



РЕПУБЛИКА МАКЕДОНИЈА
МИНИСТЕРСТВО ЗА НАДВОРЕШНИ РАБОТИ
REPUBLIC OF MACEDONIA
MINISTRY OF FOREIGN AFFAIRS

**APPLICATION
TO THE INTERNATIONAL COURT OF JUSTICE**

**DISPUTE CONCERNING THE IMPLEMENTATION
OF ARTICLE 11, PARAGRAPH 1 OF THE INTERIM
ACCORD OF 13 SEPTEMBER 1995**

13 NOVEMBER 2008

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I. INTRODUCTION

1. The Republic of Macedonia (being provisionally referred to for all purposes within the United Nations as ‘the former Yugoslav Republic of Macedonia’ in accordance with United Nations Security Council Resolution 817 of 1993)¹ (“the Applicant”) brings this Application against Greece (“the Respondent”) under the United Nations Interim Accord of 13 September 1995 (‘the Interim Accord’)², binding under international law on the Applicant and the Respondent (“the two Parties”). The Applicant seeks to establish the violation by the Respondent of its legal obligations under Article 11, paragraph 1 of the Interim Accord and to ensure that the Respondent abides by its obligations under Article 11 of the Interim Accord in relation to invitations or applications that might be made to or by the Applicant for membership of NATO or any other international, multilateral or regional organisation or institution of which the Respondent is a member. The Applicant brings this case to protect its rights under the Interim Accord and to ensure that it is allowed to exercise its rights as an independent State acting in accordance with international law, including the right to pursue membership of relevant international organisations.
2. Article 21, paragraph 2 of the Interim Accord confers jurisdiction of the International Court of Justice to resolve disputes between the Parties.
3. In accordance with Article 11 of the Interim Accord, the Respondent has undertaken a binding obligation under international law

“not to object to the application by or the membership of the Party of the Second Part [the Applicant] in international, multilateral and regional organizations and institutions of which the Party of the First Part [the Respondent] is a member: however the Party of the First Part [the Respondent] reserves the right to object to any membership referred to above if and to the extent the Party of the Second Part [the Applicant] is to be referred to in such organization or institution differently than in paragraph 2 of the United Nations Security Council resolution 817 (1993).”

¹ Security Council Resolution SC/RES/817 (1993) of 7 April 1993, adopted by the Security Council at its 319th meeting on 7 April 1993. See Annex I.

² See Annex II.

4. The Applicant has respected Article 11(1) of the Interim Accord in accepting to be designated in the process of accession to membership of NATO and other international organisations under the name ‘the former Yugoslav Republic of Macedonia’.
5. However, at the NATO Summit in Bucharest which took place from 2 to 4 April 2008, the Respondent, acting through its organs and agents, objected to the Applicant’s application to join NATO, despite the fact that the Applicant had made clear that it would be referred to in its membership of NATO in the manner provided by paragraph 2 of the United Nations Security Council Resolution 817 (1993). The reason for the Respondent’s objection is stated to be its desire to resolve the difference between the Parties concerning the constitutional name of the Applicant as an essential precondition to the Applicant’s NATO membership. The Respondent’s objection, which amounts to a veto, has meant that the Applicant is unable to join NATO.
6. The Applicant has met its obligations under the Interim Accord not to seek to be designated as a member of NATO with any designation other than ‘the former Yugoslav Republic of Macedonia’. In the circumstances, the Respondent’s objection to the Applicant’s NATO membership represents a flagrant violation of its obligations under Article 11 of the Interim Accord.

II. THE JURISDICTION OF THE COURT

7. Article 36, paragraph 1 of the Statute of the Court provides that:

“The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force.”

8. As Member States of the United Nations, the Applicant and the Respondent are *ipso facto* parties to the Statute of the Court and are entitled to refer cases to it. The Applicant and the Respondent are also parties to the Interim Accord. The Accord provides at Article 21, paragraph 2:

“Any difference or dispute that arises between the Parties concerning the interpretation or implementation of this Interim Accord may be submitted by

either of them to the International Court of Justice, except for the differences referred to in Article 5, paragraph 1.”³

9. The Interim Accord entered into force on 13 October 1995, pursuant to its Article 23, paragraph 1. It was registered by the Respondent with the United Nations (with number 32193) on the same day and has been binding on the Parties since that date. It remains in force pursuant to Article 23, paragraph 2, not having been superseded by a definitive agreement or withdrawn from by twelve months’ written notice from either of the Parties.
10. Upon the filing of the present Application, any matters in dispute between the Parties concerning the interpretation or application of Article 11 of the Interim Accord of 1995 are plainly subject to the compulsory jurisdiction of the Court. The subject of this dispute does not concern – either directly or indirectly – the difference referred to in Article 5, paragraph 1 of the Interim Accord and, accordingly, the exception to jurisdiction provided for in Article 21, paragraph 2 of the Interim Accord does not apply.

III. THE FACTS

11. The Applicant peacefully gained its independence from the former Yugoslav Federation on 8 September 1991, when its citizens voted overwhelmingly in favour of independent statehood. Based on the results of the Referendum, on 17 September 1991 the Assembly of the Applicant adopted a Declaration for an independent and sovereign Republic of Macedonia which set out the basic principles of the Applicant’s foreign policy. This led to the adoption on 17 November 1991 of a new Constitution.
12. On 19 December 1991, the Assembly of the Republic of Macedonia, adopted a further Declaration seeking wider international recognition for the Applicant as a sovereign and independent state. However, such international recognition of the Applicant was slow to follow, due in large part to the Respondent’s refusal to recognise the Applicant

³ Article 5 paragraph 1 of the Interim Accord provides: “The Parties agree to continue negotiations under the auspices of the Secretary-General of the United Nations pursuant to Security Council resolution 845 (1993) with a view to reaching agreement on the difference described in that resolution and in Security Council Resolution 817 (1993).” See Annex II.

under the name referred to in its Constitution on the grounds that the constitutional name implied territorial aspirations on the part of the Applicant.

13. This matter was fully addressed by the Arbitration Commission of the Conference on Yugoslavia (“the Badinter Commission”) in its Opinion No. 6 from January 1992,⁴ which provided in material part as follows:

“5. The Arbitration Commission consequently takes the view:

- that the Republic of Macedonia satisfies the tests in the Guidelines on the Recognition of New States in Eastern Europe and in the Soviet Union and the Declaration on Yugoslavia adopted by the Council of the European Communities on December 1991;
- that the Republic of Macedonia has, moreover, renounced all territorial claims of any kind in unambiguous statements binding in international law; that **the use of the name “Macedonia” cannot therefore imply any territorial claim against another State** (emphasis added); [...]

14. During 1992 and 1993 the independent statehood of the Applicant was recognised by a growing number of States, not including the Respondent.
15. On 8 April 1993, notwithstanding the continuing difference between the Applicant and the Respondent concerning the Applicant’s constitutional name, the Applicant was granted membership of the United Nations, subject to its “being provisionally referred to for all purposes within the United Nations as ‘the former Yugoslav Republic of Macedonia’ pending settlement of the difference that has arisen over the name of the State” (in accordance with United Nations Security Council Resolution 817 (1993), at paragraph 2).⁵
16. UN Security Council Resolution 817 – and later UN Security Council Resolution 845 (1993)⁶ – also urged the Parties to cooperate to arrive at a speedy settlement of their

⁴ See Annex III. The Commission was set up by the Council of Ministers of the EEC to provide legal advice on matters resulting from the dissolution of the Socialist Federal Republic of Yugoslavia, including applications for recognition made by former Yugoslav states.

⁵ See Annex I.

⁶ Security Council Resolution SC/RES/845 (1993) of 18 June 1993, adopted by the Security Council at its 3243rd meeting on 18 June 1993. See Annex IV.

difference, under the auspices of the UN Secretary General. The Applicant regrets that that framework has not yet provided for a final resolution of the difference between the Parties. However, neither that failure nor the underlying difference is the subject of the present dispute. The Applicant reaffirms its commitment to continue negotiations under the auspices of the Secretary General of the United Nations in accordance with Article 5 of the Interim Accord.

17. The adoption of Security Council Resolution 817 opened the door to a normalisation of relations between the Parties, and on 13 September 1995, the Parties reached agreement and signed the Interim Accord, providing for the establishment of diplomatic relations between them. Article 1 of the Interim Accord provides that “the Party of the First Part [Respondent] recognizes the Party of the Second Part [Applicant] as an independent sovereign state, under the provisional designation” of ‘the former Yugoslav Republic of Macedonia’. Under Article 11, paragraph 1 of the Interim Accord, the Respondent undertook as follows:

“Upon entry into force of this Interim Accord, the Party of the First Part [the Respondent] agrees not to object to the application by or the membership of the Party of the Second Part [Applicant] in international, multilateral and regional organizations and institutions of which the Party of the Second Part [the Respondent] is a member; however, the Party of the Second Part [the Respondent] reserves the right to object to any membership referred to above if and to the extent the Party of the Second Part [the Applicant] is to be referred to in such organization or institution differently than in paragraph 2 of the United Nations Security Council resolution 817 (1993).”⁷

18. Following the adoption and entry into force of the Interim Accord, the Applicant has secured membership of a great number of “international, multilateral and regional organizations and institutions” of which the Respondent was itself already a member. Such organisations include: the Organisation for Security and Cooperation in Europe (October 1995), the Council of Europe (November 1995), the Organisation for the Prohibition of Chemical Weapons (July 1997), the European Charter for Energy (March 1998), the Permanent Court of Arbitration (February 2001) and the World

⁷ See Annex I.

Trade Organisation (April 2003).⁸ In accordance with Article 11, paragraph 1 of the Interim Accord, the Respondent has not objected to the Applicant's application for membership to any of those organisations, which has proceeded in accordance with the terms of Article 11, paragraph 1 of the Interim Accord. In each case, the application for membership was made by the Applicant under its constitutional name, on the understanding that its membership in the organisation or institution in question would be provisionally referred to in the manner envisaged by UN Security Council resolution 817 (1993). This constant practice has not raised any objection by the Respondent and has not caused any difficulties in participation in the relevant organisations.

19. In 1995 the Applicant also became a member of NATO's Partnership for Peace, under the provisional designation of 'the former Yugoslav Republic of Macedonia'.⁹ In 2004 the Applicant was invited to participate in the Membership Action Plan for NATO under the same designation, and accepted to do so. For over a decade the Applicant successfully worked with other NATO members, including the Respondent, during which time no issues arose concerning the Applicant's designation. The Applicant regrets that this situation has unexpectedly come to an end following its efforts to proceed to full membership of NATO. On 3 April 2008, in breach of Article 11, paragraph 1 of the Interim Accord, the Respondent, in its capacity as a member of NATO, acted to prevent the Applicant from receiving an invitation to join NATO under the provisional designation of 'the former Yugoslav Republic of Macedonia'. As a direct consequence of the Respondent's actions, in circumstances in which membership of NATO requires the consent of all existing members,¹⁰ the Applicant's membership of that organisation was denied.¹¹

⁸ See Annex V.

⁹ The Applicant is a party to the Agreement among the States Parties to the North Atlantic Treaty and the Other States Participating in the Partnership for Peace regarding the Status of their Forces, signed in Brussels in 1995. See Annex V (G).

¹⁰ Article 10 of the North Atlantic Treaty (4 April 1949) provides: "The Parties may, by unanimous agreement, invite any other European State in a position to further the principles of this Treaty and to contribute to the security of the North Atlantic area to accede to this Treaty. Any State so invited may become a Party to the Treaty by depositing its instrument of accession with the Government of the United States of America. The Government of the United States of America will inform each of the Parties of the deposit of each such instrument of accession."

¹¹ NATO Summit of Heads of State and Government Press Release 49 of 2008, made in Bucharest on 3 April 2008. See Annex VI.

20. This dispute concerns the Respondent's actions to prevent the Applicant from proceeding to be invited to join NATO, in clear violation of its obligations under the Interim Accord. The Respondent has made clear, by its actions and subsequent statements, that the sole reason for its objection to the Applicant's membership of NATO was the difference between the Parties as to the Applicant's constitutional name. The Respondent has also made clear that it will continue to object to the Applicant's NATO membership, and prevent it from proceeding, until that difference is resolved permanently to its satisfaction. The Respondent has also made clear that it will object, on the same grounds, to the Applicant's application to join the European Union.¹² The Respondent's position is unambiguous, as reflected in the numerous letters, newspaper articles and interview transcripts appended at Annex VII. On 14 October 2007, for example, in an interview with the Greek newspaper *Kathimerini*, the Respondent's Foreign Minister Dora Bakoyannis made plain that the Respondent's actions were taken in knowing breach of the Interim Accord, as a tactic intended to force a permanent resolution of the name issue.¹³ Another example is the letter dated 14 April 2008, in which the Respondent's Permanent Representative to the United Nations, Ambassador John Mourikis, wrote to other Permanent Representatives at the United Nations stating that

“in view of the failure to reach a viable and definitive solution to the name issue, Greece was not able to consent to the Former Yugoslav Republic of Macedonia being invited to join the North Atlantic Alliance”.¹⁴ (emphasis added)

21. In circumstances in which the Applicant has expressed its readiness to be invited and to be provisionally referred to within NATO as 'the former Yugoslav Republic of Macedonia', the Respondent's actions in objecting to its membership to NATO represent an evident breach of its undertakings under Article 11, paragraph 1 of the Interim Accord.¹⁵

¹² See, for example, Annex VII (B), (C), (F) and (H).

¹³ See Annex VII (B).

¹⁴ See Annex VII (A).

¹⁵ As set out in the letter from the Chargé d'Affaires of the Permanent Mission of the Applicant to the United Nations (2 May 2008) at Annex VIII; see also the letter in response from the Permanent Representative of the Respondent to the United Nations (28 May 2008) at Annex IX.

IV. THE APPLICANT'S CLAIM AND THE RELIEF SOUGHT

22. The Applicant claims that the Respondent, acting through its State organs and agents, has violated its obligations under Article 11, paragraph 1 of the Interim Accord.
23. The Applicant requests the Court:
 - (i) to adjudge and declare that the Respondent, through its State organs and agents, has violated its obligations under Article 11, paragraph 1 of the Interim Accord;
 - (ii) to order that the Respondent immediately take all necessary steps to comply with its obligations under Article 11, paragraph 1 of the Interim Accord, and to cease and desist from objecting in any way, whether directly or indirectly, to the Applicant's membership of the North Atlantic Treaty Organisation and/or of any other "international, multilateral and regional organizations and institutions" of which the Respondent is a member, in circumstances where the Applicant is to be referred to in such organizations or institutions by the designation provided for in paragraph 2 of United Nations Security Council Resolution 817 (1993).

VI. JUDGE *AD HOC*

24. In accordance with the provisions of Article 31, paragraph 2, of the Statute and Article 35, paragraph 1, of the Rules, the Applicant designates Professor Budislav Vukas as Judge *Ad Hoc*.

VII. RESERVATION OF RIGHTS

25. The Applicant reserves the right to modify and extend the terms of this Application, as well as the grounds involved.

VIII. APPOINTMENT OF AGENT

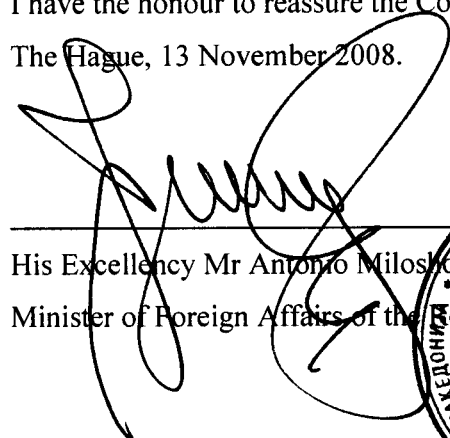
26. The Applicant designates as its Agent His Excellency Mr Antonio Miloshoski, Minister of Foreign Affairs of the Republic of Macedonia.

27. Pursuant to Article 40, paragraph 1, of the Rules of the Court, all communications relating to this case should be sent to:

His Excellency Mr Antonio Miloshoski
The Embassy of the Republic of Macedonia
Laan van Meerdevoort 50 – C
2517 The Hague
hague@mfa.gov.mk

I have the honour to reassure the Court of my highest esteem and consideration.

The Hague, 13 November 2008.



His Excellency Mr Antonio Miloshoski
Minister of Foreign Affairs of the Republic of Macedonia

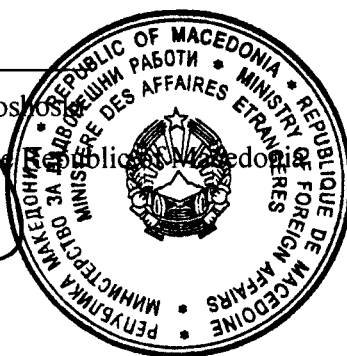


TABLE OF ANNEXES TO APPLICATION

- ANNEX I** Security Council Resolution 817 of 1993, adopted by the Security Council at its 3191st meeting on 7 April 1993, S/RES/817 (1993).
- ANNEX II** Interim Accord (with related letters and translations of the Interim Accord in the languages of the Contracting Parties), signed in New York on 13 September 1995, UNTS, Vol. 1891, I-32193.
Authentic text: English. Registered by Greece on 13 October 1995.
- ANNEX III** Arbitration Commission of the Conference on Yugoslavia, "Opinion No. 6 on the Recognition of the Socialist Republic of Macedonia by the European Community and its Member States", Paris, 11 January 1992.
- ANNEX IV** Security Council Resolution 845 of 1993, adopted by the Security Council at its 3243rd meeting on 18 June 1993, S/RES/845 (1993).
- ANNEX V** Documents setting out the date of membership in or participation by the Applicant in select international organisations:
- A. The Organisation for Security and Cooperation in Europe (October 1995).
 - B. The Council of Europe (November 1995).
 - C. The Organisation for the Prohibition of Chemical Weapons (July 1997).
 - D. The European Charter for Energy (March 1998).
 - E. The Permanent Court of Arbitration (February 2001).
 - F. The World Trade Organisation (April 2003).
 - G. NATO's Partnership for Peace (1995).

ANNEX VI Bucharest Summit Declaration, issued by the Heads of State and Government participating in the meeting of the North Atlantic Council in Bucharest on 3 April 2008, Press Release 49 (2008): <http://www.nato.int/docu/pr/2008/p08-049e.html>.

ANNEX VII Letters, published statements and newspaper interviews and articles reflecting the Respondent's position

- A. Letter of Ambassador John Mourikis, Permanent Representative of the Respondent to the United Nations to Ambassador Jorge Urbina, Permanent Representative of Costa Rica to the United Nations, New York, 14 April 2008, Ref. F. 4608/450/AS 1161.
- B. Interview with the Respondent's Foreign Minister Dora Bakoyannis in the publication *United Macedonian Diaspora* (28 October 2006): <http://umdiaspora.org/content/view/150/9/>.
- C. Article entitled "Greece to Veto Macedonia's EU, NATO bids if name issue not resolved" in the *Southeast European Times* (7 September 2007): http://setimes.com/cocoon/setimes/xhtml/en_GB/newsbriefs/setimes/newsbriefs/2007/09/07/nb-06.
- D. Interview by journalist Ms Dora Antoniou with the Respondent's Foreign Minister Ms Dora Bakoyannis, in the Athens daily *Kathimerini* (14 October 2007): http://www.ekathimerini.com/4dcgi/_w_articles_ell_100007_15/10/2007_88955.
- E. Report of a briefing by the Respondent's Foreign Minister Ms Dora Bakoyannis to the Respondent's Cabinet in the Athens daily *Kathimerini* (17 October 2007): http://www.ekathimerini.com/4dcgi/_w_articles_politics_2_17/10/2007_89036.
- F. Article entitled "Premier dangles FYROM veto" in the Athens daily *Kathimerini* (23 February 2008):

http://www.ekathimerini.com/4dcgi/_w_articles_politics_2_23/02/2008_93651.

- G. Interview with the Respondent's Foreign Minister Ms Dora Bakoyannis by journalist Michael Martens in *Frankfurter Allgemeine Zeitung* (28 March 2008):
http://www.mfa.gr/www.mfa.gr/Articles/en-US/280308_alp_1640.htm.
- H. Article by the Respondent's Foreign Minister Dora Bakoyannis entitled "The view from Athens" in the *International Herald Tribune* (31 March 2008):
<http://www.ihf.com/articles/2008/03/31/opinion/edbakoy.php>.
- I. Article by the Respondent's Foreign Minister Dora Bakoyannis entitled "All in a name" in *The Wall Street Journal* (1 April 2008):
<http://online.wsj.com/article/SB120701620662579369.html>.
- J. Article by Robert Ghement entitled "Greece blocks FYROM but still wants to talk" in the Athens daily *Kathimerini* (4 April 2008):
http://www.ekathimerini.com/4dcgi/_w_articles_politics_2_04/04/2008_95129.
- K. Article by the Respondent's Foreign Minister Dora Bakoyannis entitled "In the name of a common future" in *The Washington Times* (29 April 2008): <http://washingtontimes.com/news/2008/apr/29/in-the-name-of-a-common-future/>.

ANNEX VIII Letter from the Chargé d'Affaires of the Permanent Mission of the Applicant to the United Nations, New York, 2 May 2008, A/62/826-S/2008/290.

ANNEX IX Letter of the Ambassador John Mourikis, Permanent Representative of the Respondent to the United Nations addressed to the Secretary-General, New York, 23 May 2008, A/62/848-S/2008/346.