

LEGAL AND POLITICAL ASPECTS OF THE MACEDONIAN ACCESSION TO THE UNITED NATIONS: A CASE STUDY IN INTERNATIONAL PUBLIC LAW

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Abstract

The Macedonian accession in the United Nations was a unique example in the UN history. Namely, Macedonia has become a UN member under special and additional pre-conditions. The paper suggests that the UN accession was more than necessary for Republic of Macedonia but in the same time it was very controversial for both, Republic of Macedonia and the UN. This had and still has big implications on the Macedonian state. This paper is treating this issue by analyzing legal-political texts and another appropriate literature.

Keywords: UN, Macedonia, Accession

Introduction

This paper treats the Macedonian – UN history, the problems with the Macedonian application for full UN membership and the positions of the Macedonian state leadership towards this process. Macedonia has become independent Republic after the dissolution of the former Yugoslav federation. In the international recognition process its membership in the UN was crucial. This paper claims that despite the objectively complicated conditions, the Macedonian leadership did not handle this process the best. This generates problems in the modern Macedonian foreign policy too.

It is known that the former Yugoslav federation was one of the founders of the UN and the Republic of Macedonia as its constituent unit participated in this process. After the proclamation of independence, the country did not hesitate to keep its good relationship with the organization. Thus, the independent Republic of Macedonia has declared to respect the principles of global organization, whose founder indirectly was. Thus, even with the Constitutional Law for the implementation of the Constitution, Macedonia formally and

legally obliged to build its own future relations with the other states and with international Organization, according to the principles of international law, by maintaining peaceful and cooperation policy in accordance with the main principles of the UN. Moreover, even before Macedonia become formal member of the UN ask for inclusion in the security system of the World Organization. It was done through the first preventive UN mission ever¹⁹, which consisted of sending a limited number of UNPROFOR troops for specific monitoring mission of the Macedonian-Serbian and Macedonian-Albanian border.

So, the Republic of Macedonia, since its declaration of independence, behaved as member of the UN in terms of having great confidence in cooperation with the UN which member still was not. This kind of behavior and respect of the Republic for the principles of the UN was expected matter for at least two points. First, as said, Macedonia indirectly (through Yugoslavia) was the founder of same Organization and secondly, Macedonia, now as an independent state wanted to be admitted in the UN and that is why it behaved respectfully towards the principles applicable in the organization in which wants to join. But what, at least can be called controversial is how Macedonia became member of the World organization. Namely, although the Republic of Macedonia declared independence in September 1991 it did not manage to become a UN member until April 1993. The question is – what was happening in this time period i.e. why Macedonia did not become UN member earlier? According to the first President of independent Macedonia in 1992 “Namely, it has been said that in the Security Council prevails conclusion that the recognition of Macedonia is a European issue, that it should by dissolving of the European Community and the summit in Lisbon were upcoming on which European solution was expected.” (Gligorov 2001, p.293) (Translation by D.M.). “Since the end of July 1992, the government submitted a proposal for UN membership to the Parliament of the Republic of Macedonia, after this the Parliament made a decision, so based on this decision of the July 30 I lettered the UN Secretary General Boutros Ghali, in which I asked for admission of Republic of Macedonia to the United Nations. (...) However, our request did not enter in to the procedure for reasons that are not difficult to guess. Again it was confirmed the existence of kind of agreement the question for the recognition of Macedonia firstly to be dissolved in a European framework.”(Gligorov 2001, p.310)(Translation by D.M.). “At the very beginning of the meeting with Ghali we have explained the purpose of our visit, among other things, we emphasized that we have a problem with Greece. However, we did not get a straight answer to our questions, but during

¹⁹ The Resolution 795 of the Security Council on 11 December 1992 marked the beginning of this mission

our talking's he has expressed the view that consent is required for our recognition by the European Community "(Gligorov 2001, p.293) (Translation by D.M.).

From the above it could be concluded that in the opinion of the first President of Macedonia, the Republics membership in the UN, was directly conditioned on obtaining the prior consent i.e. recognition by the member states of the EC. On the other hand, the EC itself dealt with the issue only until the summit in Edinburgh on which was decided that the problem should be transferred in the UN. Gligorov itself recognize that he played by these rules "We renewed the application for admission to the world organization, that existed before, just was never putted on the Security Council agenda. (..) Immediately after the opening a new opportunity for admission in to the UN, for all of us it begun a period of very intensive work in New York."(Gligorov 2001, p.316)(Translation by D.M.).So according to Gligorov, the real chance for the membership of Macedonia in the UN and the right moment to start intensive diplomatic action raised just after the EC summit in Edinburgh.

All this have arisen several dilemmas. The existence of a silent agreement for a European treatment of the Macedonian issue is quite possible and likely. But at the same time the claim that the membership in the UN is not possible without the consent of the EC, is problematic in itself. This is so for the simple reason that nowhere in the UN Charter is written that one of the condition for a state to seek admission in the UN is that first it must get the green light from the EC?! The installation and acceptance of this thesis is three times harmful. Firstly, for the world Organization itself, which in this way is degrades and subordinates itself to a regional organization. Secondly, for Macedonia, which in the very beginning it is accepting the fight for its recognition to be run in the EC where Greece is a member and has far more power rather than the UN. Finally, for EC that in this way is placing itself over and above the UN and the international law which practically affects badly on its image around the world. As already mentioned, the authenticity of the claim of the existence of a silent agreement for treating the Macedonian issue in the process managed by EC is not questioned. However this cannot be used as justification from the Macedonian leadership for the existence of a relatively passive attitude of Macedonia and just waiting for the decision. This is so because the possible existence of silent agreement regarding the treatment of the issue of Macedonia's independence in the same time does not mean taking away the right of Macedonia diplomacy for more active role. By the silent accepting of this situation consent is actually given in the violation of international law by delegating the right to decide for UN membership to the EC, which is formally and legally separate organization from UN. Moreover, the lost time waiting on the decision of the EC, opens other dilemmas

such as whether if admission of Macedonia in UN was asked earlier maybe some additional complications would have avoided? Interesting is the position of the former special envoy in the USA - Tupurkovski (2011) according to whom there is an “(...) unused opportunity of the Macedonian leadership in 1992 for a prompted membership in UN and stabilizing of the international position of the state after in January the do-called Badenter commission has given the green light to Republic of Macedonia and Slovenia for an international recognition. Opposite of that, during the prepared meeting with the Secretary General Butros Ghali, held on 18th of May 1992 in New York in this regard, the president at that time Gligorov, did not raise the question at the reception. *This is a major failure that will soon show the historical dimensions of Macedonia's interests (...), Until this present day, the failed policy from the first half of 1992 brings with itself a serious handicaps regarding the international condition of the state and high risks within its general stability.*“ (Translation by D.M.)

However, after the initial victory of Greece in the EU expressed through the Lisbon declaration, the Summit of Edinburg followed which practically meant transfer of the problem to the UN. In the meanwhile, Greece was working to make the process of the Macedonian accession in to the UN harder. In this context is the famous Memorandum of Greece addressed to the UN, which in 16 points explain its views why Macedonia should not be admitted to the UN. Yet when it became obviously that Republic of Macedonia will still be admitted to membership of the UN, mostly because of higher interest associated with the security balance in the Balkans, Greece concentrated to make the inevitable admission of Macedonia in the UN not to get its equal status as any other member of the UN. Thus, Greece successfully lobbied and managed the Macedonian membership in the UN to become possible only with other the name than Republic of Macedonia, and the act of becoming member not to be accompanied by a display of its flag outside the UN building, which is otherwise usual procedure. In this way, the Macedonian diplomacy has faced to achieve, then perhaps, the most important goal in its foreign policy - joining the UN, but it was conditional on finding a way of bypassing the strong opposition of Greece's on the Macedonia membership under its constitutional name. The solution to this specific problem, that was for the first time set as a condition for membership of a country in the UN, was find in a way that it has been resolved with the proposal Security Council Resolution²⁰ and later by the General Assembly²¹ in which it has been said that “*Decides to admit the State whose application is contained in document A/47/876-S/25147 to membership in the United Nations, this State*

²⁰SBResolution817/93

²¹ <http://www.un.org/documents/ga/res/47/a47r225.htm>

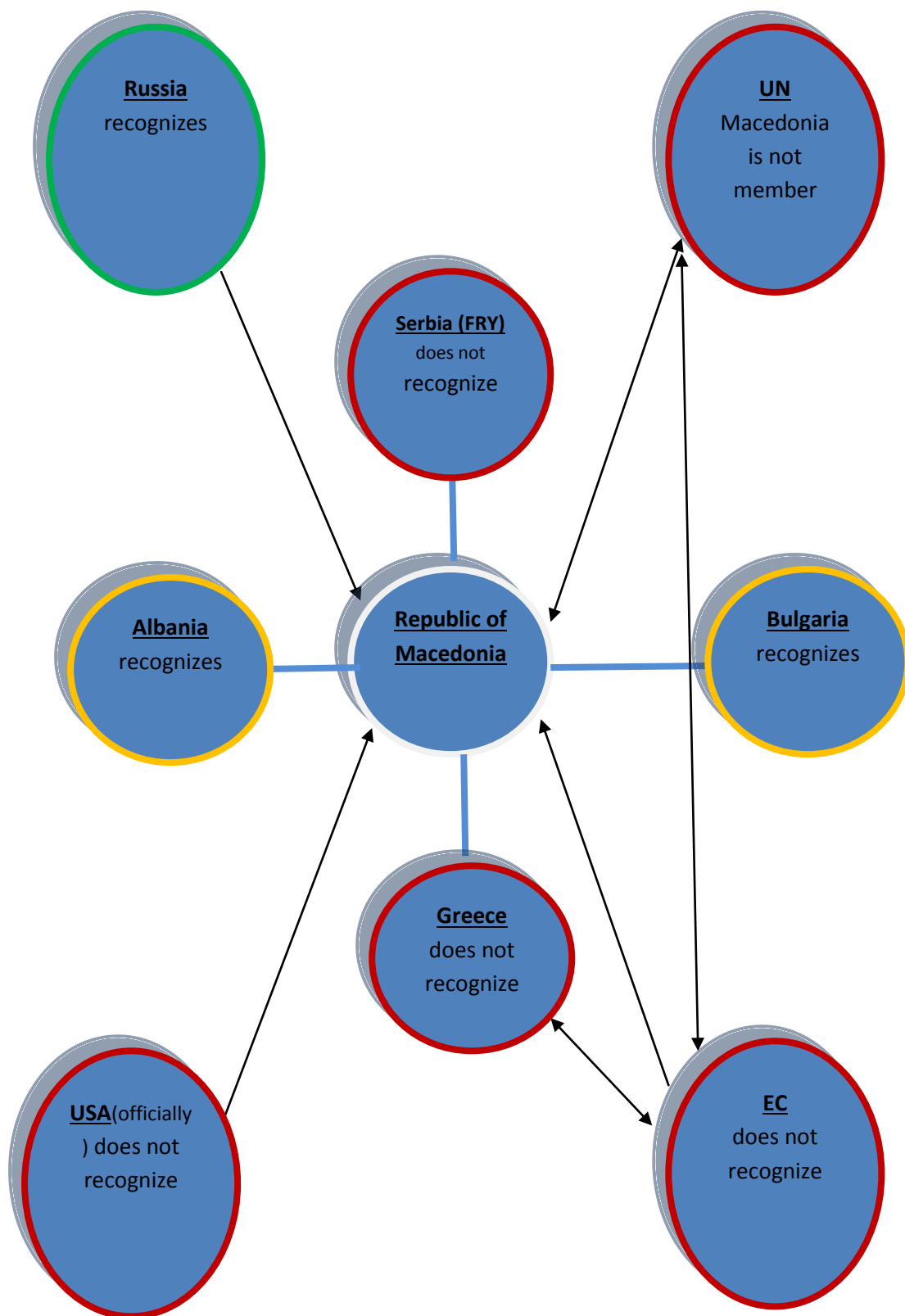
being provisionally referred to for all purposes within the United Nations as "the former Yugoslav Republic of Macedonia" pending settlement of the difference that has arisen over the name of the State."

As a solution to the problem imposed over the name of Macedonia by Greece, a compromise was found according to whom Macedonia does not officially accept the new name but only temporarily reference to be used for the communication between Macedonia and the UN on the one hand, and it this way to satisfy the request of Greece, Macedonia not to join the UN under its constitutional name on the other side. This compromise solution has met with sharp criticism in the domestic public in both Macedonia and in Greece. In Greece, the government was criticized why Macedonia was allowed to join UN without giving up its name i.e. why the name that contains the word "Macedonia" was agreed. In Macedonia, the criticism went in the direction that the official provisional reference actually will not be temporarily and that the membership under this condition is degrading... Anyway, with the General Assembly resolution 47/225, Macedonia officially becomes 181 member of UN.

But not only was the name plagued. Thus, despite the fact that Macedonia has officially become, a full UN member, its flag was not prominent in front of the UN. According to President Gligorov (2001, p.330) "after receiving the request of Greece our flag was not been pointed in front of the UN. For this act, no one from the UN bodies and services has officially addressed us, neither any of us give consent to it." So, according to the President of the state the flag humiliation situation was the result of Greek pressure and without consent by Macedonia. Here the question is how was this possible, or whether it is possible that Greece sets its own rules of play in organizations such as the UN, and indeed whether this is done without consent of Macedonia and if so why the Macedonian officials at least did not officially react to this act through official UN bodies whose full members were now?

The outcome of the membership of Macedonia in the UN was such as it was. Macedonia was finally admitted to the UN which practically meant its international recognition. On the other side the price that Macedonia has paid for this was extremely high. The basic dilemma is whether this was success or defeat of the Macedonian foreign policy. To answer this question it is necessary to present the international position of Macedonia in the terms of its recognition situation in the period immediately before becoming a member of the UN on a schematic representation:

The situation with the Republic of Macedonian recognition process in the time period from the declaration of the independence until the UN admission



The previous scheme is illustrating the situation with the process of international recognition of Macedonia in terms of three important factors - recognition by its neighbors, recognition by the major powers and membership in the UN. We are doing this illustration in the context of the question about the justification or non-justification of the admission of Macedonia in UN under the specific and additional conditions. The above illustration shows us several matters. The center circle represents Republic of Macedonia and around (connected with the blue lines) are its neighbors on west, east, south and north respectively. All the circles are marked with certain colors following the rule of the traffic light. So the red color shows the countries or organizations that have not yet recognized or whose member is not yet Macedonia. The yellow color shows the countries that have granted recognition but with certain reservations. The green color shows the countries that have granted recognition unconditionally. The two-way lines are indicative of two-way relationship and influence.

Firstly, the Republic of Macedonia out of four neighbors gets recognition from half of them i.e. from its east and west neighbors - Bulgaria and Albania. Unlike them the north – south Serbia (FRY) and Greece does not recognize Macedonian state. But the situation is much more complicated with the fact that although Bulgaria recognizes Macedonia as an independent state still refuses to recognize the existence of a separate Macedonian nation and language. Although in the practice of international relations the states only recognized other states and not nations or languages, still the Bulgarian retention for recognition of the Macedonian nation and language could have been considered as a tactical maneuver that will keep Macedonian question opened for the Bulgarian interests. As for Albania, the country has recognized Macedonia but not under its constitutional name²². That is way this two neighbors are marked with yellow color despite granting the recognition. With regard to Serbia and Greece again, it is to be said that not only that they did not recognize Macedonia, but evermore they threatened to its territorial integrity through their semi-public contracts about the division of Macedonia. That is way this two neighbors are marked with red color. So it can be concluded that the situation with the recognition of Macedonia from its neighbors was quite dramatic. Out of four neighbors of Macedonia two of them refused to recognize it and the other two recognized it but with certain reservations and open questions that may be activated later.

Secondly, in terms of major powers, the display shows that from the two super powers in the international system of the previous bipolar world, only one - that one that “lose”

²² instead referred to Macedonia as Former Yugoslav Republic of Macedonia

recognized Macedonia. So Russia has recognized Macedonia, but this was not the case with US. Recognition by the Russian Federation was of course very important. Furthermore it was done under the Republic of Macedonia constitutional name. That is way Russia is marked with green color. Despite the Russian recognition, it is clear that the recognition by the US cannot be compensated by any other recognition. However, if looked carefully at the display in the US circle, it is noticeable that it says: US officially does not recognize Macedonia. The word “officially” implies that this non-recognition was not simple a non-recognition and far different by the non-recognition from Greece and Serbia. The word “officially” implies that US only at the official level refused to grant recognition which at the same time does not exclude the informal recognition by the US that wished to see Macedonia as an independent state. To be proven as so, it can be seen by the sending of the American troops in the UNPROFR mission that helped the Macedonian security, before the official recognition and before Macedonia become member of UN. But at the official level, US refrained to do unilateral recognition, thus giving advantage at the eventual solution that the EC may offer and not to annoy Greece. That is way US is still marked with red color. As for the EC, we must emphasize that obtaining recognition by Member States of the Communities was definitely very important for Macedonia. The policy of the EC as a conglomerate of powerful European states and an arena for align their foreign policy based on its own interest and the principle of solidarity, has been directly sensed by Macedonia because Greece was EC member. Greece, based on the principle of solidarity has managed to impose its own interest as the official position of the Communities for non-recognitions of Macedonia despite the positive report by the Badinter Commission. In the display there is correlation between the EC and Greece marked with two ways line that shows their mutual relationship. On the one hand, Greece refused to recognize Macedonia, and because of it was EC member and imposed its position to the Communities; the EC did not recognized Macedonia neither. On the other hand Greece, like all the other members of the Communities refused to recognize Macedonia because this was EC position. There is also one more correlation represented by the two ways line between EU and UN. Namely, because the EC did not recognize Macedonia, the republic it could have not become a member of the UN (as stated by President Gligorov, due primarily to the silent agreement on resolving the issue in a European level firstly).

The graphic analysis illustrates us the process with the recognition of Macedonia and the need to join the UN. As it can be easily seen, the admission of Macedonia in UN was more than needed especially because Macedonia unlike some other former Yugoslav

republics did not have any powerful allies which would stand firmly behind it. At the same time Macedonia was internationally unrecognized state and there were some serious threats in terms of its security. That is why some kind of certainty had to be searched under the auspices of the World Organization. So, the membership in the UN was a top priority for Macedonia. However, an open question remains: would the things have been different if Macedonia asked for admission in UN earlier and have worked intensively on its entrance parallel with the process flow in the EC? What with certainty we can claim is that the admission of Macedonia in UN under such conditions had numerous negative but also positive sides. Also, the non-fully resolved name and status of Macedonia in the UN generates huge problems in its foreign policy even today. Regarding the assertion of the President Gligorov (2001) about the temporary character (mostly two to three months) of the UN reference for Macedonia (The Former Yugoslav Republic of Macedonia) proved false. It has gradually transformed from a reference to the name by which the UN refers to Macedonia after almost two decades since its accession to the World Organization.

Conclusion

The Macedonian accession in the UN was needed, wanted and necessary for the Republic. Even under these unique and hard conditions Macedonia desperately needed the UN membership. Still the dilemma is – could be avoided these additional conditions if the Macedonian leadership would have asked for UN membership earlier? This paper suggests that it could be avoided in this way, but even if it is not the case, that does not justify the passivity of the Macedonian leadership.

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