



*Application of the Interim Accord of 13 September 1995 (former Yugoslav Republic of
Macedonia v Greece)*

Question of Judge Bennouna

Reply of Greece

1. On 30 March 2011, Judge Bennouna addressed the following question to Greece:

“In the period preceding and during the NATO Summit in Bucharest from 2-4 April 2008, what was the position expressed by Greece in its contacts with the other members of the organization as regards the admission of the former Yugoslav Republic of Macedonia?”¹

2. The consultations regarding the NATO Bucharest enlargement in question covered not only the former Yugoslav Republic of Macedonia but the two other candidate countries namely Albania and Croatia. Greece participated fully as all the other NATO members both in the consultation process as well as in the consensus achieved in Bucharest collectively and which is embodied in the decisions taken for all three candidate countries².

The position expressed by Greece in its contacts with the other member States of NATO before and in the period 2-4 April 2008 was that the Applicant, to be eligible for the invitation of the Alliance to accede to its membership, must satisfy the criteria and requirements agreed by the Alliance and indicated in its communiqués and related communications concerning the enlargement process. Consequently and because of continuing difficulties with the Applicant, including but not limited to the failure to resolve the name issue, the Applicant was not so eligible.

¹ CR 2011/12 p 67 (Judge Bennouna).

² “Our Foreign Ministers convened in Brussels early March, reviewed progress made so far by the three MAP countries with respect to their bid to join NATO and proceeded, accordingly, to an open and frank exchange of views on the treatment of the respective candidacies. The final decision was of course left to the NATO summit” (Letter dated 31 March 2008 from the Prime Minister of Greece, Kostas Karamanlis, as sent to all NATO Member Countries, p. 1 : Reply, Annex 6).

3. In the present proceedings before the Court, the Parties have introduced into evidence NATO communiqués and other communications concerning enlargement; and statements of Greece on its contacts with the other member States in the period indicated:

NATO documents on enlargement

NATO Enlargement Study adopted at the NATO Summit (Brussels September 3, 1995), NATO Handbook Documentation, NATO Office of Information 1999, pp. 335-369: Counter-Memorial, Annex 19

“NATO Beyond Enlargement,” Remarks by the Secretary-General of NATO, Dr Javier Solana, to the UK Atlantic Council, 19 November 1997: Rejoinder, Annex 52

Membership Action Plan, Chapter I para 2c, 24 April 1999, Press Release NAC-S(99)66: Counter-Memorial, Annex 21

Riga Summit Declaration, para 28, 29 November 2006, NATO Press Release (2006) 150, *Riga Summit Declaration, Issued by the Heads of State and Government participating in the meeting of the North Atlantic Council in Riga on 29 November 2006*: Counter-Memorial, Annex 23

Brussels Final Communiqué, 2 December 2007, para 14, NATO Press Release (2007) 130, *Final Communiqué. Ministerial meeting of the North Atlantic Council, 7 December 2007*: Counter-Memorial, Annex 25

Joint Press Point with NATO Secretary-General Jaap de Hoop Scheffer and the Prime Minister of the Applicant, Nikola Gruevski, 23 January 2008: Counter-Memorial, Annex 26

Brussels Final Communiqué, 3 December 2008, para 17, NATO Press Release (2008) 153, *Final Communiqué. Meeting of the North Atlantic Council at the level of Foreign Ministers held at NATO Headquarters, Brussels, 3 December 2008*: Counter-Memorial, Annex 32

Strasbourg/Kehl Declaration, 4 April 2008, para 22, NATO Press Release (2009) 044, *Strasbourg/Kehl Summit Declaration Issued by the Heads of State and Government participating in the meeting of the North Atlantic Council in Strasbourg/Kehl on 4 April 2009*: Counter-Memorial, Annex 35

Statements of Greece

Aide Memoire to NATO Member States:
Memorial, Annex 129

Letter dated 31 March 2008 from the Prime Minister of Greece, Kostas Karamanlis, as sent to all NATO Member Countries: Reply, Annex 6

4. Greece's statements within the NATO consultation process recalled the specific requirements which the Alliance by consensus had adopted in respect of the Applicant's candidacy for NATO membership. For example, the *Aide Memoire* circulated by Greece to NATO Member States stated as follows:

“[W]e wish full normalization of bilateral relations with [the Applicant], strengthening of regional co-operation and an unhindered Euro-atlantic course for it, as for all other countries of the Western Balkans, provided that the candidates fulfil all the criteria. [The Applicant], in particular, must prove that it adopts and implements a true policy of good neighbourly relations, abandoning and rectifying actions and policies expressing hostile and irredentist feelings towards more than one member of NATO and the EU. Most of all [the Applicant] must honour its commitment to engage, with good will, in meaningful negotiations aiming at reaching a mutually acceptable solution for a definitive, international, *erga omnes*, name.”³

5. Thus, in consultation with its Allies, Greece informed them of developments in its bilateral relations with the Applicant in light of the enlargement criteria. In Greece's view, the Applicant did not fulfil the criteria and requirements of good neighbourliness and the need to work towards achieving mutually agreed solutions to all outstanding issues, as should any NATO candidate. Furthermore, Greece emphasized that accession of the Applicant to NATO without a prior resolution of the name issue which, pursuant to Security Council Resolution 817 (1993) was considered to be a threat to regional peace and stability, “will also create insurmountable difficulties to the day-to-day operation of the Alliance”⁴ Greece drew attention in particular to the difficulties which the Applicant's conduct had presented for the negotiations which it had committed to pursue as the exclusive mechanism for resolving the outstanding issue of the difference concerning its name. For example, the Prime Minister of Greece observed in a communication of 31 March 2008 to NATO Member States that “[e]fforts to reach a mutually acceptable solution on the name issue as mandated by the UN Security Council have proven fruitless so far, due to Skopje's intransigence and lack of political will to arrive at an outcome which could be a win-win situation for all.”⁵

³ *Aide Memoire* to NATO Member States p. 3: Memorial, Annex 129

⁴ *Aide Memoire* to NATO Member States p. 3: Memorial, Annex 129. On the principles of consultation within NATO, see *Text of the Report of the Committee of Three on Non Military Cooperation in NATO*: approved by the North Atlantic Council, Brussels, 13 December 1956, republished in *NATO Handbook Documentation* (NATO Office of Information, 1999, p 166); Counter-Memorial Annex 19; and summary at Counter-Memorial p. 73 para 5.12.

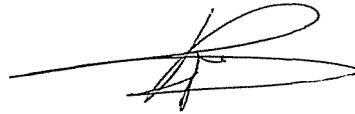
⁵ Letter dated 31 March 2008 from the Prime Minister of Greece, Kostas Karamanlis, as sent to all NATO Member Countries p. 2: Reply, Annex 6.

6. Greece recalls that the Applicant, during its participation in the NATO Membership Action Plan (MAP), had acknowledged that its invitation to accession was dependent upon reaching a solution to the name difference. Ljubuco Georgievski, as Prime Minister of the Applicant, stated in 1999 that “[w]e are fully aware that the upgrading of our relations with the European Union and NATO aiming at the integration of my country to both organizations depends at a large extent on... the solution of pending issues.”⁶ The Prime Minister in the same communication said that “[t]he only existing bilateral difference between our countries is referred to Article 5 of the [Interim] Accord.”⁷ Moreover, the Applicant’s current Prime Minister Nikola Gruevski admitted that, during his meeting with the North Atlantic Council members of 23 January 2008, “the main issue that many of the Ambassadors mentioned is potential risks and the issue that has to be solved is the name issue with Greece where many of them said that it’s necessary to intensify the discussions”.⁸

5 April 2011



Georges Savvaides



Maria Telalian

Agents of the Hellenic Republic

⁶ Letter from the Prime Minister of the Applicant to the Minister of Foreign Affairs of Greece, dated 21 January 1999: Counter-Memorial, Annex 39.

⁷ Ibid.

⁸ Joint Press Point with NATO Secretary-General Jaap de Hoop Scheffer and the Prime Minister of the Applicant, Nikola Gruevski, 23 January 2008: Counter-Memorial, Annex 26