COMMENTARY

In the Name of the State

The Interminable Naming Dispute over Macedonia Is Now Before the ICJ

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INTRODUCTION

On 17 November 2008, the controversy over the name of Macedonia, a dispute which has bemused outsiders for more than a decade and a half, took a regrettable new turn. After Greece promised to veto the invitation of the former Yugoslav Republic of Macedonia1 to join NATO at the Bucharest summit in April 2008, the latter State instituted proceedings against Greece at the International Court of Justice (ICJ). Its claim is that, in blocking its membership to NATO, Greece committed “a flagrant violation of its obligations under Article 11” of the Interim Accord signed by the Parties on 13 September 1995. That provision provides that Greece would not object to the former Yugoslav Republic of Macedonia’s membership “in international, multilateral and regional organizations and institutions of which [Greece] is a member”.

The events of 2008 and the deterioration of the already precarious relationship between the two States regarding the use of the name “Macedonia” does not bode well for either country. The fact that the dispute has now been brought before the ICJ means that protracted proceedings will, in all likelihood, stall the settlement process further, with no guarantee of a definitive solution at their conclusion. What the highly publicised (threatened) veto of Greece in April 2008 and its neighbour’s later instigation of proceedings have served to do however, is elevate

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1 The former Yugoslav Republic of Macedonia remains its “provisional” name. See Paragraph 2, Security Council Resolution 817 (1993). Available at: http://www.NATO.int/ifor/un/u930407a.htm. This commentary will refer to the State as “FYRO Macedonia”, for reasons which are explained under the following section “What’s in a name?”.

this ongoing political conflict between neighbours into a full-blown international legal dispute. This evolution from a naming dispute to proceedings before the International Court of Justice will have two main consequences. It potentially entangles the neighbours into a new series of protracted political and legal battles, which will have an ever-worsening impact on their peaceful co-existence. Yet it may also act as a catalyst to galvanise the international community to put pressure on the two States to settle the naming dispute once and for all. The status quo cannot continue indefinitely and the EU and NATO alike can ill-afford for this seemingly innocuous dispute to further deteriorate in this most volatile corner of Europe.

The purpose of this commentary is not to delve into the historical justifications, arguments and perceived injustices of this seemingly interminable naming dispute over Macedonia. Rather, its aim is to provide clarity as to where the issue stands in 2009 and why it is imperative that a lasting solution is found before years of legal wrangling at the ICJ irreversibly damage wider bilateral relations between the two States. Finally, a permanent ‘solution’ is offered; not the flawless answer that has thus far evaded the two parties – it seems that after 17 years such an illusive ‘perfect’ name does not exist – but a practical and pragmatic solution; one that should be accepted by both the parties before their relationship deteriorates further.

WHAT’S IN A NAME?

Such is the sensitivity surrounding the naming of the former Yugoslav Republic of Macedonia, a young State that was born out of the dismantlement of Yugoslavia in the early 1990s, that referring to it as anything other than its official “provisional” name presents a problem. Even the pronunciation of the awkward acronym for “the former Yugoslav Republic of Macedonia” (“FYROM”) provokes an impassioned response from those within the former Yugoslav Republic, who claim that the term is offensive and derogatory.2 Referring to the State simply as “Macedonia” is equally troublesome. For Greeks, the name “Macedonia” is unquestionably theirs; it is the name of their country’s largest region, which covers most of the territory that constituted the ancient Kingdom of Macedonia ruled by Alexander the Great and is an integral part of Greek heritage, history and culture. “I am a Macedonian myself, just as 2.5 million Greeks are Macedonians”, Greek Prime Minister Kostas Karamanlis defiantly declared on 25 January 2007.

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2 See International Crisis Group, Macedonia’s Name: Breaking the Deadlock, 12 January 2009, p. 2. Available at: www.crisisgroup.org/library/documents/europe/balkans/b52_macedonias_name__breaking_the_deadlock.pdf p. 2. According to the President of the Macedonian American Friendship Association, the pronounced version of “FYROM” is deemed insulting or derogatory. It was additionally pointed out to the author that the use of the ‘O’ (for “of”) within an acronym is highly unusual and was not part of the September 1995 Interim Accord between the two States. The President of the association instead suggests the use of ‘FYR Macedonia’ as appropriate.
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Given the original Greek position that no permanent solution incorporating the term “Macedonia” was acceptable, its neighbour’s contention that the acronym “FYROM” is derogatory, and the cumbersome nature of using the full “the former Yugoslav Republic of Macedonia”, a fair, compromise solution is hard to obtain. Indeed, even copying the formulation used by the United Nations’ principal judicial organ, the International Court of Justice (which uses the “FYROM” acronym), sees us fall foul in the eyes of those who see the pronunciation of the acronym (as opposed to the full, provisional name itself) as unacceptable. The BBC for instance has stopped using the five-letter acronym and now opts for “FYR Macedonia” instead: no doubt riling some die-hard Greek nationalists. In its recent report on the deadlock, International Crisis Group unapologetically refers to the country simply by the name “Macedonia” throughout, while maintaining that it favours a compromise solution advocated by the UN mediator Matthew Nimetz. For the purposes of this commentary however, in order to pursue as a neutral a position as possible in the matter, neither the ICJ’s acronym nor the abovementioned approaches will be adhered to. Rather, the former Yugoslav Republic of Macedonia will be referred to by the pronounceable and not inaccurate name “FYRO Macedonia”. (After all, the English language would be no worse off seeing the inelegant term ‘FYROM’ cast into oblivion once and for all.)

’Tis But Thy Name That Is My Enemy

For objective observers it is difficult to comprehend how impassioned Greeks and those from FYRO Macedonia get over this naming dispute, and it is almost unfathomable that the issue has continued for some 17 years. This author remembers the incredulous commentator at the Sydney Olympic Games in 2000, as the team from the “Former Yugoslav Republic of Macedonia” entered the stadium at the opening ceremony, remarking: “they had resolved to sort out this name issue last time round”. That was more than eight years ago. Whereas those not from the region may indeed find it exasperating that the naming dispute has prevailed for so long, while the issue remains unresolved it is imperative to use the terms with care. And, despite the diplomatic wrangling over the name since the country declared its independence on 8 September 1991, it appears that the

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3 Although this Greek position was initially endorsed by the European Council in the so-called “Lisbon Declaration” of 27 June 1992, the Greek stance has softened somewhat in the sense that it now considers options which use “composite” names with a geographical qualification of the word “Macedonia”. See www2.mfa.gr/www.mfa.gr/en-US/Policy/Geographic+Regions/South-Eastern+Europe/Balkans/Bilateral+Relations/FYROM/FYROM+-+THE+NAME+ISSUE.htm.


5 For an indication of the emotionally-charged responses which the issue inspires, see the BBC blog written by Mark Mardell, Fire ’em, those people next door, 20 April 2008, which has received an astounding 1,678 “comments” responding to his views on the naming dispute. Available at: http://www.bbc.co.uk/blogs/thereporters/markmardell/2008/04/20/index.html.
name that the new State adopts continues to be the *sole* issue at stake. It has been asserted, after a thorough analysis of the history of the dispute, that – from the Greek side at least – the name of the new State was not a peripheral issue but rather the main issue in dispute.\(^6\) In his aptly-titled report of 2002, Demetrius Andreas Floudas and his four co-editors conclude:

\[\text{[O]ne is led to the conclusion that the diplomatic struggle over which entity has the right to use for itself the name Macedonia is an illustrative undercurrent of a dispute between the proponents of two nationalist ideologies over the possession of national identity, history and culture, all of which ... are considered to be the property of the nation.}\]  

To put it more succinctly, the choice of the name “Macedonia” as used by the new State raises the issue of “the usurpation of historical and national heritage of the Greek people”.\(^8\)

### THE NATO SUMMIT IN BUCHAREST

In April 2008, Greece threatened to veto FYRO Macedonia’s invitation to join NATO at its summit in Bucharest, Romania. The Greek Government argued that Skopje’s use of the name “Macedonia” might still induce it to make territorial claims to Greece’s own Macedonia region.\(^9\) This is despite the fact that under the Interim Accord of 1995, FYRO Macedonia agreed to several measures in areas where Greece considered that the new State was appropriating Hellenic heritage, including altering its constitution to specifically state that it had no aspirations to any part of Greek territory. Accordingly, in a joint statement at the end of the summit in the Bucharest, NATO declared that no membership offer would be made to FYRO Macedonia until the naming dispute had been resolved. The Government in Skopje asserts that this was “a flagrant violation” of Greece’s obligations under Article 11 of the Interim Accord signed by the Parties on 13 September 1995. Article 11 provides that:

\[\text{[Greece] agrees not to object to the application by or the membership of the [FYRO Macedonia] in international, multilateral and regional organizations and institutions of which [Greece] is a member.}\]


\(^7\) *Ibid.*


\(^9\) The Greek Government also argued that if FYRO Macedonia were allowed to join under its present provisional name, it would seek to be recognised by its own constitutional name of the ‘Republic of Macedonia’ as soon as it was a Member.
For its part, FYRO Macedonia contends that Greece vetoed its application to join NATO during the Bucharest summit in April 2008 because it wanted to resolve the difference between the Parties concerning the constitutional name of FYRO Macedonia as a precondition for its membership.

THE “MACEDONIA ISSUE” COMES TO THE HAGUE

In its Application to the International Court of Justice of 13 November 2008, FYRO Macedonia asked the ICJ “to adjudge and declare that [Greece], through its State organs and agents, has violated its obligations under Article 11, paragraph 1 of the Interim Accord.” Furthermore, in Paragraph 22 (ii) of its Application Instituting Proceedings, the Applicant requests the Court to order Greece to:

[T]ake all necessary steps to comply with its obligations under Article 11…and to cease and desist from objecting in any way … 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 [Greece] is a member, in circumstances where the [FYRO Macedonia] 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).

Significantly, FYRO Macedonia’s decision to bring the matter before the ICJ will not definitively solve the naming dispute between the two States; rather, the Application is solely limited to the allegedly unlawful Greek objections to FYRO Macedonia being admitted under its provisional name (the former Yugoslav Republic of Macedonia). The Court may take three years or more to deliver its Judgment in the case. Far from bringing an end to the matter, the proceedings before the ICJ are likely to hinder and delay the ongoing UN mediation talks and may well leave the two States in the same stalemate over the name as they have been since 1995. This is not in the interests of FYRO Macedonia, which needs to reach an agreement with its southern neighbour in order to ensure that it fulfils its conditions of EU and NATO membership and thereby prevent potential economic isolation within Europe. Neither is it in the interests of Greece itself, whose long-term interests are not served by having an economically-marginalised and resentful neighbour which continues to assert its inalienable right to call itself by the name of the biggest region in Greece. It is in both States’ interest to – now, perhaps more than ever – seize this present opportunity to sort the dispute out once and for all, before the issue deteriorates from being a regrettable “row” between two otherwise harmonious neighbours to a situation stirring up more heated trouble in a part of the world which has the dubious honour of once being dubbed ‘history’s cauldron’. While analysts in the region have asserted that

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10 The ICJ takes approximately three years to hand down its Judgment in a case such as this. The Foreign Minister of FYRO Macedonia, Antonio Milososki, is quoted as saying that it could take “between three to five years to settle that case”. See Balkan Insight, ‘Three Years’ for Macedonia Court Ruling, 8 December 2008. Available at: www.balkaninsight.com/en/main/news/15374.
there is “no imminent risk of a return to violent conflict” in FYRO Macedonia.\textsuperscript{12} Questions remain over how long the patience of the country’s ethnic Albanians will last if the issue continues to impede EU and NATO integration.

**THE ICJ PATH: A TROUBLED ROAD AHEAD**

In bringing Greece before the ICJ for its alleged breach of Article 11, FYRO Macedonia is pursuing a legal and legitimate option, which it is entitled to take under Article 21 of the 1995 Interim Accord. Ideally, for its part, FYRO Macedonia would seek a (relatively) speedy Judgment from the Court for what it deems to be a relatively straightforward “flagrant violation” on the part of Greece. Such a decision from the ICJ would be binding and not subject to appeal. Greece would be bound to comply with the Court’s decision, with the UN Security Council in place to ensure that the ruling is adhered to.

So far so good. But inevitably, as has so often been the case in this dispute, problems arise. First of all, there is the question of the length of time the Court will take to deliver its Judgment. Continued proceedings before the ICJ are inevitably going to stymie un-mediated negotiations. This would further postpone EU and NATO integration while no conclusive solution would be handed down by the Court on the wider issue of the country’s permanent name in any event. Secondly, there is a legal obstacle in the Applicant’s case against Greece, which may prove troublesome in what is otherwise a seemingly open and shut case. Strictly speaking, Greece did not actually veto FYRO Macedonia’s membership application in Bucharest. Rather, it was merely Greece’s promise to block its neighbour’s entry that led to the NATO joint statement postponing FYRO Macedonia’s membership invitation until “a mutually acceptable solution to the name issue has been reached.”\textsuperscript{13} A third reason why the proceedings brought against Greece could be problematic for FYRO Macedonia is that Greece contends that its smaller neighbour has itself violated the Interim Accord. This is with respect to Skopje’s renaming of the country’s main airport after Alexander the Great – a move which many Greeks see as a provocative attempt to appropriate Hellenic heritage and a violation of the 1995 Accord.\textsuperscript{14} In December 2008, the Greek Government stated that it would consider bringing a counter-suit against FYRO Macedonia before the ICJ, thus potentially further exacerbating the situation.

Finally, one should consider the negative consequences of what would happen if the case were to go ahead and a Judgment is finally reached by the ICJ judges.


\textsuperscript{13} 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. Available at: www.NATO.int/docu/pr/2008/p08-049e.html.

The interminable naming dispute over Macedonia is now before the ICJ in The Hague. What would happen in practice were Greece not to adhere to the ruling and continue to refuse admission to its northern neighbour to NATO and potentially the EU as well? Three of the veto-wielding permanent members of the Security Council recognise FYRO Macedonia as the ‘Republic of Macedonia’ (USA, Russia and China), but France and the United Kingdom do not and are more sympathetic to the Greek position. While such a ruling from the International Court of Justice in FYRO Macedonia’s favour would carry much weight, there is no guarantee that Greece would abide by the decision. The crucial point is that the ICJ, irrespective of its Judgment regarding FYRO Macedonia’s Application, will only rule on the issue before it. The greater dispute over the permanent name of the country will be left unresolved and, in all likelihood, the mediation talks would be left in a more precarious situation than ever before. Now that the Interim Accord has been in force for seven years, Greece has the option of withdrawing from the agreement, pursuant to the Final Clauses (Article 23) of the Accord, thereby potentially bringing the situation back to a pre-1995 dilemma. Only now FYRO Macedonia has a more resolute (if not resentful) government in Athens to deal with.

Ultimately, therefore, FYRO Macedonia is likely to be no better off than if it did not take the case to the ICJ. It would be better served to use this occasion – and the possible leverage of ongoing legal proceedings, which may end up exposing Greece to increased pressure from the international community – to settle on its final name through the UN mediator.

A solution… almost

It is one of the many paradoxes of this perpetual dispute that a “solution” of sorts to the naming issue has, or rather had, effectively already been found. In 2005, following the change to its initial position that it would not agree to any permanent solution which incorporated the word “Macedonia”, Greece reacted positively to a proposal put forward by un envoy Matthew Nimetz. This option proposed the name ‘Republic of Makedonia-Skopje’ – a similar formulation to that of Congo-Brazzaville where the capital city of the country is used following the first part of the name to distinguish it from its neighbour. While the proposal did not “totally satisfy Greece”, its Foreign Minister did react positively to the suggestion stating that it was “a basis for negotiations which Greece is ready to partake in a positive and constructive spirit.” While such rhetoric is to be viewed cautiously in the absence of any concrete acceptance, it was at least a step in the right direction. At the time, it was not reciprocated by the government in Skopje however, which was intent on pursuing the so-called “double-formula” whereby the members of the international community that recognised FYRO Macedonia under its constitutional name would use the name “Macedonia” and Greece and others would continue to use the long-winded official “provisional”

name,\textsuperscript{16} or the formulation “Republika Makedonija – Skopje”.\textsuperscript{17} Three years later, at the NATO summit in Bucharest in 2008, the government in Skopje did agree to the name “Republic of Macedonia (Skopje)”, essentially the same proposal it had rejected outright in 2005 and that which had been positively received by Greece.\textsuperscript{18} Yet, in 2008, it was Greece that blocked the proposal and – not for the first time – the negotiations went back to square one.

To interpret the above example as a lost opportunity or to place the blame squarely on either party would be wrong. Numerous formulations have been proposed by both countries, in addition to those of the UN envoy, since the Interim Accord of 1995,\textsuperscript{19} yet neither country has ever demonstrated a genuine willingness to compromise on key tenets in its own position to agree to a name which would be satisfactory to its neighbour. This raises the question therefore, where to from here?

CONCLUSION: ENDING THE IMPASSE

With the issue currently before the International Court of Justice and both parties boldly asserting their respective rights to stick to their guns (figurative guns for now, thankfully) it may seem an unlikely moment to be optimistic about settling the dispute. On the contrary, however, the dismal progress over the past 12 months has brought the issue to prominence and presents a greater opportunity now than ever: 2009 must be the year that this dispute ends once and for all. The ICJ option in this case will only be successful in settling the wider dispute if it can be used in conjunction with more aggressive diplomatic measures. un Member States and the Office of the Secretary General more particularly (under whose auspices the name issue negotiations are notionally continuing) should pressure the two states into a permanent compromise solution and then support that solution with consistent use and treatment of the name.

The last 17 years of stalling have demonstrated that a name preferred or even “suitable” to both parties cannot be found. The challenge is to convince both parties that a permanent compromise name is at least acceptable. The most recent proposal, presented by UN mediator Matthew Nimetz on 8 October 2008 stands a better chance than any previously proposed solution of meeting that criterion. Almost absurdly simple in its construction, the “Republic of North Macedonia” provides the geographic pre-qualification to the name that Greece insists upon,\textsuperscript{20} while retaining the name “Macedonia” as the central element. Given that the

\textsuperscript{16} Ibid.
\textsuperscript{17} OneWorld South Europe, Matthew Nimetz Will Not Present a New Proposal on the Name, 14 October 2005. Available at: http://see.oneworld.net/article/view/120536/1/.
\textsuperscript{18} International Crisis Group, Macedonia’s Name: Breaking the Deadlock, 12 January 2009, p. 7.
\textsuperscript{19} Formulations proposed over the years which were either unacceptable to Greece or rejected by the government in Skopje include: “New Macedonia”, “Upper Macedonia”, “Slavo-Macedonia”, “Nova Makedonija”, “Macedonia (Skopje)”, the “Vardar Republic”, the “Republic of Skopje” and the “Republic of Skopje/Macedonia”.
\textsuperscript{20} See International Crisis Group, Macedonia’s Name: Breaking the Deadlock, 12 January 2009, p. 8 and, in particular, fn. 49.
The interminable naming dispute over Macedonia is now before the ICJ.

The proposed name is not the preferred option for either State, the fact that both sides reacted cautiously to the suggestion was to be expected. While neither Greece nor FYRO Macedonia rejected Nimetz’s proposals, both countries conveyed their reservations vis-à-vis the new name. This was perhaps inevitable, but the fact that neither State has enthusiastically endorsed the name – the conventional use of which would be simply “North Macedonia” – is a more promising sign than it may initially appear given both parties’ seemingly instinctive aversion to names propagated by the other.

The proposed solution has several key advantages that distinguish it from its defunct predecessors. First, it is simple. Devoid of parenthesis, hyphens and Cyrillic script the name is unmistakable and is as concise as can be expected, given Greece’s determination for the country not to be known simply by the name “Macedonia”. Secondly, the qualifier “North” is accurate (while admittedly not entirely free from contention), and is timeless in the way that the “New Macedonia” and “Nova Makedonija” options were not. Thirdly, the name is neutral in that it signals no territorial or historical connections, but – by its very definition – conveys the notion that Macedonia is a greater region and one not exclusively within the confines of FYRO Macedonia’s own borders. Finally, the name is practicable and it is foreseeable that it would be used in unofficial contexts as well as in formal documentation in a way that the current provisional name and many of the proposals thus far could never expect. For Greek negotiators in particular this could be seen as a significant advantage of the new name.

In order to arrive at a situation where the “problematic elements” contained in Nimetz’s new proposals could be overcome, the ever-diminishing trust between the two States needs to be rebuilt. The initiative will not be taken unilaterally by either State under the current circumstances. What it requires is a coherent voice on the part of EU and NATO member states in supporting the US in its renewed efforts to settle the dispute following the Bucharest setback. With the support of those bodies, the Office of the Secretary-General will be better placed to apply pressure on the two States to accept the compromise agreement lest the situation deteriorate further. Realistically, the UN mediation team could then get the two States to make the largely symbolic step of reaffirming their commitment to the terms of the 1995 Interim Accord. This in turn could see both Greece and FYRO Macedonia honour the terms of the Accord: the former by stating that it would not refuse its neighbour entry to multi-lateral organisations under its current (provisional) name and the latter by reversing its decision to rename Skopje Airport and, more recently, its main highway, which Greece asserts is

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22 While the majority of the territory of FYRO Macedonia is to the north of Greece, a significant portion of the country lies to the south of some parts of the Greek region of Macedonia. This in itself does not seem to be an issue for either country and is almost unavoidable to some degree if States have a land-border (e.g. parts of so-called ‘North Korea’ lie to the south of its neighbour and visa versa).
likewise a violation of the 1995 Accord. There are other issues to be addressed in this ‘war of attrition’ relating to the country’s name, including the prospect of (further) constitutional amendments, appointing a jointly-elected commission to conclusively examine the history of the region of Macedonia and related issues such as the adjectives describing nationality. Before these more intricate issues are finalised however, both parties need to be more strongly encouraged and compelled to renew their commitment to the Interim Accord and accept the current imperfect solution on the table as the lesser of two evils.

After 17 years of such little progress, EU leaders and NATO members alike must recognise that their own interests will ultimately be threatened if this issue is not solved definitely in a civil fashion. And it must be solved soon before the legal wrangling and political brinkmanship spirals to unforeseen depths. Two-thousand and nine is the year to do that. There must be no more senseless quarrels about whether the diplomatic representative from a State may sit under the letter ‘m’ for Macedonia, ‘f’ for ‘Former’ (or is that ‘former’?) or, ultimately, ‘t’ for ‘The’.

There must be no more Olympic Games where the athletes from a proud nation are obliged to enter under the dated and now obsolete ‘Former Yugoslav’ banner: a dual anomaly in a modern, integrated Europe. For once in this 17-year dispute commonsense and pragmatism must prevail over inflammatory rhetoric and dogmatic nationalism. Both States need to move on – issue resolved and dignity still intact – to confront greater challenges which so sorely need to be met.

So, too, do the EU and NATO.

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24 On this final point, this author sees no realistic scope for any adaption of the term “Macedonian”, used non-exclusively, although Greece may pursue the “North Macedonian” option, potentially as a bargaining tool.

25 Following extensive debate as to where the country should be seated in alphabetical lists, the compromise option ‘T’ was settled upon for the country’s provisional name at the United Nations: ‘The former Yugoslav Republic of Macedonia’. See United Nations Member States: List of Members. Available at: http://un.org/members/list.shtml#t.