtue of it[191].

Another argument, that is also being used by the Turkish side in order to support the continuation of the demilitarization regime of Central Aegean islands, is that the object and purpose of the Lausanne Treaty, i.e. Tukey's safety and security[192], is contravened by the Greek military precence in the said islands[193]. Turkey tries to complement this assertion, by putting forward the permanent character of the obligation for the islands' demilitarization[194]. So, the threat on Turkey's security would be existing, as long Greece maintains its military presence in the Eastern Aegean islands.

As for the stipulations of Greece, regarding the excuse of its military precence in the mentioned islands, on the basis of self-defense, Turkey states that this assertion is invalid, since three particular prerequisites have to be met, so as to lawfully exercise this right. Firstly, in order for a State to successfully claim self-defense, an indispensable prerequisite is the existence of an attack[195]. Self-defense is a groundless claim, unless an attack had previously taken place[196]. The second prerequisite, is for the State to report to the U.N Security Council, the committed action that constituted self-defense, in order for the obligation that was violated by the State to be excused[197]. Thirdly, the notion of self- defense is interpreted by Turkey as having a transient and not permanent character[198]. In other words, self-defense is an action, in response to special circumstances and in no way a State can disregard its obligations on self-defense grounds, either acting preemptively or expanding the time limit of its actions, after the conclusion of the attack.

Particularly on the Greek assertions, concerning the existence of the Turkish Fourth Army in the coasts of Anatolia (mostly known as the Aegean Army) and the claims that it threatens the peace in the area, Turkey states that its Aegean coasts, unlike the Eastern Aegean islands, are not restricted by a demilitarization regime. Also, it denounces the aggressive character of the Army, declaring that is mostly a training formation for recruits that are deployed elsewhere[199]. Turkey assumes that is wrongfully accused on this matter, suggesting that the said Army only exist to prevent a Greek attack and the speculations regarding the Fourth Army, are merely a weak excuse of Greece, for its own violations of the Laussane Treaty[200].

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[190] The same argument is also used in the cases of Lemnos and Samothrace, since the official position of Turkey is that Greece's sovereignty over all the Eastern Aegean islands, is inherently restricted, by the obligation of keeping them demilitarized. See: Turkish Ministry of Foreign Affairs, Background Note on Aegean Dispute, available in: https://www.mfa.gov.tr/background-note-on-aegean-disputes.en.mfa.

[191] Mann, S. 2001.The Greek-Turkish Dispute in the Aegean Sea: Its ramifications for NATO and the prospects for resolution. Thesis, Carnegie Mellon University, p.30.

[192] Pazarci stresses that according to the records of the Laussane agreement, the military Subcommittee which assumed the task of regulating the demilitarization status of the Eastern Aegean, aimed to prevent Greece from preparing an attack against Turkey's coasts. See: Pazarci, H., Οικονομίδης, K., supra note 138, p.32.

[193] Aksu, F. Supra note 148, p.112 and 121.

[194] Μπρεδήμας, I. Supra note 152, p. 198.

[195] For a thorough analysis, see: Schachter, O. 1989. Self Defense and the Rule of Law. American Journal of International Law. Vol, 83, no.2.

[196] Ibid.

[197] Greig, D. W. 1991. Self-Defense and the Security Council: What Does Article 51 Require? The International and Comparative Law Quarterly 40, no. 2, p.366, available in: http://www.jstor.org/stable/759729.

[198] Συρίγος, A., supra note 129, p.273.

[199] Stivactis, Y., supra note 189, p.104.

[200] Aksu, F. Supra note 148, p. 124.

To conclude with, the position of Turkey on the demilitarization of the Central Aegean islands, is similar to the adopted stance on the Northeastern Aegean islands. It focuses around the continuing existence of the 1914 Decision of the Great Powers and Articles 12 and 13 of the Laussane Treaty, strongly supporting that the imposed demilitarization regime, was never lifted by any subsequent Treaty. Also, Turkey defends the assertions of Greece on exercising the right of self-defense, arguing that the existing situation does not meet the requirements for the lawful exercise of this right. This argument, is complemented by the denouncement of the aggressive character of the Aegean Army, which merely serves defensive purposes. According to Turkey, all the above arguments, make clear that Greece gravely violates the demilitarization prohibition that was attached to the Eastern Aegean islands, through a contra-legem unilateral interpretation of the pertinent legal texts[201].

3.3.2 Argumentation of Greece

At this point we need to stress that the argumentation of Greece on the matter of the Central Aegean's islands demilitarization, at a large degree, overlaps with the legal points that Greece raises on support of militarizing the Dodecanese islands. So, in order for the exposition of the arguments to be concise, some of these will be discussed in this section (self-defense, self-help, countermeasures), while others (rebus sic standibus, acquiscense), will be analyzed in the following section, regarding the Dodecanes islands.

First of all, Greece and Turkey, disagree on the actual legal framework that governs the obligation of demilitarizing the Central Aegean islands. As it was displayed above, Turkey primarily suggests that the relevant legal framework, is provided by the combination of Articles 12-13 of the Lausanne Peace Treaty, with the 1914 Decision of the Six Powers and considers that in any case Article 13 is definitely in force and so is the subsequent prohibition of militarization. On the contrary, Greece questions both the binding character of the 1914 Decision and that it remains into force. As for the application of Article 12, the Greek side strongly argues, that this provision only refers to the notion of the islands' sovereignty and not to the restrictions that were imposed to it. Moreover, it reiterates the position that even if we consider that Article 12 of the Lausanne Treaty, also concerns the demilitarization status of the islands, then the matter would be subjected to two different set of regulations. Thereafter, Greece declares that the only existing legal obligation for keeping demilitarized the four islands of the Central Aegean, stems from Article 13. So, every argument, regarding the existence of this obligation, should have as a starting point the exact content of the said provision.

Greece asserts that Turkey falsely refers to a demilitarization regime, as for the islands of Central Aegean, cunningly denoting that a complete prohibition of any military power was imposed over these islands. The actual regime of these four islands, as is stipulated by Article 13 of the Lausanne Peace Treaty, is that of several restrictions of military presence and not of a complete elimination thereof[202]. Specifically, the said Article, as it was mentioned above, provides for the prohibition of establishing naval bases and fortifications (para 1) and overflying the islands for both Greek and Turkish aircrafts (para 2). The third paragraph of the Article, though, permits a certain amount of military precence in the Central Aegean islands, specifically *"the normal contingent called up for military service,* along with *"a force of gendarmerie and police in proportion to the force of*

[201] Pazarci, H., Οικονομίδης, K., supra note 138, p.91 and also in: Tulun Ertugrul. T., supra note 143.
[202] Stivactis, Y., supra note 189, p.104.

gendarmerie and police existing in the whole of the Greek territory". So, the Turkish argument that there is an existing obligation of Greece to maintain a complete demilitarized status in Chios, Samos, Lesvos and Ikaria, is a priori false and deeply misleading. The exact regime of this islands, is that of an extensive -yet not complete- demilitarization. Indeed, Greece maintains in the region military forces, a fact that was never rejected by it, but it strongly assumes that the existing precence in these islands in consonance with the restrictions, imposed by Article 13 of the Laussane Peace Treaty. At this point, it is necessary to mention that Article 13 uses some vague terms, in order to describe the permitted quotas of military powers in the Central Aegean; namely the *"normal contingent"* and *"in proportion to the force… in the whole Greek territory".* This terms, are not clarified in any other provision of the agreement, or from the travaux preaparatoire of the Convention and the works of the competent Subcommittee, as the Turkish side also confirms[203]. Also, no observance mechanism was introduced, so that it could decide upon the lawfulness of the parties' actions. All the above, make extremely difficult to control the Treaty's execution and to conceive the exact content of the demilitarization obligation, leaving plenty of room for the two countries to debate.

But even if we consider that the military precence of Greece in the said islands, exceeds the scope of what is permitted by Article 13, Greece retains a full arsenal of arguments, regarding its excuse on this obligation on different legal grounds, namely self-defense, the principle of reciprocity, material breach.

To start with, Greece argues that a hypothetical violation of Article 13 of the Laussane Peace Treaty, could be excused on the basis of exercising the right of self-defense[204]. This notion, is enshrined in Article 51 of the U.N Charter and amounts to the inherent right of each State to use force, in order to prevent an armed attack. Article 51, constitutes the only lawful exception to the customary rule that prohibits the threat and use of force, by virtue of Article 2(4) of the U.N Charter[205]. The principle of self-defense, not only enjoys customary character, but it also constitutes a prominent example of a jus cogens rule[206], that according to Article 103 of the U.N Charter overrides each and every other contradictory obligation. Traditionally the circumstances that define the context of self-defense are necessity, proportionality and lack of alternatives[207] and a necessary prerequisite is that self-defense is a response to an armed attack[208]. Yet, the doctrine of self-defense has really transformed in the last decades, especially after the 9/11 terrorist attacks and the notion of anticipatory self-defense arose. This term, especially in the form of preemptive defense, is extremely relevant in the Aegean demilitarization case. According to the preemptive defense doctrine, a State is permitted to carry out every action that could prevent an attack in its

[203] Pazarci, H., Οικονομίδης, K., supra note 138, p.34.
[204] Ibid, p.165-170.
[205] The customary character of the notion, was famously reaffirmed in the "Case Concerning Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v. United States of America); Merits, International Court of Justice (ICJ), 27 June 1986".
[206] For the full spectrum of the notion, see: Kahgan, C. 1997. Jus Cogens and The Inherent Right to Self Defense. *ILSA Journal of International & Comparative Law*, Vol. 3, Issue 3, Article 2.
Available in: https://nsuworks.nova.edu/ilsajournal/vol3/iss3/2.
[207] Shiryaev, Y. 2007. The right of Armed Self-Defense in International Law and Self-Defense Arguments Used in the Second Lebanon War. Acta Societatis Martensis, Vol. 3, p.82.
[208] Weighman, M.A.1951. Self-Defense in International Law. Virginia Law Review, Vol. 37, No. 8, p.1109, available in: https://www.jstor.org/stable/1069591.

territory.[209].So, the crucial element that distinguishes the traditional notion of self-defense with the preemptive self-defense, is that the attack of the aggressor State, has not yet expressed neither it is imminent, but it is reasonable to expect it[210]. It is true that the lawfulness of this notion, is heavily debated in international literature and also it is not clear if the requirements are met in the Greek case, which is described below.

The Greek side asserts that the militarization of Eastern Aegean (Central and Dodecanese islands), could reasonably be excused in the context of self-defense, since Greece faces a constant threat of its peace and security, as the intertemporally aggressive behavior of Turkey suggests. Firstly, the remilitarization of the Aegean islands, followed the Turkish invasion of Cyprus in 1974 and the continuing occupation of the Northern part thereof. This act of Turkey, which constitutes one of the most serious crimes that is recognized by International Law, the use of force against a State's territory, was denounced multiple times by international community[211]. This hideous act of Turkey, demonstrated that it has no hesitation in disregarding every rule of international law and the willingness to recourse to violence. In addition, Greece fairly is convinced that it is constantly under the threat of a Turkish aggressive action, especially since the 1995 Decision of the Turkish Assembly, according to which, a possible expansion of Greece's territorial Sea to 12 nautical miles, would constitute casus beli[212]. This aggressive declaration, contains a clear threat of use of force, which is even more flagrant, since Turkey connects the exercise of an inalienable sovereign right with its violent response. In addition, Turkey refuses to recognize the 10 nautical miles of Greece's airspace, unlawfully expands its Flight Information Region (FIR), challenges the right of Greece to its continental shelf and violates with consistency the airspace and the territorial sea of Greece[213]. What is more, Turkey has deployed in the Anatolia region, the Fourth Turkish Army, mostly known as the Aegean Army, which consists of a serious number of troops with landing capability[214]. The Forth Army, despite being stationed in the Turkish coasts, controls the over 45.000 troops entrenched in TRNC[215], a choice that serves both symbolic and operational purposes. It is noteworthy that Turkey has not granted access to NATO on this military formation, so that it can use it as it chooses. The mentioned forces, due to their high number, their continuous training and their proximity to the Aegean islands, are definitely a permanent threat for peace in the area, since is likely for Turkey to reiterate an aggressive act analogous to the 1974 invasion to Cyprus. The aggressive character of all the above actions of Turkey, is complemented by several provocative statements of Turkish officials, such as the statement of Defense Minister M. Esenbel, on the aftermath of the invasion in Cyprus on 22 January 1975, when he declared that *"Cyprus is the first step towards the Aegean"*[216]. In the same spirit, the Turkish Vice President at the time,

[209] For the partial recognition of its customary nature, see: Ezdi, A. 1974. Self Defense Under Article 51 of the United Nations Charter: A critical Analysis. Pakistan Horizon, Second Quarter, Vol. 27, No.2, p.31, available in: https://www.jstor.org/stable/41393212?seq=1#metadata_info_tab_contents.
[210] Mueller, K., et al. 2006. Striking First: Preemptive and Preventive Attack in U.S. National Security Policy, RAND Corporation, p. 20, available in: http://www.jstor.org/stable/10.7249/mg403af.10.
[211] The Turkish invasion of Cyprus and the following establishment of the illegal entity of the Turkish Republic of Northern Cyprus (TRNC), has been condemned by the Security, through several Resolutions, most famously Resolution n.365/13 December 1974, 367/12 March 1975 and 541/18 November 1963, 550/11 May 1984.
[212] Παπαφλωράτος, I. supra note.155, p.36 and also the official position of Greece on the matter, in: https://www.mfa.gr/en/issues-of-greek-turkish-relations/relevant-documents/territorial-sea-casus-belli.html.
[213] Ibid, p.39-59.
[214] Συρίγος, A., supra note 65, p.270.
[215] Ibid.
[216] Stivactis, Y., supra note 189, p.106.

Turkes, stated on 5 July, 1975, that the islands lying within a radius of 50 kilometers from Turkish coast ought to belong to Turkey[217].

All the above indicate that Greece, as a State being constantly under the threat of an aggressive action of Turkey, could validly exercise its right to anticipatory defense. As for the arguments of Turkey, according to which the notion of self-defense presupposes the existence of a previous armed attack, the recourse of the defensing State to the U.N Security Council and the transient nature of the self-defense action, Greece stresses the following. The requirement of the previous armed attack, is bypassed by the contemporary legal doctrine of anticipatory self-defense that was described previously. As for the obligation of recourse to the Security Council, it is probably a directory and not mandatory, since the failure of a State to inform the Security Council, cannot deprive the lawful character of the action that was carried away in defense[218]. Lastly, for the matter of the time limit that a self-defense action can take place, the legal orthodoxy grants the defensive state the right to extent its actions for as long the threat exists. In the Aegean case, as long as the Turkey poses a critical threat for peace and sovereignty, then Greece has the right to remilitarize proportionately its islands and even the obligation of total demilitarization cannot annul a State's right to self-defense[219].

In the case of the Central Aegean islands (and the Dodecanese), the argument of Greece is that the militarization of the Central Aegean islands, to the degree that exceeds the permitted scope of Article 13 of the Laussane Peace Treaty, constitutes the necessary preparation for the prevention of a possible armed attack of Turkey[220]. For some scholars, this stance is actually contained in the field of self-help and not self-defense[221]. The notion of self-help, describes a situation of unilateral protection of a State's rights. The exact meaning of the term, is quite obscure in the literature and one of the positions that has been expressed is that it is a framework-notion, that includes all the cases that are not covered by self-defense or countermeasures[222]. In the case in subject, the use of self-help principle, would amount to the excuse of Greece's violation regarding the obligation of demilitarization, on the basis that is the only way for State sovereignty to be protected. Since, the term has not been crystalized in theory, the rule has not acquired customary status and its very nature entails the peril of every State claiming the notion recklessly, it is really difficult for this argument to be brought successfully into a debate with Turkey.

A similar (and certainly more convincing) argument of Greece, focuses around the notion of countermeasures, which is more transparent in both legal theory and jurisprudence. According to this legal reasoning, even if Greece's defensive preparatory actions, could not be excused under the scope of self-defense (or even self-help), then there is always the possibility of considering these actions as countermeasures. Under Article 22 of the work of the ARSIWA, if a State reacts to a previous internationally wrongful act (in this case the threat of use of force by Turkey) by

[217] The statement is included in the letter of Greek Prime Minister C.Karamanlis to his Turk counterpart, dated on 21 May, 1976. The letter is available at: Bölükbaşı, D., supra note.127, p. 726.
[218] Azubuike, E.E. 2011. "Probing the Scope of Self Defense in International Law," Annual Survey of International & Comparative Law: Vol. 17: Issue 1, Article 8, p.143, available in: http://digitalcommons.law.ggu.edu/annlsurvey/vol17/iss1/8
[219] Μανωλόπουλος, Κ., Βαρβιτσιώτης, Χ., Ροζάκης, Χ.,(επιμ.), supra note 57, p.106.
[220] Μπρεδήμας, Ι. Supra note 198, p. 227.
[221] Ibid, p.226. The author has adopted the traditional legal theory of delf-defense, according to which the previous armed attach is considered an indispensable prerequisite.
[222] Ibid.

committing a wrongful act itself, the illegality of the second action would be precluded. In this case, the remilitarization of Lesvos, Chios, Samos and Ikaria (for the part that exceeds the limits of Article 13) is a response to the Turkish threat of using force[223]. In this scenario, the Greek side demurs to the Turkish aggressiveness and its offensive planning, its defensive preparatory works. Even in the case that the defensive preparatory actions would be considered unlawful, then the illegal character will be lifted, by virtue of Article 22 of the ARSIWA, which reflects customary law.

Another argument that has been expressed in Greek literature, is that the militarization of the islands is permitted due to the principle of reciprocity that tacitly governs the Lausanne text. According to this view, the relevant Article 13 of the Laussane Treaty, impliedly is referring to the creation of a balance between the existing military forces in the Eastern Aegean, so as for the purpose of peace in the area to be fulfilled[224]. In other words, the provision, by referring to the *"proportion"* of police and gendarmerie forces in the rest of Greece, is actually expressing the will of the parties to establish an equilibrium of power, between Greece and Turkey, so as to avoid a future conflict. Subsequently, neither of the parties can deploy in Eastern Aegean, forces that can pose a threat to the other State[225]. A corollary of this principle, is that the increased military precence of Turkey in the Asia Minor region, automatically gives Greece the right to remilitarize the Aegean Islands accordingly. So, the quotas of the Greek military forces in the Aegean islands, is interlinked with the degree of military presence in Turkey's coasts[226]. This conclusion, that derives from an interpretation of the Lausanne Treaty, under the scope of the signatories' intentions, is supported by the preparatory works of both the Commission on Territorial and Military Questions and especially the Subcommittee that assumed the task of discussing demilitarization, that acted within the framework of the Laussane Convention. More specifically, the records of the Convention, demonstrate that the view of the parties was that the demilitarization of the four Central Aegean islands was interlinked with only one aim; the preservation of peace and security in the area. The strategic choice of imposing demilitarization restrictions to the said islands, shouldn't result in impairing Greece's security. Extremely illustrative was the testament of the British delegate, Lord Curzon which specifically mentioned that demilitarization *"[was] designed to protect the Turks of Anatolia against an attack based on these islands, while leaving to the Greek government the necessary power to defend the islands and preserve order there"*[227]. Accordingly, the Turkish delegate stated that *"the batteries placed on the Anatolian coast could in no way constitute a danger to Greece".* This statement, is an indirect confess, that if one day the military forces of the Turkish coasts are capable of constituting a threat to Greece then analogous measures should be imposed to Turkey, or Greece should be allowed to build up its existing forces. This is why the Turkish proposal for a more harsh demilitarization regime was rejected, on the basis that it would impair Greece's security[228]. This argument denotes that the demilitarization regime of the Laussane Treaty, was created to operate only in peaceful times, as

[223] Pazarci, H., Οικονομίδης, K., supra note 138. p.171.
[224] Stivactis, Y, supra note 189, p.117.
[225] Ibid, p.118.
[226] Ibid, also in: Μανωλόπουλος, K., Βαρβιτσιώτης, X., Ροζάκης, X., (επιμ.), supra note 57, p.107.
[227] Ibid, p. 127.
[228] The Turkish delegation proposed among others, the destraction and dismantlement of the fortifications and batteries existing in the islands, prior to 1923, the prohibition of stationing armed forces in general and undertaking of any military exercises. Ibid, p.128.

the absence of a pertinent international guarantee or an observance mechanism indicates [229]. So. it would be extremely unreasonable for the Treaty to allow a State to gain a distinct military advantage[230]

A last argument of Greece, solely focuses on the case of the Central Aegean islands, under which Greece is allowed to remilitarize Lesvos, Chios, Samos and Ikaria as a response to Turkey's material breach of the Laussane Treaty, under Article 60 of the Vienna Convention on the Law of Treaties. In particular, the act of Turkey that can be validly perceived as a material breach is the consistent overflying of Turkish planes above the islands[231]. It is noteworthy, that Article 13 (2) of the Laussane Peace Treaty, prohibits the overflying of both Greek and Turkish aircrafts. The reservation of the Turkish delegation on this provision, was rejected by the Subcommittee and so the provision stayed intact[232]. This pattern of behavior, constitutes a flagrant violation of Article 13 (2), so Greece, as the party specially affected by it, is entitled to suspend (at least partially) the obligation of keeping these four islands demilitarized, that derives from the same legal text.

3.4 Demilitarization of the Dodecanese Islands

3.4.1 Argumentation of Turkey

The first argument of the Turkish side, concerning the demilitarization regime of the Dodecanese islands, centers around the continuing existence of the legal texts that imposed this obligation of Greece. More specifically, Turkey argues that the Paris Peace Treaty was never altered or superseded by any other agreement and so the demilitarization status of the Dodecanese islands is still in force. What is more, the Turkish Ministry of Foreign Affairs officially states that the Paris Peace Treaty, reaffirms the content and validity of the 1914 Decision[233] and by that, impliedly argues on the continuing existence of this text also[234]. In addition, according to Turkey, the Paris Treaty imposed a regime of full demilitarization to the islands, that functions as a permanent qualification of Greek sovereignty over them[235]. Turkey projects this argument even further, by asserting that the Paris Treaty created an objective regime, i.e an obligation erga omnes and especially vis a vis Turkey[236]. In other words, Turkey interprets the regulation of Paris Treaty on the demilitarization of the Dodecanese islands, as instituting an international servitude of Greece that exists as of today. The last argument, regarding the nature of demilitarization in the said islands as an objective regime, is used for Turkey as a defense against the main legal argument of Greece; Turkey cannot raise objections on the application of the Paris Treaty by any of the parts thereof, since it is not a signatory of it. The foundation of this Greek assertion, is the "res inter alios acta" principle and Turkey denounces it, by claiming it has an acute legal interest on the

[229] Παπαφλωράτος, I., supra note 155, p.
[230] Van Dyke, J.M., supra note 43, p.79.
[231] Ibid, p.82.
[232] Ibid, also in: Μανωλόπουλος, K., Βαρβιτσιώτης, X., Ροζάκης, X., (επιμ.), supra note 57, p.104.
[233] "The demilitarized status of Eastern Aegean Islands was once again confirmed in 1947 long after the Lausanne Treaty", available in: https://www.mfa.gov.tr/militarization-of-eastern-aegean-islands-contrary-tp-the-provisions-of-international-agreements.en.mfa.
[234] Μπρεδήμας, I. Supra note 152, p. 195.
[235] This stance derives from the textual interpretation of Article 14 (2) of the Peace Treaty that requires that the islands *"shall be and shall remain demilitarized".* The position that Greece's sovereignty is inherently restricted by the obligation of demilitarization is always present in Turkish literature.
[236] Pazarci, H., Οικονομίδης, K., supra note 138, p.95.

enforcement of the Paris Treaty, by being a beneficiary part of the established demilitarized regime.

Secondly, on the assertion of Greece that the militarization of the Dodecanese complex, is an act excused on self-defense grounds, especially after the 1974 invasion of Cyprus, Turkey counterargues that the militarization actions had commenced in the early 1960's, years before the said incident. Furthermore, it reiterates the position that the prerequisites of a successful claim of self-defense, are also absent in this case.

Thirdly, Turkey rejects the legal reasoning of Greece on the non-continuation of the Paris Peace Treaty, due to the principles of sic rebus standibus, stressing that no radical change of circumstances have taken place, between the two States, in order for the non-application by Greece of the Paris Peace Treaty, to be excused. Complementarily, puts forward Article 62(2) of VCLT, which reveals the special status that the boundary treaties enjoy under international law, since: "A fundamental change of circumstances may not be invoked as a ground for terminating or withdrawing from a treaty: (a) if the treaty establishes a boundary…".

As for the argument of Greece, that the militarization of the islands has been acquiesced by the international community, Turkey vigorously argues that it has no validity, since Turkey has officially protested on this violation multiple types (e.g by several Aide Memoirs, diplomatic letters) and in multiple foras, (U.N General Assembly, U.N Security Council, in the Drafting session of the Treaty on Conventional Armed Forces in Europe). All the above, strongly indicate that the stance of Turkey alone, which undeniably is the most concerned party regarding the violation of Greece, has prevented the acquiescence of Greece's militarization actions that gravely offend the Paris Treaty.

3.4.2 Argumentation of Greece

To start with, Greece never claimed that the Paris Peace Treaty has been terminated as a whole, but has taken the stance that the provision regarding the complete demilitarization of the Dodecanese islands, has been annulled, due to the principle of "sic rebus standibus" and that the action of remilitarizing this insular complex, if it is considered a violation of the Treaty, has been acquiesced by the signatories. In any case, Turkey has no legal stance to express its objection, since it has not signed the Paris Peace Treaty.

Starting with the later, Greece stresses that Turkey lacks any valid legal ground to claim the supposed breach of the Paris Treaty, by the Greek side, not being a signatory of the said agreement[237]. More specifically, in Article 33 of VCLT, is enshrined a customary rule of international law, according to which: *"A treaty does not create either obligations or rights for a third State without its consent."*. The rule, is further articulated in Article 36, which especially stresses that a right can derive from a certain Treaty beneficiating a third State, only if that was the intention of the parties. So, a State that is not a contracting party to a specific Treaty, can exercise the rights within, only under the condition that the signatories purported to accord this right.

In the case of the Paris Peace Treaty and the imposed obligation of demilitarization, the signatories didn't express the will to extend the obligation of the Dodecanese islands' demilitarization vis a vis Turkey. On the contrary, the proceedings of the Convention show that the parties by

[237] Συρίγος, Α. Supra note. 65, σελ. 275.

demilitarizing this insular complex, were purporting to prevent the establishment of a Soviet military base in the area and the provision was completely unrelated with the matter of Turkish security[238]. It is noteworthy that the Soviet Minister of Foreign Affairs, Molotov, expressed in the Convention of London to his American counterpart, Byrnes, the will of the Soviet Union to establish naval bases in the Dodecanese[239]. So, according to the combination of Article 36 of VCLT, the textual interpretation of the Treaty and the travaux preaparatoire, Turkey was not granted the right to expect the demilitarization of the Dodecanese islands.

In this framework, it is clear that Turkey could only have the right to demand the demilitarization of the insular complex, only if the Treaty created an objective regime. However, the notion of objective regimes, is not so clear in the international law literature. The matter of this obscurity was raised on 1964, in the preparatory works of the International Law Commission, that resulted in the conclusion of VCLT, by the then Special Rapporteur on the Law of Treaties, Sir Humphrey Waldock, who proposed the articulation of an article, only pertaining this term[240]. His proposal was eventually rejected, but the Drafts of the article can shed some light to the actual content of the notion. According to Special Rapporteur's opinion, for a Treaty to create an objective regime and the subsequent erga omnes effects of its content, it is necessary that the said agreement *"…have been concluded with the intention to create in the general interest obligations and rights relating to a particular region."*[241].

This does not seem to be the case in the Paris Peace Treaty. As it was discussed above, the parties strategically chose to include the demilitarization provision to the text in order to restrain a future intrusion of the Soviet Union in the Eastern Mediterranean. It is indeed, a handful only of treaties, that can be conceived as introducing an objective regime, for being considered indispensable in the maintenance of international public order or peace and security[242]. As an exception to the "pacta tertiis" rule, the notion of the objective regimes should be construed restrictively and nothing in the Paris Treaty denotes that the signatories' will, was to engage Turkey as a beneficiary part, to a provision that had nothing to do with this State particularly, neither the matter of the Dodecanese islands was considered relevant to international security. Furthermore, the view of a demilitarization regime as an international servitude, is quite obsolete and only acceptable in the cases that it has been agreed specifically (that is the case of the Aland islands), or in the case of State succession[243]. Also, the pertinent jurisprudence demonstrates the absence of a clear-cut customary rule on this kind of regimes and according to the dictum of PCIJ in the case of the Free Zones case: *"The question of existence of a right acquired under an instrument drawn between other States is therefore one to be decided in each particular case"*[244].

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[238] Idem and also in: Μπρεδήμας, Ι. Supra note 198, p. 225.
[239] Μανωλόπουλος, Κ., Βαρβιτσιώτης, Χ, Ροζάκης, Χ. (επιμ.), supra note, 57 p.130.
[240] Simma, B. 1986. The Antarctic Treaty as a Treaty Providing for an Objective Regime," Cornell International Law Journal: Vol. 19, Issue 2, p.193, available in: https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=1161&context=cilj.
[241] Ibid, p.194.
[242] Notably, such regimes are the above mentioned in Chapter X; Antarctica, Outer space and seabed. Barnes, R.A. 2000. Objective Regimes Revisited. Asian Yearbook of International Law. Vol.9, p.106.
[243] Delbruck, J. 1999. Demilitarization, Encyclopedia of Public International Law, vol.1, p.999, mentioned in: Μπρεδήμας, Ι., supra note 152, p.224.
[244] Free Zones of Upper Savoy and District of Gex (Fr. v. Switz.), 1932 P.C.I.J. (ser.A/B) No. 46 (June 7), contained in: Fitzmaurice, M.2002. Third parties and the law of treaties, The Max Planck Yearbook of United Nations. Vol. 6, p.51, available in: https://www.mpil.de/files/pdf1/mpunyb_fitzmaurice_6.pdf.

As for the recurring argument of Turkey, regarding the loss of sovereignty, due to the violation of the demilitarization status of the Dodecanes, the Greek side argues that the relinquishment of the sovereignty over the Dodecanese islands, was not subject to demilitarization. The mention to this obligation, does not automatically render demilitarization a suspensive condition for sovereignty, as Turkey claims. These conditions, are formulated with a more precise and accurate manner and are no left to be interpreted, especially by non- signatory states. Certainly, that was not the intention of the parties in the Paris Treaty and a contrary interpretation with retroactive effect, would be doctrinally unacceptable[245].

Greece challenges the validity of the obligation to keep the Dodecanese islands demilitarized, on one more ground; the radical change of circumstances. Specifically, the aggressive behavior of Turkey, as was exposed above, intertwined with the constant threat of use of force, constitute, according to Greece enough reasons for the "sic rebus standibus" principle to apply. Alternatively, Greece asserts that the same principle could also apply, by virtue of the accession of both States to the NATO and the U.N. By this argument, the purpose of the Paris Treaty, i.e the peace and security of the area, is now fulfilled through the instruments of the U.N Charter and the Atlantic Charter[246]. This argument, seems to combine the principle of "rebus sic standibus" with the principle of equitable protection, that is found in the field human rights law. As for the latter notion, it must be stressed that Italy remilitarize its islands that were demilitarized by the Paris Treaty in, raising a claim on the "rebus sic standibus principle". It would be a paradox, Greece to be subjected to a demilitarization regime, being a victor of World War II after all this decades and Italy to be discharged of this obligation, only a few years after its loss in the same war.

Regarding the argument of Turkey that this exercise of this principle, is precluded by Article 62 (2) of VCLT, because the Paris Treaty consists a legal text that defines boundaries, the Greek side states that actually, Paris Treaty does not affect the boundaries between Greece and Turkey, since the sovereignty over the islands was ceded to Greece by Italy and not Turkey. Indeed, the critical legal text for the formulation of the boundaries of the Dodecanese complex, is the Italo-Turkish agreement of 1932[247]. But even if we disregard this fact, it is not certain that all the elements of a boundary treaty are ought to stay intact, under Article 62 (2) of VCLT[248].

Lastly, the final assertion of Greece also focuses around the non-continuation of the demilitarization regime, since the obligation has been acquiesced by the signatories of the Paris Treaty. In other words, the unilateral action of Greece to remilitarize the Dodecanese islands, so as to exercise efficiently its self-defense right, in combination with the acquiescence of this action by the rest of the contractual parties of Paris Treaty, lead to the discharge of this obligation[249]. Though, desuetude and obsolescence were excluded as autonomous valid reasons for the termination of a Treaty, these notions fall under Article 54 (b), according to which the parties of a Treaty can consent to terminate it[250]. Greece supports that this could be the case in the matter of demilitarizing its Eastern Aegean islands; a tacit agreement of the Paris Treaty signatories. It is noteworthy, that no state party of the Paris Treaty has ever raised objection against the military

[245] Syrigos, A., supra note 126, p.425-426.
[246] [246] Μπρεδήμας, I., supra note 152, p. 221.
[247] Convention between Italy and Turkey, 4 January, 1932.
[248] Van Dyke, J.M., supra note 43, p.98.
[249] Ibid.
[250] Cohen, M.G.2011. Desuetude and Obsolescence of Treaties. Oxford University Press, p.351.

presence of Greece to the Dodecanese islands, with the sole exception of the Soviet Union, which protested once in 1976, against the visit of American worships to the islands of Rhodes[251]. Even the Turkish literature cannot provide an answer of the rest state parties of the said peace Treaty that it serves its purpose. On the contrary, in reaction to a visit of American warships to the Dodecanese islands and the use of other military installations by them, in the year 1992, Turkey made diplomatic demarches to the Embassies of the United Kingdom, United States of America, France and Germany and none of their responses adopted the Turkish view[252]. More specifically, France and Germany stated that the visit itself didn't violate the demilitarized status, while the United Kingdom stressed that the actions of Greece and its allies, where in consonance with the Paris Treaty's obligations[253].

[251] Μπρεδήμας, I. Supra note 152, p. 225. This mild protest, mostly expresses the security concerns of the Cold War era and was focused on the American presence and not generally the military forces of Greece in the region.
[252] Bölükbaşı, D., supra note 127, p.734.
[253] Ibid, p.736.

Chapter 4 Conclusions

Following the exposition of both State's argumentation, regarding the demilitarization regimes in all three zones of the Aegean islands, this section will try to mention shortly some conclusions on this vigorous legal debate.

4.1 The Straits islands

It is the author's view that the debate concerning the demilitarization of Lemnos and Samothrace, is the least obscure of the three distinct legal zones. As was displayed above, the Montreax Convention clearly replaced the Laussane Peace Treaty, as it is illustratively showed by both the text of the agreement and the travaux preaparatoire. The intention of the parties to renew the Straits regime with a new Treaty, is obvious in every aspect of the Convention. Also, the behavior of Turkey before, during and after the conclusion of the Montreax treaty, transparently and unambiguously indicates that it was also the Turkey's view that the demilitarization of Lemnos and Samothrace ceased to exist. The most predominant elements of this unwavering will, is the mentioned statement of Minister Aras to the Turkish National Assembly and the pertinent change of diplomatic letters with the Greek government. According to all the above, every argument raised on the case of the Northeastern Aegean islands undeniably leads to the secure legal conclusion that there is no existing prohibition of militarization upon the islands of Lemnos and Samothrace.

4.2 The Central Aegean islands

As for the matter of the demilitarization regime of Lesvos, Chios, Samos and Ikaria, it is necessary to state the following. Admittedly, no subsequent Treaty has altered the content of the Laussane Agreement that pertains these islands and the arguementation of Turkey, regarding the textual interpretation of the Laussane Treaty, does not lack legal merit. However, the extremely aggressive behavior of Turkey, that consists of multiple and flagrant violations, dispersed in the last five decades, reasonably entails serious security concerns of Greece. Especially, the Turkish invasion of Cyprus in 1974 in combination with the subsequent casus beli conditions, that the Turkish National Assembly put forward in 1995, constitute pattern of behavior that operates as a valid and severe threat of use of force. Under, these circumstances, the defensive preparation that have been exercised in the Central Aegean islands, seems to fall within the scope of the inalienable right of Greece's self-defense, under Article 51 of the U.N Charter.

4.3 The Dodecanese islands

As in the case of the Central Aegean islands, the Dodecanese island's demilitarization regime has not been also annulled by a subsequent legal text. In the exposed arguementation of both States, the one argument that really stands out, is the one regarding the principle of "res inter alia acta". Evidently, the fact that Turkey is not included in the contractual member of the Paris Peace Treaty, is of the utmost importance, since it appears as it lacks a legal standing. The counterargument, concerning the creation of an objective regime in the area, rendering all States capable of demanding the fulfillment of this assumed obligation, is not that convincing since neither the preparatory works of the agreement nor the subsequent practice of the parties, indicated that it was the Paris Treaty parties' intention to create this kind of regime, especially vis a vis Turkey. Complementarily, the acceptance of the remilitarization of the Italian islands, in conjunction with the silence on the analogous Greek actions in the Dodecanese, strongly indicate that a hypothetical

violation of the Paris Treaty, by the act of remilitarizing the Dodecanes islands, is in any case acquiesced.

The future will show, if these arguments will be submitted eventually, to any form of international adjudication. Until then, the debate around the demilitarization of the Aegean islands will remain vivid and relevant.

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