

DECLARATION OF JUDGE *AD HOC* VUKAS

1. I share the view of the Court concerning its finding that it has jurisdiction to entertain the Application filed by the former Yugoslav Republic of Macedonia on 17 November 2008 and that the Application is admissible.

2. I also agree with the conclusion of the Court

“that the Hellenic Republic, by objecting to the admission of the former Yugoslav Republic of Macedonia to NATO, has breached its obligation under Article 11, paragraph 1, of the Interim Accord of 13 September 1995” (paragraph 2 of the operative clause).

3. However, I cannot subscribe to the conclusion of the Court to reject “all other submissions made by the former Yugoslav Republic of Macedonia” (paragraph 3 of the operative clause). This finding relates specifically to the Applicant’s request that the Court orders

“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 Organization 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 organization or institution by the designation provided for in paragraph 2 of United Nations Security Council resolution 817 (1993)” (paragraph 2 of the final submissions).

4. The reason in support of this request of the former Yugoslav Republic of Macedonia is that there exists a clear necessity of that State to become a member of various “international, multilateral and regional organizations and institutions”. An action of the former Yugoslav Republic of Macedonia in that direction was supported, also by Greece. Namely, the Memorandum of Understanding between the Ministry of Defence of the Party of the Second Part and the Ministry of National Defence of the Party of the First Part concerning Support to the Combined Medical Team for Participation in NATO-led Operation ISAF in Afghanistan which was concluded in Athens on 27 July 2005.

5. However, contrary to Greece’s earlier support, the trend of the former Yugoslav Republic of Macedonia to become a member of international organizations is seriously endangered by Greece in connection with

the 2008 Bucharest meeting. The condemnation of Greece by the Court of her actions preventing the membership of the former Yugoslav Republic of Macedonia in NATO is not sufficient in order to fulfil the obligation of Greece under the Interim Accord. The duty of Greece as a member of the European Union, in supporting the relations of Macedonia with the European States is clear from the text of Article 11, paragraph 2, of the Interim Accord:

“The Parties agree that the ongoing economic development of the Party of the Second Part should be supported through international co-operation, as far as possible by a close relationship of the Party of the Second Part with the European Economic Area and the European Union.”

6. According to that text, Greece has not only the duty stated in Article 11, paragraph 1, of the Interim Accord, but is also under the obligation to support actively the international co-operation of the former Yugoslav Republic of Macedonia. The conclusion of the Court to reject the Applicant’s request concerning the future Respondent’s activities does not correspond to the Court’s conclusion that its Judgment “would affect existing rights and obligations of the Parties under the Interim Accord and would be capable of being applied effectively by them” (paragraph 53 of the Judgment).

*(Signed)* Budislav VUKAS.

---