

AEGEAN SEA CONTINENTAL SHELF CASE (INTERIM PROTECTION)

Order of 11 September 1976

This Order, made by the Court in the Aegean Sea Continental Shelf case, found, by twelve votes to one, that the circumstances, as they presented themselves to the Court, were not such as to require the exercise of its power under Article 41 of its Statute to indicate interim measures of protection.

The Court was composed as follows: President Jiménez de Aréchaga; Vice-President Nagendra Singh; Judges Forster, Gros, Lachs, Dillard, Morozov, Waldock, Ruda, Mosler, Elias and Tarazi; Judge *ad hoc* Stassinopoulos.

The President, the Vice-President and Judges Lachs, Morozov, Ruda, Mosler, Elias and Tarazi appended separate opinions to the Order of the Court. Judge *ad hoc* Stassinopoulos appended a dissenting opinion.

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In its Order the Court recalls that on 10 August 1976 Greece instituted proceedings against Turkey in respect of a

dispute concerning the Aegean Sea Continental Shelf. Greece requested the Court *inter alia* to declare what is the course of the boundary between the portions of the continental shelf appertaining respectively to Greece and Turkey in the area, and to declare that Turkey is not entitled to undertake any activities on the Greek continental shelf, whether by exploration, exploitation, research or otherwise, without the consent of Greece.

On the same day Greece also requested the Court to indicate interim measures of protection to the effect that the Governments of both States should: (a) refrain, unless with the consent of each other and pending the final judgment of the Court, from all exploration activity or any scientific research with respect to the areas in dispute; (b) refrain from taking further military measures or actions which may endanger their peaceful relations.

At public hearings on 25, 26 and 27 August 1976 the Court heard observations presented on behalf of the Government of Greece on its request for the indication of interim measures

Continued on next page

of protection. On 26 August the Turkish Government, which had not appointed an agent and was not represented at the hearings, communicated to the Registry of the Court certain written observations in which it submitted in particular that the Court had no jurisdiction to entertain the dispute and suggested that the request for interim measures be dismissed and the case removed from the list.

In justification of its request for interim measures Greece alleged: (a) that certain acts on the part of Turkey (the granting of petroleum exploration permits, the explorations of the vessel *MTA Sismik I*) constitute infringements of its exclusive sovereign rights to the exploration and exploitation of its continental shelf, and that the breach of the right of a coastal State to exclusivity of knowledge of its continental shelf constitutes irreparable prejudice; (b) that the activities complained of would, if continued, aggravate the dispute. Turkey contended: (a) that these activities cannot be regarded as involving any prejudice to the existence of any rights of Greece over the disputed area and that, even if they could, there would be no reason why such prejudice could not be compensated; (b) that Turkey has no intention of taking the initiative in the use of force.

So far as (a) is concerned, the Court, viewing the matter in

the context of Article 41 of its Statute, is unable to find in the alleged breach of Greece's rights such a risk of irreparable prejudice to rights in issue as might require the exercise of the power to indicate interim measures of protection. With regard to (b) the Court considers that it is not to be presumed that either Government will fail to heed its obligations under the United Nations Charter or fail to heed Security Council resolution 395 (1976) of 25 August 1976, wherein the two Governments were urged "to do everything in their power to reduce the present tensions in the area" and called on "to resume direct negotiations over their differences".

The Court observes that, to pronounce on the present request for interim measures, it was not called upon to decide any question of its jurisdiction to entertain the dispute, and that its present decision in no way prejudices any question relating to its jurisdiction or the merits of the case. It is unable, at the present stage of the proceedings, to accede to Turkey's request that the case be removed from the list, but it will be necessary to resolve as the next step the question of its jurisdiction with respect to the case. The written pleadings are first to be addressed to that question and will be filed within time-limits the fixing of which the Court has reserved for further decision.