

Search and Rescue in the Aegean Sea

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Abstract

Hellas as a maritime State with a long tradition in shipping and allocating one of the most powerful fleet in the world, played and still plays important and fundamental role in the international conferences, for the establishment of international regulations and conventions on subjects of maritime safety in which is included Search and Rescue (SAR). In parallel with the international legal framework which is implemented by Hellas, was also developed and national legal framework which is consent to the orders of the international law and aims in the most effective providing, application and co-ordination of SAR services in regions where based on the international law, Hellas has institutional competence like Aegean Sea.

Keywords: Search and Rescue, Hellas, Turkey, Aegean Sea

1. Introduction

As «Search and Rescue Service» is defined the operation of risk monitoring, communication, coordination and the procedures of search and rescue including provisions for medical advice, medical aid or medical staff deployment using public and private means involving associate aircraft, ships and other vessels and installations¹.

The Hellenic Search and Rescue area fully coincides with the limits of Athens FIR (Flight Information Region) region area, in which, besides the control of air traffic, the performance of air and maritime search and rescue² are part of.

2. Analysis

2.1. Air Search and Rescue

¹ The term and definition is on the basis of Chapter 1 of Annex II of part B of Presidential Decree (P.D.) 201/2000 (A' 181). Similar and in Chapter V: safety navigation in regulations 2 and 7 of Law (L) 1045/1980 (A' 95) as has been amended and is being in force.

²Article 2 Law (L) 1844/1989 (A' 100). The international legal framework is established by the following provisions: Article 11 of L 3886/1911 (A' 224), Article 25 L 211/1947 (A' 35), the International Convention 1974 for the Safety of Life at Sea (1974) (SOLAS), as was ratified by the L 1045/1980 and as amended after, Article 98 of the United Nations Convention of the Law at the Sea (UNCLOS) which was ratified by the L 2321/1995 (A' 136), Article 10 of the International Convention on salvage, 1989, which was ratified by the L 2391/1996 (A' 55), the Convention of Hamburg which was ratified in 1979 by the L 1844/1989 (A' 100) and amended by the P.D. 201/2000 (A' 181), P.D. 349/2001 (A' 235), Ministerial Decision (MD) with No 3239.10 /01/03 (B' 1900), P.D. 49/2005 (A' 66), Council Directive 2009/17/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2002/59/EC establishing a Community vessel traffic monitoring and information system.

The national legal framework is established by the following provisions: from 6-9-1931 P.D. (A' 325), L 230/1936 (A' 450), L 2597/1940 (A' 335), article 240 of L 3816/1958 (A'32), articles 210, 224 and 227 of L 187/73 (A' 61), articles 123, 124 and 175 of L 1815/1988 (A' 250), Joint Ministerial Decision with No 1432.52/93/26.7.93 (A' 647), articles 97,115 and 122 of L 2287/1995 (A' 20), Joint Ministerial Decision with No 3221.4/07/05 and articles 288 and 307 of the Hellenic Penal Code.

The arrangements for the delimitation of Europe FIRs air regions navigation were drawn up in the context of the Third (Paris 1952) and Fourth (Geneva 1958) Regional Air Navigation of Europe Conferences, whose "recommendations" and the contained regional agreements of Air Navigation regarding their redistribution and air space limits were accepted by the Council of the International Civil Aviation Organization (ICAO)³ at the meetings on 23-6-1952 and on 15-5-1958⁴.

The demarcation of Athens FIR (Athina FIR) and Istanbul FIR were based on the effectively acceptable by the Council Recommendation No 1(1/RAC -3) as also and of the contained in this of the Territorial Agreement of Air Navigation in The Territorial Conference held in 1952 and the definitive laying of the limits of the partial redeployment on the basis of the (recommendation No 9/2) of The Territorial Conference held in 1958.

The limits of the FIR were clearly laid out in the Annex of the final Third Report in 1952 to the Council of Charter Air Navigation region Europe (7) (Air Navigation Plan European region, chart No 7). The recommendations presented to the Council were unanimous; therefore the consent of Turkey existed. Simultaneously, with the same Council Decisions were also defined the areas of responsibility for search and rescue whose limits coincide with the respective limits of the FIRs (points 2.2.1 and 11.1 respectively of reports to the Council of 1952 and 1958).

It is pointed out there, that as was clearly stated in point 2.6.2 of the report to the fourth council of territorial conference Air Navigation in 1958, the definition and partial redeployment in 1958 of Athens FIR limits were taken into account, without any objections being raised on the part of Turkey about the maps which were published by Hellas in 1955⁵ and had been notified to ICAO, which cover the Balkans and the European Turkey and show the limits of Hellenic national airspace to 10 n.m. (nautical miles)⁶.

From the aforesaid, the status of Athens FIR was established legally in accordance with the procedures and decisions of the ICAO without Turkey having raised any reservations or protest. In this context Turkey has contributed to its consolidation through its acceptance and application⁷.

2.2. Maritime Search and Rescue⁸

With the Convention of Hamburg, the Contracting States are obliged to organise search and rescue services providing assistance regarding the rescue of maritime accidents survivors⁹ and are foreseen procedures for the coordination with national authorities in case that in the search and rescue operations are involved vessels or aircraft registered to a third State.

The Convention of Hamburg, in contrast to the Chicago Convention, does not define the procedures and mechanisms for determining the areas of search and rescue responsibility but

³ See <http://www.icao.int/Pages/default.aspx>.

⁴ It is noted that preparatory work had been made in the second regional conference of Middle East air navigation Held at Istanbul in 1950. These conferences with the participation of Hellas and Turkey decided the distribution of European airspace in accordance with the decisions of the ICAO.

⁵ "Aeronautical Map of Greece", ICAO, (1:500:000), Ministry of Transport, Agent of Civil Aviation, Division of Airspace Traffic, Department of Aeronautical Information and Maps, 1981.

⁶ Concerning the limits of the Hellenic national airspace have been developed arguments that can not exist different limits to airspace from the limits of continental territorial waters. See Irakleidis A. (2007). *Irreconcilable Neighbors Hellas- Turkey, The dispute of the Aegean*. I. Sideris, Athens p.p. 317 -336 (in Hellenic).

⁷ Giokaris A. (1991). *The powers of the coastal State in airspace, national and international*. Ant. Sakkoulas, Athens-Komotini, p.p. 151-152 (in Hellenic).

⁸ L 1844/1989 as amended by the P.D. 201/2000.

⁹ The rescue of maritime accidents survivors is clearly provided in paragraph. 3.1.2 of Hamburg Convention.

refers this matter to the agreement among coastal neighboring countries (paragraph 2.1.4 of Annex of the Convention) making this is precisely its weakness¹⁰. Also the definition of Search and Rescue areas does not relate and will not affect any border demarcation between Member States (paragraph 2.1.7 of Hamburg Convention).

With the revision of the Convention in 1998 (coming into force on 1 January 2000) it was established that the contracting parties where it is applicable, will ensure the consistency between seafarers and aeronautical SAR services, which will be bound by Agreement, in accordance with paragraph 2.1.4 or by reaching an agreement with appropriate arrangements in accordance with paragraph 2.1.5 (paragraph 2.1.8 of the Revised Convention).

Also in accordance with paragraph 2.1.3 of the Revised Convention the parties individually or in cooperation with other States will ensure that sufficient areas of SAR operations will be determined in each maritime region in accordance with paragraphs 2.1.4 and 2.1.5, and that these regions must be consecutive and not overlapping.

According to International Maritime Organization (IMO)¹¹ and ICAO recommendations depicted in the International Aeronautics and Maritime Search and Rescue Manual (IAMSAR Manual), but also according to international practice, preference shall be given to adopt identical areas for the air and maritime search and rescue so that these regions coincide with the FIRs¹².

Apart from the fact that the Convention does not establish procedures and mechanisms within the IMO (an extremely important point in my view)¹³ it also does not determine areas of responsibility in the open sea of each coastal State as the clauses of the Chicago Convention of 1944 stated, and in particular the international aeronautical Regulations were not taken into account in its drafting the regulations of search and rescue in the international area and in the open sea for endangered aircraft¹⁴.

The maritime¹⁵ and air search and rescue are provided by the Hellenic Coast Guard¹⁶ and Hellenic Air Force respectively with the assistance and cooperation from other bodies when is

¹⁰ In paragraph 2.1.5 of this Convention appendix is defined that «In the event that no agreement is reached for the precise dimensions of a search and rescue region by the interested parties, these parties will make every effort to reach agreement on appropriate arrangements which will be provided everywhere in the region equivalent coordination search and rescue services».

¹¹ See <http://www.imo.org/Pages/home.aspx>.

¹² Kladi –Eustathopoulou (2007). *Items of Airspace law*. I.Sideris, Athens, 2007, p. 175 (in Hellenic).

¹³ It should be noted that discussions on the Convention held in Hamburg in 1979, took place five years after the invasion of Turkey in Cyprus and five years after the emergence of the revisionist ambitions in the Aegean Sea. I believe that during the consultation on the drafting of the Convention the formulation of such subsections as 2.1.4 should be avoided, whereby it is possible for Turkey with wrong legal interpretations to seek review-overturning of the existing statutory scheme for its benefit and not only in search and rescue area. Additionally the experience of establishing and operating conventions should be utilised since regulations and annexes relating to air search and rescue, with the introduction of similar provisions in the drafting of international conventions, did not take place.

¹⁴ However it must be mentioned that in the Preamble of Convention is referring to the Recommendation No 40 adopted by the International Conference for the Safety of Life at Sea 1960, which recognizes the desirability of coordination for the Safety over and above the Sea, between a numbers of intergovernmental organizations in which ICAO is included.

¹⁵ An important role in the search and rescue items are playing monitoring systems concerning ships traffic which have been developed as for instance LRIT (Long Range Identification and Tracking of Ships), Services of Maritime Traffic (Vessel Traffic Service-VTS), EUROSUR (European Border Surveillance System). See Korontzis Tr. (2012). *The European policies for illegal immigration via EUROPOL and FRONTEX in Hellas*. Announcement which took place in the Scientific International Conference titled «Comparing and contrasting “Europeanization”: concepts and experiences» which was held on 14-16 May 2012 in Athens, by the Institute of International Economic Relations (IIER/IDOS)], is posted on the website

appropriated. For this reason and taking into account the provisions of L 1844/1989 the Joint Coordination Search and Rescue Center (J.R.C.C.) was established¹⁷.

2.3 Attitude of Turkey - Disputes, aspirations, positions

NOTAM (Notice to Airmen) 714 which was published on 6 August 1974 is a clearer expression of Turkey review policies.

MAP : NOTAM 714, The air space of 10 n.m. and the limits of Athinai FIR



Source: Hellenic National Defence College, 06/2010

Turkey since 1989¹⁸ has adopted unilaterally as area of responsibility for search and rescue of «endangered air and sea means» and with a law issued on 12/2001¹⁹ approximately half of the Aegean²⁰.

<http://www.idec.gr/ier/new/Europeanization%20Papers%20PDF/KORONTZIS%20MAY%202012.pdf>

¹⁶ See Korontzis Tr. (2011). *The statutory role of Hellenic Coast Guard*, PhD thesis, Panteion University of Political and Social Sciences, Athens (in Hellenic).

¹⁷ In J.R.C.C. according to Chapter 6, Article 5, paragraph. 2 of L 1844/1989 (A' 100), as supervisor is designated as supervisor a Senior Officer of the Hellenic Coast Guard. See MD with No 5221.1/4/04 (B' 1642), MD with No 1432.52 /93/26.7.93 (A' 647) as amended by MD 3221.4/07/05. See also Korontzis Tr., *ibid*, p.p. 249-255.

¹⁸ Particularlary on 7-1-1989 was published in the Turkish State Gazette law with No 88/13559, «The Regulation of Turkish Search and Rescue» which had been approved by the Turkish Cabinet on 11-12-1988, that has as area of responsibility for SAR missions part of the Black Sea, half of Aegean Sea and part of the Eastern Mediterranean including occupied Cyprus.

¹⁹ See L 2441 which was voted by the Turkish Grand National Assembly on 12-12-2001 according to Turkey determines half the Aegean (25th parallel) as an area in which will be responsible for search and rescue. According to the map which was published in the law, Turkey considers as area of national responsibility in matters of search and rescue approximately three quarters of the Aegean in an area extending from the Turkish coast to the island of Skiros, east of Evia and Naxos.

²⁰ In particular with the specific Regulation are determined the activities of search and rescue of the competent Turkish authorities and are delineated the provisions to provide services search and rescue in endangered «air and

The Turkish Regulation states in article 6 that «responsibility for Search and Rescue is recognized in accordance with the rules of the ICAO in the airspace situated above the open seas and does not cover search and rescue services at sea», contesting directly the powers of the Hellenic authorities, while at the same article is stipulated that «the areas outside Turkish waters where search and rescue services will be offered, will be identified by agreements which will be drawn up with the concerning Countries».

The last formulation of Article 6 provision is referred to the point 2.1.4 of the Convention of 1979 Annex which is related exclusively to search and rescue procedures for maritime accidents something which clearly reveals from the content of the provisions.

In particular, as regards the search and rescue²¹ Turkey deliberately does not distinguish between rescue procedures for ships and aircraft supporting that everything which is in distress in the sea is subjected to maritime SAR indipedantly if happened a aircraft or maritime accident, confusing designedly air and maritime SAR. With that way wants to bring Hellas to make a delimitation based on an Agreement of search and rescue zone in the Aegean, within the FIR Athens that will cover actions of rescue and for endangered vessels but also for endangered aircraft. However as has already been analyzed this area is already defined as Hellenic jurisdiction zone on the basis of ICAO procedures.

The unilateral demarcation attempted by Turkey is arbitrary and contrary to international law since according to Hamburg Convention demarcation zone responsibility for search and rescue must be made by bilateral agreements²². These agreements should take into account the respective limits of FIR Regions as regards the zones of responsibility for aeronautics rescue²³.

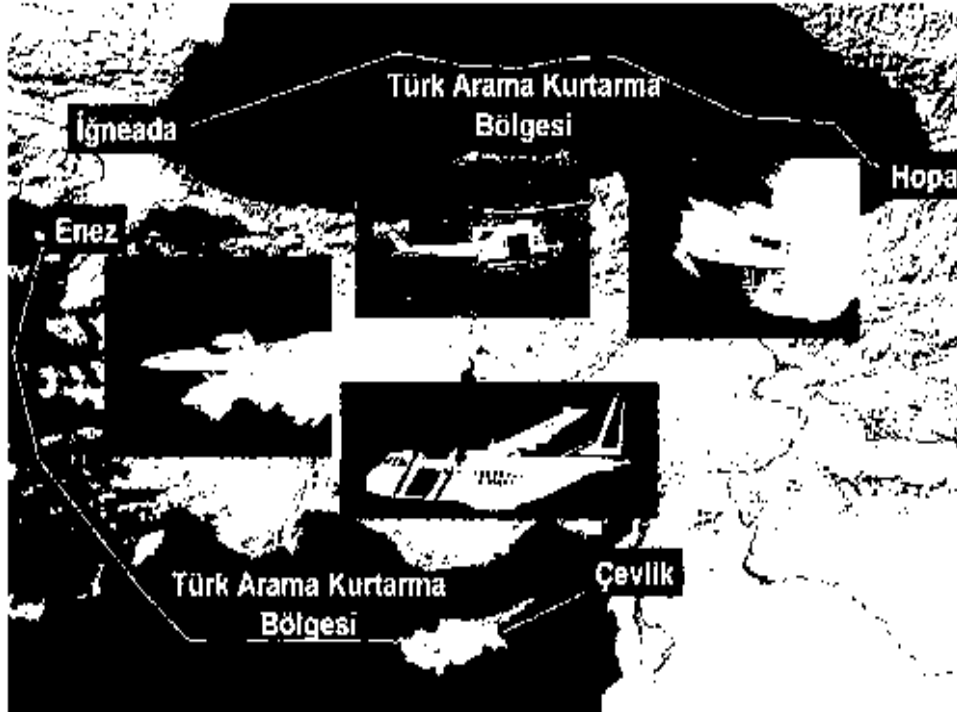
MAP: Search and rescue area according to the Turkish Authorities

sea means» on land, air, sea surface or lower than that, within the Turkish airspace, terrestrial borders, internal and territorial waters and the «surfaces of the open seas or under these».

²¹In the context of NATO spring summit held in Florence on 05/2000 Hellas and Turkey agreed to the methodology which will be followed in the various FORA in order to built confidence-building measures. In the second category of those "Measures to reduce the tension", is included the installation of direct channels for communication between the Commandants of Hellenic and Turkish Coast Guards [see Kouloubis I., Ifantis K.. (2003). *Changing the dilemma security in the Aegean*, p.p. 99-159, in *Modern Hellenic Foreign Policy, a comprehensive approach*, Volume II. I. Síderis, Athens, (in Hellenic)]. According to the above mentioned authors search and rescue can be identified as a common interest and for that is needed this issue to be debunked. It must be noted that the authors do not explain how this issue is a common interest as it is linked eith many disputes between Hellas and Turkey and how it can be debunked and relieved.

²² It is noted that according to the MINUTES of the Hellenic Parliament (Period D- Meeting IV) and in particular of The Continual Committee for Production and Commerce in the draft of Law of the Ministry of Merchantile Marine «Ratification of the Convention on Maritime Search and Rescue» the Convention of Hamburg was ratified after had been preceded the ratification by Turkey and has also ben adopted the implementation of the relevant regulation.

²³ Moreover in point 2.1.7 of the Convention of 1979 Annex is stipulated that «delimiting the Search and Rescue regions is not related and will not affect the demarcation of any border between the Member States». In the concept of borders must be considered that is included and the adjustments under territorial agreements of ICAO and the zones of responsibility for aeronautics search and rescue.



Source: Annual Reference of activities of 2008 of Sahil Guvenlik Komutanligi

Annex 12 of Chicago Convention stipulates that the limits of Search and Rescue Regions shall be determined with a procedure similar to that laid down for determining the limits of FIRs. Responsibility area limits for each state concerning search and rescue services of endangered aircraft in parts of the international airspace and above the open sea are determined in accordance with the Regional Agreements of air navigation which are approved by ICAO Council. These limits are set in such a way as to coincide with the respective limits of the Flight Information Regions (Annex 12, Chapter 2, recommendation 2.2.1.1).

Until November 2004 the defining limits of the regions of Search and Rescue areas were based on the borders of Member States. With the amending of the Annex this arrangement has been abolished and has been clearly been foreseen that «the fixing of the Regions Search and Rescue areas are determined in accordance with the technical and operational capacity of Member States».

It is clear that this provision serves the high strategy of Turkey, which specifically in the region of the eastern Aegean possesses means of high technical and operational capacities by continual efforts to improve the services provided. These arrangements may create thus new conditions in respect with the limits of SARs Hellas - Turkey²⁴. It is impressive that to this change the attitude of Hellas that acceding this. In my view the policy followed by Hellas in this case was inappropriate, since the applied review policy of Turkey will certainly take advantage of the new development

Turkey rushed therefore to declare according to the defined in Article 38 of the Chicago Convention and the decision of ICAO issued on 21 November 1950 that had not any objection to be deleted the term «border» and to be replaced with the term «technical and operational capacity». Moreover, with the technical and operational infrastructure that creates in the region, Turkey is likely to promote its positions. Turkey approach on search and rescue operations in the area of the Aegean Sea is reflected characteristically in the annual activities reports published/displayed on the website of the Sahil Guvenlik Komutanligi .

²⁴ See Kladi - Eustathopoulou, op.cit. note 10, p.p. 172-173.

Indicatively on page 38 of the annual activities reports for 2006, is stated that: «The Command of Sahil Guvenlik Komutanligi²⁵ attaches great importance to the Aegean and to the eastern Mediterranean, especially in search and rescue activities, which constitute the most important task because of their human dimension. Within this framework, started actively the operation of search and rescue system which is supported by satellites under the name COSPAS SARSAT. The acquisition of this capability has a great importance, concerning the ratification in international level of search and rescue areas which have been announced by us in the Aegean and the Eastern Mediterranean».

3. Conclusions

Turkey's try is continuously in order to present the Aegean Sea as a marine and air space under special conditions of which the legal status should be regulated not on the basis of the law of the Sea, the law of the air space and regulations of the ICAO but on the basis of bilateral agreements between Hellas and Turkey so that new areas will be created for maritime and air zones in the Aegean, areas of FIR, zones of search and rescue responsibility, etc.

In order to satisfy its demands, Turkey has shaped the theory of «vital area» and according to this theory any differences must be resolved on the grounds of the principles of «leniency» of «reciprocity» and «fairness» and not on international law since that in this case namely if is taken place a discussion on international law basis, Turkey must accept the legal status in the Aegean, status that is contested by it.

The review policy which Turkey follows leads, as reveals from the equipping of Sahil Guvenlik Komutanligi, to a mounting series of competitive relationships. In particular, the supply of open sea vessels obviously has been designed in order to exist greater presence of Turkish vessels in the Aegean international waters, so that in case of maritime accidents and not only, the Turkish competent authorities to undertake operations solely ,bypassing the Hellenic competent authorities.

The nature of search and rescue operations is used by Turkey as a vehicle for creating de facto events in the Aegean Sea area. Through search and rescue are disputed FIR Athinai, the responsibilities of the Hellenic competent authorities, the national airspace of Hellas etc. Hellas until now provides excellent services in this field with the establishment of the JCRC and the cooperation between all the responsible bodies for the protection of human life at sea. With the acquisition of four vessels (Patrol Boats for Open Seas - POS) Hellas has strengthened its operational ability for granting protection to human life at sea.

To the above should be added further of Super Puma helicopters the acquisition of the specific lifeboat vessels which have been disposed to the Port Police Authorities in the Aegean in order to cover operationally all the area of the Aegean Sea. It is also must be examined the permanent relocation of the Hellenic Coast Guard helicopters to the Aegean islands (e.g. Skiros and Thira which have the relevant infrastructure) in order to be further improved the response time to search and rescue incidents.

At the same time the installation of management systems and ships location information which have been developed also helps in providing search and rescue services. Hellas participation in COSPAS – SARSAT system from 2008 strengthening even more thus its technical capacity for immediate response to search and rescue incidents.

As far as regards the judicial procedures for settling disputes such as disputes regarding conflicts of jurisdiction zones delimitation as FIR or the zone of search and rescue

²⁵ The tasks of Sahil Guvenlik Komutanligi concern the conduct of missions and operations in accordance with the laws in national and international law at all the Turkish coasts, the internal waters of the country which are the sea of Marmara, the Straits of Istanbul and Canakkale, in ports, bays, territorial waters and in the Exclusive Economic Zone (E.E.Z.). It has also the mission to conduct search and rescue operations in the search and rescue region of Turkey under international agreements and the Turkish Regulation of Search and Rescue.

responsibility the procedural options are provided in Articles 54 and 84 of the Chicago Convention.

References

[1] "Aeronautical Map of Greece". ICAO, (1:500:000). Ministry of Transport, Agent of Civil Aviation, Division of Airspace Traffic, Department of Aeronautical Information and Maps, 1981.

[2] Giokaris A. (1991). *The powers of the coastal State in airspace, national and international*. Ant. Sakkoulas. Athens-Komotini (in Hellenic).

[3] Irakleidis A. (2007). *Irreconcilable Neighbors Hellas - Turkey, The dispute of the Aegean*. I. Sideris. Athens (in Hellenic).

[4] Kladi –Eustathopoulou M. (2007). *Items of Airspace law*. I. Sideris. Athens (in Hellenic).

[5] Korontzis Tr. (2012). *The European policies for illegal immigration via EUROPOL and FRONTEX in Hellas*. Announcement which took place in the Scientific International Conference titled «Comparing and contrasting “Europeanization”: concepts and experiences», which was held on 14-16 May 2012 in Athens, by the Institute of International Economic Relations (IIER/IDOS), is posted on the website <http://www.idec.gr/iier/new/Europeanization%20Papers%20PDF/KORONTZIS%20MAY%202012.pdf>.

[6] Korontzis Tr. (2011). *The statutory role of Hellenic Coast Guard*. PhD thesis Panteion University of Political and Social Sciences. Athens (in Hellenic).

[7] Kouloubis I., Ifantis K. (2003). *Changing the dilemma security in the Aegean. Modern Hellenic Foreign Policy, a comprehensive approach*. Volume II.I. Sideris. Athens (in Hellenic).