



СВЕТСКИ МАКЕДОНСКИ КОНГРЕС®
WORLD MACEDONIAN CONGRESS®

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To
United Nations Human rights
Office of the High Commissioner
New York

Re: Request for inclusion of a Resolution on the UNGA's next session agenda

Your Excellency,

I have the honour to address you with the questions of the legal and political status of my country and particularly legality of the conditions imposed on Republic of Macedonia for its admission to UN membership and the consequent legal status of Macedonia in the United Nations. The aim of the present letter is to request an inclusion of a Resolution on the UNGA's next session agenda regarding extension of its membership under its official constitutional name of Republic of Macedonia. Until present day my country had been recognized by the enormous majority of United Nations members by its Constitutional name and, as it is apparent now, negotiations with the Greece over the State name of my country didn't yielded in any outcome. Also we believe that, clearly, the name of a State could not have any impact on the territorial rights of states or alleged irredentism or any territorial claims or claims of the theft of the State name.

In this context, I take the liberty of reminding you that the admission of Republic of Macedonia to UN membership in April 1993 by the General Assembly (GA Res. 47/225 (1993)), pursuant the Security Council recommendation for such admission (SC Res. 817 (1993)), was associated with the provision that the applicant state be “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”. The last part of this provision implies imposed negotiation with Greece over the name of my country (Macedonia), and this is more explicitly spelled out in Security Council Res. 817 (1993).

I would also like to remind you that the strong objections of Macedonian Government to the above mentioned denomination the former Yugoslav Republic of Macedonia (or shortly the FYROM) and to the non-standard admission procedure, contained in UN Doc. S/25541 (1993), were completely ignored.

The aim of the present letter, Sir, is to submit our request to include in the agenda of the next session of the UN General Assembly a resolution requesting the General Assembly decision to extend the membership of my country provisionally referred as “the former Yugoslav Republic of Macedonia” under its official constitutional name Republic of Macedonia.

The basis for this request is our strong view that the (pre-)conditions for admission of Republic of Macedonia to UN membership, namely

(i) acceptance to be provisionally referred to, within the UN, as the Former Yugoslav Republic of Macedonia, and

(ii) acceptance to negotiate with Greece over its name,

are legally inconsistent with the provisions of the UN Charter, particularly the Articles 2 and 4. of the Charter.

This inconsistency is manifested, in our opinion, on three levels:

1) procedural level (right of a state to unconditional admission to UN membership once it has been recognized, by the judgment of Security Council, that the state fulfils the criteria for admission set forth in Article 4(1) of the Charter);

2) substantive level (interference of the UN Organization in matters of a state – such as the choice of its constitutional name – which are essentially within the domestic jurisdiction of that state, contrary to Article 2(7) of the Charter); and

3) membership legal status (inequality with other UN member-states due to the additional obligation (condition ii) and derogated juridical personality in the field of representation due to the condition (i), contrary to the principle of “sovereign equality of the Members”, Article 2(1) of the Charter).

That the conditions (i) and (ii) served indeed as conditions for admission of Macedonia to UN membership, and are additional with respect to those set forth in Article 4(1) of the Charter, is evident from:

a) the neglect of the objection of Macedonian Government to the imposition of the condition (i) (contained in UN Doc. S/25541(1993);

b) they are functionally disconnected with the judgment on admission as they transcend in time the act of admission (thus transforming themselves into membership obligations);

c) they are introduced despite the explicit recognition in SC Res. 817 (1993) that “the applicant fulfils the criteria” of Article 4(1) of the Charter for admission;

d) the fulfillment of the obligation (ii) does not depend solely on Macedonian Government, but essentially on the recognition of Macedonian legal identity by another state, which is contrary to the criteria on the legality of imposing conditions relating to the recognition of a state by another state, member of the UN, enshrined in the Advisory Opinion of May 28, 1948 of the International Court of Justice.

The procedural inconsistency of the conditions (i) and (ii) with the Charter’s provisions follows, in our view, clearly and directly from the interpretation of Article 4(1) of the Charter by the International Court of Justice given in its Advisory Opinion of May 28, 1948 as a legal rule. We remind that this interpretation was adopted by the General Assembly the same year (see, GA Res.197/III (1948)). According to that interpretation, the conditions laid down in Article 4(1) of the Charter are explicit and exhaustive (i.e. they are necessary and sufficient); once they are recognized as being fulfilled, the applicant state acquires an unconditional right to admission to UN membership (and, conversely, the Organization has a duty to admit such applicant due to its “openness” for admission, enshrined in the same Article 4(1), and due to its universal character). In the words of Court’s Advisory Opinion, and the resolution GA Res.197/III (1948), “a Member of the United Nations, when pronouncing its vote in the General Assembly or Security Council, is not juridical entitled to make its consent on the admission of a state to UN membership dependent on conditions not expressly provided in Article 4(1)”.

The inconsistency of conditions (i) and (ii) with Article 2(7) of the Charter follows, in our view, from the fact that the name of a state (as a legal identity of an international legal person) is an essential element of its juridical personality, the choice by a state of its own name is, therefore, an inherent right of that state and belongs *stricto sensu* in the domain of its domestic jurisdiction. According to the principle of separability of domestic and international jurisdictions, the choice of its own name by a state does not create international legal rights for that state, nor does it impose legal obligations on other states. Therefore, the name of a state has no relevance to the qualifications that may be legally considered in connection with the admission of that state to UN membership.

Furthermore, since every state naturally has an inherent right to a name and because that determination of the state's names represents the subject of their sovereign domestic jurisdiction, it's apparently inadmissible that disputes over state's name exist at all. Also from the fact that state's names, as a legal identity of international subjects is essential element of their juridical personality (and their statehood) follows the only logical conclusion that inter-states negotiation over their inherent right(s) such as state's name are subject-less.

Once again, the name of a state, which is a subject of that state's domestic jurisdiction, since every state naturally has an inherent right to a name, does not create international legal rights for the state that adopts the name, nor does it impose legal obligations on other states. Clearly, the name does not have an impact on the territorial rights or duties of states. As anyone can derive accusing Macedonia in the UN of irredentism, based on name non-recognition is entirely baseless. Same goes with the accusation that Macedonia is stilling other name(s), since states does not have exclusive rights over state's name(s).

Finally, the additional conditions (i) and (ii) obviously define an unequal UN membership status for Macedonia with respect to other member-states. This status severely violates the principle of "sovereign equality of members" (Article 2(1) of the Charter) and strongly derogates the juridical personality of Republic of Macedonia. It is inconsistent with the principles of juridical equality of states (see, GA Res. 2625 (XXV) of 24 Oct.1970) and non-discrimination in representation and membership (see, UN Doc. A / CONF. 67/16 (March 14, 1975)). As a result of that internal order of the United Nations was/is severely violated as well.

In connection with the views expressed above regarding the membership status and the legal basis of the imposed conditions (i) and (ii) for admission of Republic of Macedonia to UN membership and the related to them legal status of Republic of Macedonia as an United Nations member, we kindly request that the attached Resolution be placed as an item on the Agenda of the next Session of the General Assembly of the United Nations.

I believe, Sir that the clarification and resolution of the above membership status of my country by the United Nations General Assembly and the proposed decision (Resolution) to extend the membership of my country under its official Constitutional name Republic of Macedonia, will not only solve the artificial endless and baseless "dispute" or "difference", but also protect the current legal order of United Nations itself.

Accept, Sir, the assurances of my highest consideration.

Sincerely yours,

No. 0302/2018

12 July 2018

Skopje, Macedonia

Mr. Todor Petrov

President of the World Macedonian Congress

ANNEX

DRAFT UNITED NATIONS RESOLUTION

The General Assembly,

Taking into considerations that “the Former Yugoslav Republic of Macedonia”, admitted into to the United Nations membership in 1993, by the Resolution 47/225, upon recommendation of the Security Council Resolution 817 (1993), had been until present day recognized by the enormous majority of United Nations members by its Constitutional name and that negotiations with Greece over the State’s name didn’t yielded in any outcome,

Considering Articles 2 (particularly par.1,4,7) and 4(1) of the Charter of the United Nations,

Heaving in mind also the General Assembly Resolutions 113/II of 1947 and 197/III of 1948, and particularly the Advisory Opinion of the International Court of Justice delivered on 28 of May, 1948, relating to inadmissibility of preconditions for membership outside of the scope of the exhaustive conditions of Article 4(1) of United Nations Charter,

Reaffirming that every state naturally has an inherent right to a name and that determination of the state’s names represent the subject of their sovereign domestic jurisdiction,

Reaffirming also that state’s names, as a legal identity of international subjects is essential element of their juridical personality, and their statehood,

For the purpose to resolve the long term unusual and unacceptable membership status of the state member of the United Nations, issue originated from the unusual admission resolutions stipulating preconditions outside of the scope of the exhaustive conditions of Article 4(1) of the Charter of the United Nations, and for the purpose to protect the order of the United Nations and particularly the legal representation in the United Nations System,

Decides to extend the membership of the state provisionally referred as “the Former Yugoslav Republic of Macedonia” under its official constitutional name Republic of Macedonia.