



**Opinion 191 (1995)<sup>1</sup>**

## **Application by the former Yugoslav Republic of Macedonia for membership of the Council of Europe**

Parliamentary Assembly

1. The former Yugoslav Republic of Macedonia applied to join the Council of Europe on 25 June 1993. By Resolution (94) 2 of 14 January 1994, the Committee of Ministers asked the Parliamentary Assembly to give an opinion, in accordance with Statutory Resolution (51) 30 A.
2. 1991 saw the dissolution of the former Socialist Federative Republic of Yugoslavia. Two of its six constituent "socialist republics" declared independence in June. Macedonia<sup>2</sup> did the same just three months later. A referendum on independence (8 September 1991), a declaration of sovereignty (17 September 1991) and the adoption of a new constitution (17 November 1991) marked the country's rapid transition to a more democratic structure. International observers had already recognised the parliamentary elections of 11 November 1990 as reflecting a real measure of political pluralism.
3. In advisory [Opinion No. 11](#) of 16 July 1993, the Arbitration Commission of the International Conference on the Former Yugoslavia deemed Macedonia to have become one of the successor states to the Socialist Federative Republic of Yugoslavia as from 17 November 1991.
4. The Parliament of Macedonia was granted special guest status with the Parliamentary Assembly of the Council of Europe on 13 May 1993. This followed the fact-finding visit of an Assembly delegation from 26 to 30 March 1993.
5. Presidential and parliamentary elections were held on 16 and 30 October 1994. They were observed by delegations of the Parliamentary Assembly, which judged them "reasonably free and fair" notwithstanding the second-round boycott by two political parties. The election law had been the subject of prior consultation with the Council of Europe.
6. Early 1995 two eminent jurists were commissioned by the Bureau of the Parliamentary Assembly to report on the state of legislative reform, human rights and the rule of law. They paid tribute to "... the range and pace of proposed legal reform (and) the willingness of the authorities to seek and profit from outside expertise" - notably, from the Council of Europe and OSCE (Organisation for Security and Co-operation in Europe). The Bureau of the Parliamentary Assembly released the report on 9 May 1995. It was the basis for the visit of the Assembly's three rapporteurs to Skopje from 17 to 20 May 1995. They received assurances at the highest level in regard to the developments and commitments listed hereunder in paragraphs 9 and 10.
7. Despite continuing difficulties in its relations with neighbouring states (notably to the north and the south) and despite crippling pressures on its economy (United Nations sanctions on the Federal Republic of Yugoslavia and the trade embargo of Greece), Macedonia has remained a zone of stability in this troubled region of Europe.

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1. Assembly debate on 27 September 1995 (29th Sitting) (see [Doc. 7371](#), report of the Political Affairs Committee, rapporteur: Mrs Lentz-Cornette; [Doc. 7402](#), opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Sir Peter Fry; and [Doc. 7403](#), opinion of the Committee on Relations with European Non-Member Countries, rapporteur: Mr Ruffy). Text adopted by the Assembly on 27 September 1995 (29th Sitting).

2. The use of the term "Macedonia", for descriptive purposes and the convenience of the reader, does not prejudice the position of the Assembly on the question of the name of the state concerned.



8. Admission to the Council of Europe should help relieve some of these difficulties. It should also improve the prospect of continued stability.

9. Accordingly, on the basis of the following considerations, the Assembly believes that Macedonia, in the sense of Article 4 of the Statute of the Council of Europe, is able and willing to fulfil the provisions for membership of the Council of Europe as set forth in Article 3: "Every member of the Council of Europe must accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms, and collaborate sincerely and effectively in the realisation of (its) aim":

9.1. Macedonia has been taking part in various activities of the Council of Europe since 1993 - through its participation in intergovernmental co-operation and assistance programmes (notably in the fields of legal reform and human rights) and the participation of its special guest delegation in the work of the Parliamentary Assembly and its committees;

9.2. laws to ensure the organisation and functioning of the courts and the independence of the judiciary, together with a new penal code and a new code of criminal procedure, will be adopted and implemented within a year of accession and will fully incorporate the provisions of the European Convention on Human Rights and its protocols;

9.3. laws corresponding to a civil code and a code of civil procedure will have been revised in accordance with the Constitution of 17 November 1991, so as to permit the full flourishing of an "open society" and the functioning of a market economy, and further legislation in this area will move towards conformity with Council of Europe standards;

9.4. should the constitution be amended, the right to a fair trial will be included in Article 13 of the constitution;

9.5. laws on secondary and higher education in accordance with Council of Europe standards will be adopted and implemented in the near future;

9.6. the state and progress of legislative reform will permit the signature and ratification, within the indicated time-frame, of the European conventions listed hereunder, and notably, the European Charter of Local Self-Government and the European Charter for Regional or Minority Languages;

9.7. policy towards ethnic minorities will be further developed and implemented on the basis of the Framework Convention for the Protection of National Minorities and according to the principles of Assembly [Recommendation 1201 \(1993\)](#) for an additional protocol to the European Convention on Human Rights on this question;

9.8. "political dialogue" between the former Yugoslav Republic of Macedonia and the Committee of Ministers of the Council of Europe was initiated on 13 December 1994: there is accordingly no reason for the bilateral dispute with Greece, which is being mediated in New York within the framework of the United Nations, to delay a decision on Macedonia's application for membership of the Council of Europe.

10. The Parliamentary Assembly notes that Macedonia shares its interpretation of commitments entered into as spelt out in paragraph 9, and intends:

10.1. to sign the European Convention on Human Rights at the moment of accession; to ratify the Convention and Protocols Nos. 1, 2, 4, 7 and 11 within a year; to recognise, pending the entry into force of Protocol No. 11, the right of individual application to the European Commission and the compulsory jurisdiction of the European Court (Articles 25 and 46 of the Convention);

10.2. to sign and ratify within a year of accession Protocol No. 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms on the abolition of the death penalty, in accordance with Article 10 of the Constitution of 17 November 1991;

10.3. to sign and ratify within a year from the time of accession the European Convention for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment;

10.4. to sign and ratify within a year from the time of accession the Framework Convention for the Protection of National Minorities as well as the European Charter for Regional or Minority languages and to conduct policy towards minorities on the principles set forth in Assembly [Recommendation 1201 \(1993\)](#), and incorporate it into the legal and administrative system and practice of the country;

10.5. to recognise the vital importance of freedom of expression to a properly functioning democracy, and to protect independence in broadcasting and in printed media - allowing complete editorial freedom, even-handed tax treatment, free availability of newsprint and equal access to broadcasting and printing facilities and to distribution outlets;

10.6. to abide by the Geneva Convention of 1951 relating to the Status of Refugees and its 1967 New York Protocol, and to ensure that asylum-seekers and refugees are not deported to countries where they would be at risk of human rights violations or to any third country without ensuring that they would be given effective and durable protection against return to a country where they might be at risk;

10.7. to ensure that the role and functions of the Prosecutor's Office are in accordance with the rule of law and Council of Europe standards;

10.8. to ensure the independence of the judiciary, in particular by protecting judges from unjustified or arbitrary dismissals, and by keeping the operating budgets of the courts under their direct control and by having them approved by parliament;

10.9. to ensure that the issue of telephone tapping is regulated immediately in accordance with Council of Europe standards;

10.10. to sign and ratify, within a year of accession, the European Charter of Local Self-Government, and to study, with a view to ratification, the Council of Europe's Social Charter, and meanwhile to conduct its policy in accordance with their principles;

10.11. to study, with a view to ratification, and meanwhile to apply the basic principles of other Council of Europe conventions, notably those on extradition, on mutual assistance in criminal matters, on the transfer of sentenced persons, and on laundering, search, seizure and confiscation of proceeds from crime;

10.12. to seek settlement of international disputes by peaceful means (an obligation incumbent upon all member states of the Council of Europe);

10.13. to sign and ratify within a year from the time of accession the General Agreement on Privileges and Immunities of the Council of Europe and its additional protocols;

10.14. to co-operate fully in the monitoring process for implementation of Assembly Order No. 508 (1995) on the honouring of obligations and commitments by member states of the Council of Europe, as well as in monitoring processes established by virtue of the Committee of Ministers' Declaration of 10 November 1994 (95th Session).

11. For these reasons the Assembly recommends that the Committee of Ministers:

11.1. invite the former Yugoslav Republic of Macedonia to become a member of the Council of Europe;

11.2. allocate three seats to this state in the Parliamentary Assembly.