

The Algerian Exclusive Economic Zone and the Question of Maritime Boundaries with Neighboring States

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Abstract:

Algeria announced in 2018 through a Presidential Decree the establishment of an exclusive economic zone off its coasts in the west Mediterranean starting from the baselines from which the breadth of the Algerian territorial sea is measured up to a distance that was fixed by a list of geographical coordinate points annexed to the Presidential Decree. Some north Mediterranean States,

facing the Algerian territory, opposed to some parts of the Algerian delimitation of the new maritime zone since it overlaps with maritime spaces under the jurisdiction of those neighbor States.

This paper discusses the question of maritime boundaries between Algeria and its neighbor maritime States sharing the same maritime borders, adjacent and opposite to the Algerian territory.

Key words:

Algerian exclusive economic zone, maritime boundaries, UN Convention on the Law of the Sea, neighbor maritime States.

Introduction :

Algeria promulgated Presidential Decree 18/96 establishing an Exclusive Economic Zone (EEZ)¹ along its coasts, as allowed by part five of the 1982 United Nations Convention on the Law of the Sea (UNCLOS).

It is stated in articles 55,56 and 57 of UNCLOS that each coastal state has the right to establish an exclusive economic zone, not exceeding 200 nautical miles from the baselines from which the breadth of the territorial sea is measured. In this zone the coastal state has sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non

¹ Presidential Decree 18/96 of march 20,2018, Official Gazette n 18 of march 21,2018.

living, of the waters superjacent to the sea bed and of the sea bed and its subsoil, and with regard to other activities for the economic exploitation of the zone, such as the production of energy from the water, currents and winds².

In addition to those sovereign rights, the coastal state has jurisdiction in its EEZ to establish and use artificial islands, installations and structures³, jurisdiction with regard to marine scientific research⁴, and jurisdiction with regard to the protection and preservation of marine environment⁵, and other rights provided for in the 1982 convention on the law of the sea⁶.

Algeria as a Mediterranean state, signed the 1982 UNCLOS on 10 December 1982, and ratified it in 1996⁷, but never established an EEZ because of the nature of the Mediterranean Sea, as a semi-enclosed sea with many adjacent and opposite neighboring states. Instead of an EEZ, Algeria established a Fisheries Protection Zone (FPZ) in 1994⁸.

In the last few years many Mediterranean states have taken unilateral actions establishing their own EEZs, such as Egypt, Turkey, Israel, Libya, Greece, Spain, and Algeria

² Article 56 para.1(a) of the 1982 convention on the law of the sea.

³ Article 56 Para. 1 (b) 1. of the 1982 convention on the law of the sea.

⁴ Article 56 Para. 1 (b) 2 of the 1982 convention on the law of the sea.

⁵ Article 56 Para. 1 (b) 3 of the 1982 convention on the law of the sea.

⁶ Article 56 Para. 1 (c). of the 1982 convention on the law of the sea.

⁷ Presidential Decree 96/53 of January 22, 1996, Official Gazette n 6 of January 24,1996.

⁸ Legislative Decree 94/13 of May 28,1994 on fishing general rules, Official Gazette n 40, of May 22,1994.

which is the last Mediterranean state to have announced the establishment of an EEZ.

According to the provisions of Presidential Decree 18/96 the outer limits of the Algerian EEZ are calculated from the baselines determined pursuant to Decree n 84/181 of August 4, 1984, up to the limits designated by a list of geographical coordinates of points annexed to the Presidential Decree, using world geographical system 1984 (WGS 84).

This paper discusses the question of maritime boundaries between Algeria and its neighbor States in the region, and how those boundaries are delimited through unilateral State practice or through bilateral agreement and tries to answer the question whether there is a problem between those States to delimit their maritime boundaries, especially after the promulgation of the Algerian Presidential Decree 18/96.

Algeria has very narrow maritime borders with the Kingdom of Morocco in the west, which was never subject to discussions or dispute between the two neighboring countries. Algeria has also maritime borders with Tunisia in the east, and shares borders with opposite states namely Spain and Italy in the north-east Mediterranean Sea.

Maritime borders between Algeria and Tunisia have been previously delimited by bilateral agreement between

the two states in 2002⁹ and reaffirmed in 2011 through the agreement on maritime borders concluded in Algiers on 11 July 2011¹⁰. Therefore, there is no problem with adjacent States.

I. The maritime boundaries between Algeria and Spain

1- The Spanish opposition to the Algerian maritime delimitation

Spain established an exclusive economic zone on the fifth of April 2013 by Royal Decree n° 236/2013, in the north-west Mediterranean, and a list of geographical coordinates were annexed to the Spanish Royal Decree of 2013 marking the outer limits of the Spanish EEZ¹¹.

Five years later, Algeria established its EEZ along the Algerian coasts, and it was clearly pointed out in article 3 of Presidential Decree 18/96 that Algeria exercises its sovereign rights and its jurisdiction in its exclusive economic zone in accordance with the United Nations Convention on the Law of the Sea especially part five of it. But some people think that the Algerian step was taken for political reasons. Among those Mr. Giancarlo Elia Valori who wrote an article On The Exclusive Economic Zones in

⁹ See the agreement on provisional arrangements for the provisional delimitation of the marine boundaries between the Republic of Tunisia and the Peoples` Republic of Algeria (with annex of 7 August 2002) Algiers 11 February 2002, came into force November 23, 2003, Un Library ,n 39821.

¹⁰ See Presidential Decree 13/316 of September 16, 2013, Official Gazette n 46 of September 22, 2013.by which Algeria ratified the final agreement on maritime delimitation between Algeria and Tunisia, concluded in Algiers in July 11, 2011.

¹¹ Law of the Sea Bulletin n 97, 2019, pp. 58 and 59.

the Mediterranean¹², where he wrote: “The *political meaning of the Algerian operation is obvious: as from now Algeria wants to consider itself a frontline state compared to France...*”

This is certainly not the reason behind the creation of an exclusive economic zone by Algeria in 2018. If that was the case, then Algeria would have established such a zone at least since it ratified the 1982 convention on the law of the sea in 1996.¹³ Presidential Decree 18/96 has clear economical meaning to spread Algerian jurisdiction over marine resources, which were always exploited by European fleet, in accordance with the provisions of UNCLOS and related rules of international law.

Spain, who established an EEZ in 2013, declared its opposition to the Algerian Decree 18/96, as far as the outer limits of the Algerian EEZ is concerned. In a letter addressed to the Algerian Embassy in Madrid, on 12 July 2018, referring to Presidential Decree 18/96 establishing an EEZ, it was stated that:” *The Government of Spain, in the spirit of friendship and understanding which characterize its relations with Algeria, wishes to register its opposition to the delimitation of that exclusive economic zone, some sections of which are clearly disproportionate in relation to*

¹² Giancarlo Elia Valori, *The exclusive Economic Zones in the Mediterranean*, [geostrategicmedia.com/2020/02/17 the-exclusive-economic-zones-in-the-Mediterranean/](http://geostrategicmedia.com/2020/02/17/the-exclusive-economic-zones-in-the-Mediterranean/)

¹³ It was ratified by Algeria in 1996 by Presidential Decree 96/53 of 22nd January 1996. *Official Gazette n 6 of 24th January 1996.*

the equidistance median line between the territory of Algeria and the main land and insular territory of Spain. These disproportionate limits create an area that overlaps with the exclusive economic zone of Spain in the north-western Mediterranean established by Royal Decree n 236/2013 of 5 April 2013¹⁴.

The Spanish letter added that: *“The Government of Spain will not consider the proposed coordinates as the delimitation between the maritime areas of the two States, because those coordinates are clearly disproportionate in relation to the equidistant median line between the two coasts.”*

On July 27, 2018, the Spanish Government addressed a letter the Secretary General of the United Nations, through its permanent mission to the UN, where it informs the Secretary General of its disagreement with the list of coordinates of points marking the outer limits of the exclusive economic zone of Algeria, as contained in the annex to Presidential Decree 18/96 of March 2018, and that the Spanish Government will not consider those coordinates as the delimitation between Algeria and Spain.

The Spanish Government, by the same letter, expressed its willingness to enter into negotiations with the government of Algeria with a view to reaching a mutually

¹⁴ See letter from Spain to Algeria of 12 July 2018, https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/ESP_2018_not_everbale_en.pdf

accepted agreement on the outer limits of their respective EEZs in accordance with article 74 of the UN Convention on the Law of the Sea¹⁵.

2-The Algerian opposition to the Spanish maritime delimitation

When Spain established its EEZ in north-western Mediterranean Sea by Royal Decree n 236/213, it first reminded with some provisions of the 1982 Convention on the Law of the Sea on the rights and duties of coastal states and other states in the EEZ, and provisions of Articles 55, 57 and 74. The Spanish Royal Decree states in article one that:” *an exclusive economic zone of Spain is hereby established in the north-west Mediterranean, starting from the outer limits of the territorial sea up to the coordinate point Lat.35° 57.46’ North, Long.2°5.31’ west (WGS 84 datum), bearing in 173° (S007E) from Cabo de Gata, at a distance of 46 nautical miles from the above mentioned coordinates point, and continuing eastwards to the equidistant line between the coastal states, drawn in conformity with international law, up to the maritime boundary with France, as detailed in the table below”.*

The table annexed to the Royal Decree contains a list of geographical coordinates of points on the outer limits of the Spanish EEZ which was deposited with the Secretary

¹⁵ See letter from Spain to the Secretary General Of the United Nations, 1814819E, https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/ESP_2018_not_everbale_en.pdf

General of the United Nations pursuant to article 75/2 of the 1982 convention five years later, on 28th August 2018¹⁶.

Algeria in turn objected by “note verbale” addressed to the Spanish Embassy in Algiers on 25th November 2018¹⁷, considering the unilateral delimitation of the exclusive economic zone is not in conformity with the text of the United Nations’ convention on the law of the sea, and did not take into account the geography, the particularities and the special circumstances of the Mediterranean Sea, nor did it take into account the objective rules and relevant principles of international law that must govern the equitable delimitation of maritime spaces between Algeria and Spain in accordance with article 74 of the UN Convention on the Law of the Sea. Therefore, Algeria expressed its opposition to the delineation of the outer limits of the exclusive economic zone of Spain as certain parts of these limits are excessively broad and create an area of overlap with the exclusive economic zone off the Algerian coast.

From the above mentioned exchange of diplomatic letters between Algeria and Spain, we can clearly deduce that not the entire maritime borders between the two countries are subject to opposition, but only a small space where the two EEZs overlap each other. The overlapping space is located south- east of the Balearic Islands.

¹⁶ MZN 139.2018 los (Maritime Zone Notification) 31August 2018.

¹⁷ See Note Verbale of 25 November 2018 https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/DZA_2018_noteverbale_eng.pdf

In a “note verbale” from the Ministry of Foreign Affairs of Algeria addressed to the Embassy of Spain in Algiers on 20th June 2019¹⁸, Algeria pointed out that the delineation of the outer limits of the exclusive economic zone of Algeria and Spain effectively creates an area of maritime overlap between the two countries. Thus, pending definitive delineation of the marine boundaries separating the EEZ under the jurisdiction of each State, the Government of Algeria stresses that the area of overlap is contested under International law. Consequently, Algeria and Spain are required to refrain, at this stage, from engaging in activities in that area, including exploration and exploitation, conservation and management of natural resources, whether living or non-living as set forth in article 56 of United Nations' on the Law of the Sea.

The Spanish Royal Decree of 2013, and the Algerian Presidential Decree of 2018 creating respective EEZs both made reference to article 74 of UN Convention on the Law of the Sea¹⁹ which states in paragraph 1 that:” *The delimitation of the exclusive economic zone between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.*” And both Decrees pointed out that the limits set out by both legislations may be subject to modification where

¹⁸ See *Law of the Sea Bulletin* n°101, 2020mp.50.

¹⁹ Article 2 of the Spanish Royal Decree and article 2 of the Algerian Presidential Decree.

appropriate, in the context of bilateral agreements with States whose coasts are adjacent to or facing each other²⁰.

In the Exchange of diplomatic letters between the two States, it is clearly stated that Algeria and Spain put forward the bonds of friendship, understanding and cooperation that link the two countries, and showed their readiness to work together in order to find an equitable solution through dialogue, regarding the outer limits of the exclusive economic zones of Algeria and Spain.

The question of maritime borders between Algeria and Spain cannot be seen as a dispute since the two neighbors are willing to apply the provisions of article 74 of UNCLOS, to find a mutually accepted solution. This position was put forward by Spanish Minister of foreign affairs, European Union and Cooperation Arancha Gonzalez Laya during her last visit to Algiers where she declared, in a joint press conference with the Algerian Minister of Foreign Affairs Mr. Sabri Boukadoum,: “ *I want to be clear about the maritime boundaries over which Algeria and Spain agree one hundred per cent. We have no problem with the delimitation of our maritime boundaries.* ”²¹

²⁰ Article 2 of the Spanish Royal Decree and article 2 Of the Algerian Presidential Decree.

²¹ See the Algerian Press Service (APS) March 04, 2020. See Also the Chinese Electronic Newspaper Xinhuanet.com/English/2020.03/05/c-138843966.htm.

I. The Maritime Boundaries between Algeria and Italy

Italy has not established an exclusive economic zone so far, but instead, it has established an Ecological Protection Zone (EPZ) beyond the outer limit of the territorial sea in 2006.²² The outer limits of this zone are determined by article 1 paragraph 3 of law n 61 as follows:

“The outer limits of the ecological protection zone are determined on the basis of agreements with the states involved, as per paragraph 2. Until the date that said agreements enter into effect, the outer limits of the ecological protection zones follow the outline of the median line, each point of which is equidistant from the closest points on the base lines of the Italian territorial sea and of the state involved, as per paragraph 2.”

After the establishment of the Algerian exclusive economic zone, and the publication of the geographic coordinate points, Italy objected to these coordinates because the Algerian EEZ overlaps partly the Hispanic-Italian continental shelf and the Italian Ecological Protection Zone, to the west of Sardinia, with the Algerian EEZ stretching north- westwards, in the gulf of Oristano, up to

²² Law n° 61 of 8 February 2006, https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/ITA_2006_Law.pdf

reaching the waters of Portovesme, Sant Antioco, Carloforte (where the best Italian Tuna fish is produced).²³

For this reason the permanent representation of Italy to the United Nations' addressed a communication on 28th November 2018 to the Secretary General of the United Nations' by which Italy expressed its opposition to the delimitation of the Algerian EEZ as indicated in Presidential Decree n° 18/96 since it overlaps on zones of legitimate and exclusive national Italian interests.²⁴

The letter reminded with article 74 of UNCLOS by which economic zones delimitation shall be effected by agreement to achieve an equitable solution. At the same time the Italian authorities showed their readiness to enter into negotiations to reach an agreement of mutual satisfaction on the matter according to article 74 of the UN Convention on the Law of the Sea.²⁵

The response of the Government of Algeria to the Italian "note verbale", was that the establishment of the exclusive economic zone of Algeria is set against the background of national law and the exercise by Algeria of

²³ See Giancarlo Elia Valori, *Op.Cit.*

²⁴ See communication of Italy to the United Nations, prot.4048, https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/2018_NV_Italy.pdf

²⁵ See communication of Italy to the United Nations, prot.4048, https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/2018_NV_Italy.pdf

its sovereign rights in that zone as recognized by the UN Convention on the Law of the Sea.²⁶

Concerning the delimitation of the EEZ, Algeria took into consideration the objective rules and relevant principles of international law, thus insuring the just and equitable delimitation of marine spaces between Algeria and Italy, in accordance with article 74 of the UN Convention on the Law of the Sea.²⁷

Algeria assured Italy, through the same letter, of its readiness to participate in joint efforts to find, through dialogue, an equitable and mutually-accepted solution regarding the outer limits of the EEZ of Algeria and the maritime space of Italy, in accordance with article 74 of the UN convention on the Law of the Sea.

In September 2020, Algeria and Italy agreed to create a joint technical committee to draw the maritime borders between the two countries during the visit of Italian Secretary of State to the Ministry of Foreign Affairs and International Cooperation Minister Mr. Manlio Di Stefano.²⁸

²⁶ See Algerian note verbale to Italy, *Law of the Sea Bulletin*, n 101, 2020,p.49.

²⁷ *Ibid.*

²⁸ <https://www.aps.dz/en/algeria/35850-algeria-italy-official-installation-of-technical-committee-in-charge-of-delimitation-of-maritime-borders>.

Conclusion

Some writers and some media spoke of an allegedly tension concerning the maritime borders between Algeria and some States sharing common borders, especially Spain and Italy, after the establishment of Algeria of an exclusive economic zone off its coasts up to a distance that was indicated in Presidential Decree 18/96. But the truth is that Algeria published a list of geographical coordinate points to mark the outer limit of its EEZ but kept the doors wide opened to negotiate with any neighbor State who believes that that delimitation was unfair or not equitable.

Our two facing neighbors i.e. Spain and Italy opposed to certain parts of the delineation line drawn by the Algerian Presidential Decree, just like Algeria opposed some parts of the delimitation of the Spanish Royal Decree 236/213. This opposition, from both sides, has led to official meeting between representatives of the concerned States and the final and official delimitation of the Algerian maritime borders with opposite States is on its way after the work of the joint technical committees on maritime borders comes to an end, as stated in the provisions of the UN Convention on the Law of the Sea.

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