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IS THE ANARCHY IN INTERNATIONAL RELATIONS STILL ALIVE? CASE STUDY OF THE NAME DISPUTE BETWEEN MACEDONIA AND GREECE AND THE DECISION OF THE INTERNATIONAL COURT OF JUSTICE DTD. 05.12.2011

ДАЛИ АНАРХИЈАТА СÈ УШТЕ ЖИВЕЕ ВО МЕЃУНАРОДНИТЕ ОДНОСИ? СТУДИЈА НА СЛУЧАЈ НА СПОРОТ ЗА ИМЕТО ПОМЕЃУ МАКЕДОНИЈА И ГРЦИЈА И ОДЛУКАТА НА МЕЃУНАРОДНИОТ СУД НА ПРАВДАТА ОД 05.12.2011

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ABSTRACT: Despite major changes in the system of international relations and security, states are still the main actor, and hence it seems that the essence of international relations today is not much changed. As the main feature of the system of international relations remains constant anarchy despite the significant scale of the use of international law. In order to determine whether anarchy is still present and living in international relations in this article analyzes the ruling of the International Court of Justice in the case of Macedonia against Greece, adopted on 05.12.2011, as a legal act of the institution established by the United Nations. By defining the concept of anarchy in international relations and presenting a brief history of the dispute and the positions of the two countries, this article presents the judgment and analysis of its essence and meaning. Noting the reactions of the States parties concerned in the dispute, as well as significant actors (NATO, EU) included in the dispute, this article essentially analyzes the importance and impact of the judgment, as a response indicator and the main thesis of the presence of anarchy in today's international system relations. Analyzing the meaning of the judgment in this paper comes to the conclusion that anarchy and free will of the activity of states in the system of international relations are still present, clearing space to create different policies and security challenges and uncertainties.

KEY WORDS: anarchy, international relations, name dispute, international court of justice, NATO

АПСТРАКТ: И покрај големите промени во системот на меѓународните односи и безбедност, државите се сè уште главниот актер, а оттаму се чини дека суштината на меѓународните односи и денес не е многу изменета. Како главна одлика и константа на системот на меѓународните односи останува анархијата и покрај значајниот обем на

употреба на меѓународното право. Со цел да се утврди дали анархијата е сè уште присутна и живее во меѓународните односи во овој труд се обработува пресудата на Меѓународниот суд на правдата во Хаг по случајот Македонија против Грција, донесена на 05.12.2011, како правен акт од институција воспоставена од Обединетите Нации. Преку дефинирање на концептот на анархија во меѓународните односи и изнесување на кратка историја на спорот за името и позициите на двете држави, во трудот се преминува на претставување на пресудата и анализа на нејзината суштина и значење. Истакнувајќи ги реакциите на државите - засегнатите страни во спорот, како и значајните чинители (НАТО, ЕУ) вклучени во спорот, во суштина се анализира и значењето и влијанието на пресудата, како показател и одговор на главната теза за присутноста на анархијата во денешниот систем на меѓународните односи. Анализирајќи го значењето на пресудата во овој труд се доаѓа до заклучок дека анархијата и слободната волја на дејстување на државите во системот на меѓународните односи се сè уште присутни, отворајќи простор за креирање различни политики и безбедносни предизвици и неизвесности.

КЛУЧНИ 3БОРОВИ: анархија, меѓународни односи, спор за името, меѓународен суд на правдата, НАТО

INTRODUCTION

In the modern world of international relations, nation states are still the first and the most important actors. Even though a lot of agreements, rules, laws and institutions have been set during the last 4 centuries, as from the Peace of Westphalia and until today, nation states still have the power and the sovereign right to independently act beyond the frames and the rules of the international law. Today, we can freely conclude that there is no clear case in international relations based completely on the rule of international law. Most of the international relations between states are based on a mixture of free and independent actions and acting by the rules of international law at the same time, with a very small number of the cases based on total lawlessness.

Europe is one of the regions devoted to setting international law, institutions and life in peace. Moreover, Europe as a place where nation-states were "born", today, it is the place of greatest integrations and close friendly relations among countries. Despite all these facts, within Europe, there are still a lot of disputes and unsolved issues between countries, one of them being the name dispute between Macedonia and Greece. Arisen or better said "born" without any reasonable correlation with the international law, this dispute and the relations between these two countries were run under the Interim Accord

dated 1995 as an instrument of law, and sometimes under the shade of Greece's self- will or Macedonian's confusion.

This short research aims to review the behavior and actions of both countries in the world of institutions and law without enforcement and prove whether the international state of anarchy is still alive or not. Special accent will be focused on the decision of the ICJ on the case Macedonia vs. Greece dated 5.12.2011 as the highest act in this issue passed by the international judicial institution founded by the UN. This event would have a great meaning in the further development of the dispute and at the same time it is a test about the willingness of the countries to create an international society of law and respect or to live in a state of international anarchy.

This short research has been conducted applying the analytical approach, analyzing facts from books, newspaper articles, other researches on the same or related topics, websites of the international and national institutions of the both countries and other web-sites related to this topic and academic area. Despite the fact that the name dispute is still a developing process and the ICJ' decision was adopted only in the very recent past, this issues' significance and the conflict-crisis potential demonstrate that this topic is relevant to research into.

1. ANARCHY IN THE INTERNATIONAL RELATIONS SYSTEM

The modern day debate of international politics is characterized by the confrontation of the two main ideas and movements: idealism or liberalism (institutionalism) and realism (Maleski, 2000). In the international relations and security studies, the concept of anarchy is considered to be the central concept and the organizing principle of global community by which the states establish their behavior and actions in their desire of guarantying subsistence and security (Vankovska, 2011). According to Headley Bull's definition, international society is anarchic by its lack of central authority (Bull, 1971). Another definition of anarchy in international relations is Kenneth N Waltz's definition: anarchy is understood as an extreme opposite to the axis which represents the presence of legitimate and competent government (Maleski, 2000: 173). Hence, the essential meaning of anarchy in international relations is the absence of central authority (government) and coercive enforcement apparatus. Barry Buzan gives a classification of two types of anarchy in international society: mature and immature anarchy (Vankovska, 2011: 42). In the first one, states do not recognize the sovereignty of other states and they are in perpetual battle for domination, while in mature anarchy the nation-states respect rules and values defined and institutionalized by the international law (Vankovska, 2011: 42-43). According to all these definitions, we can characterize the present international relations

system as a mature anarchical order of relations between nation-states. This means that nation-states, even though they observe the rules and values of international law, still have the right and the power not to implement or obey decisions, international instructions, norms or agreements which, in their own opinion, are opposite to their national interests. Based on this understanding of the international relations system, in this short research paper, we will address the judgment of ICJ on the case Macedonia vs. Greece.

2. BRIEF HISTORY OF THE NAME DISPUTE

The name dispute between Greece and Macedonia has a long historical background due to the problematic history between the two peoples under the Ottoman rule, which culminated in 1912/1913. Apart from this one, there are some other historical events which are also very important for the genesis and the essential meaning of the name dispute, such as the exchange of population in the 20's of 20th century, Greek Civil War (1946-1949) and the issue with the Macedonian refugees and their land properties etc. Within this research we will make just an overview of the key events which were directly affected the genesis of the name dispute.

After the successful referendum for independence of Macedonia by means of which Macedonia become separated from the socialist Yugoslavia on September 8th 1991 and after the promulgation of the first Constitution of the Republic of Macedonia on November 17th 1991, Greece immediately initiated its strong policy of negating Macedonia's right to its constitutional name based on the statement that the name Macedonia implies territorial pretensions (The Economist, 2009). Even though Macedonian Constitution was evaluated as a good one and in accordance with all democratic standards by the Arbitrage Commission of the Presidents of the Constitutional Courts of the European Economic Community member countries (EEC), this fact was not enough for the European Economic Union to recognize the independence of Macedonia. On December 15th 1991, this Arbitrage Commission under the Presidency of Robert Badinter, gave an opinion to the Ministers of Foreign Affairs of EEC that all conditions for recognition of Macedonian independence are met and made a proposal for admission of Macedonia to UN (Jordanov 2008, 227). It is very important to stress that the Commission in its Opinion no.6 clearly stated as follows: "The republic had given the necessary quarantees for respect of human rights and international peace and security (Arbitration Commision, Opioion no.6), and the name Macedonia doesn't imply any territorial pretensions and claims toward any other country" (Mukoska-Cingo, 2007: 216). Despite the opinion of the Badinter Arbitration Commission that Slovenia and Macedonia have met all the conditions (Pellet, 1992), EEC recognized the independency of Slovenia and Croatia, but not of Macedonia. In the beginning of 1992, Macedonia made some changes by adding amendments to its constitution: clear declaration that Macedonia does not have any territorial pretension to its neighbors and it is not going to interfere in their internal affairs; erasing Article 48 which regulated Macedonian minorities' rights in the neighboring countries (Mukoska-Cingo, 2007: 216). However this was not enough for recognition by EEC, and on June 21st 1992 at the Lisbon Summit of EEC, under the Greek influence (Kofos, 1999), a declaration was adopted which stated: "The European council expresses its readiness to recognize the country within its existing borders according to its Declaration dated December 16th 1991 under a name which does not include the term Macedonia" (European Parliament, 1992). This very offensive decision was immediately rejected by the Macedonian parliament on July 1st 1992, and the Parliament, at the same time, sent letters for recognition under the constitutional name to EEC (EU), OSCE, UN and their member states (Mukoska-Cingo, 2007: 217). In the beginning of 1993, on January 25th 1993, Greece sent a Memorandum to UN regarding Macedonia's application for membership, openly declaring their views about the problem and trying to explain how Macedonia (with its name) represents a security threat to Greece and the region through certain historical facts from the end of the WWII and Greek civil war 1946-1949 (Mukoska-Cingo, 2007: 233). On April 7th 1993, UN Security Council adopted Resolution 817 (UN SC Resolution 817, 1993) and the next day, according to it, Macedonia became the 181st member of the UN under the provisional reference name "the former Yugoslav Republic of Macedonia". In the same year on June 18th UN Security Council adopted Resolution 845 by which it "urges both parties to continue their efforts under the auspices of the Secretary-General to arrive at a speedy settlement of the remaining issues between them" (UN SC Resolution 845, 1993). According to these two Resolutions, on September 13th 1995 the Interim accord between Macedonia and Greece was signed (UN Interim Accord, 1995), as a most important agreement by which the relations between the two countries were clearly defined and finally normalized (Nikas, 2005). By vetoing Macedonia on the NATO Summit in Bucharest in 2008, Greece violated Article 11 of the Interim Accord, which was the main reason for Macedonia to open the case against Greece before the International Court of Justice of UN in Hague on November 17th 2008 (ICJ, 2011). The decision (Judgment) in favor of Macedonia, was passed on December 5th 2011 (ICJ, 2011), and undoubtedly it would be a turning point in the further relations and development of the dispute.

3. THE DECISION OF THE ICJ ON THE CASE MACEDONIA vs GREECE FROM 05.12.2011

At the NATO summit in Bucharest in 2008, Macedonia was not given an invitation for admission due to the name dispute with Greece (Bucharest Summit Declaration, 2008).

The Greek officials in the period before the NATO summit openly announced the possibility of putting a veto to Macedonia's admission process to EU and NATO (SET Times, 2007). The veto is completely opposite to Article 11 of the Interim Accord, so on November 17the 2008, Macedonia opened a case against Greece before the International Court of Justice.

The Greek arguments were that Macedonia had violated the Interim Accord by applying to NATO under its constitutional name (VOA, 2011). Greece also accused Macedonia as guilty for the name dispute because of its rigid position and for establishing bilateral relations with other countries under the constitutional name (VOA, 2011). As their last argument, Greece stated that in the NATO summit in Bucharest, Greece did not put veto to Macedonia, but that all of the member-countries voted that the solution of the name issue has to be a condition for Macedonia, which was not true because not all countries voted for this decision.

The judgment the Court found that Greece, by objecting to the admission of Macedonia to NATO, breached its obligations under Article 11, paragraph 1 of the Interim Accord on September 13th 1995 (ICJ, 2011). This decision was adopted by 15 votes for, and 1 against. The other two decisions included in the judgment were: confirmation of the jurisdiction of the court (14 votes vs. 2) and rejection of Macedonian request to order Greece to stop blocking Macedonia (ICJ, 2011).

Another very important thing in this judgment is that the court did not find that Macedonia breached the Interim Accord prior to NATO summit in 2008 (SET Times, 2011), especially with the naming of the airport in Skopje with the name Alexander the Great and also naming few other institutions with the names of ancient Macedonian kings. Macedonian opposition political parties and some public figures from Macedonia and Greece were warning that Macedonia would violate the obligations from the Interim Accord with this process of so-called "antiquisation" understood as using Macedonian ancient history as a provocation to Greece. However, Greece had never officially reacted to these actions, even though it has the right to do that according to Article 7 of the Interim Accord (UN Interim Accord, 1995: Article 7).

The first two decisions are correlated with the essence of the international law, but the last one is more correlated with the reality of the international relations, especially with the state of anarchy. Even if the Court decided to order Greece not to put any blockade to

²² This word/term was invented (coined) by the professor of international law, and former minister of foreign and internal affairs Ljubomir Frchkoski in 2008/2009. It refers to the policy of Macedonian government of building monuments, naming institutions and using symbols and even mentioning ancient Macedonia as a part of the history of modern Republic of Macedonia. This word is used mainly by the opposition parties, activists and NGOs in Macedonia.

Macedonia in the future, in the state of anarchy, without institutions with coercive power of enforcement, Greece could still put blockades as much as they want. In the conclusion of the verdict the Court states that it is not necessary to order Greece to stop blocking Macedonia, because it assumes that Greece, in the manner of good will, shall not repeat the wrongful act and violation of its obligations under the Interim Accord (Deutche Welle, 2011).

4. THE IMPACT OF THE DECISION ON THE INTERNATIONAL RELATIONS, OPINION OF NATO, EU, GREECE AND MACEDONIA

Although the period after this judgment is very short, the parties are very aware of it. The first test for the real significance and impact of this judgment of ICJ in favor of Macedonia was considered to be the NATO summit in Chicago on 20-21 May 2012. It was generally considered that if Macedonia got the invitation for admission that would clearly mean that the Interim Accord as an instrument based on International Law and the judgment of ICJ as an institution of UN and the international community, are appreciated and finally the International Law and Interim Accord are still effective.

Greece is in a very critical situation facing the great economic and financial crisis, which is not a reason not to react on the ICJ's judgment. Few days before December 5th 2011, the Greek newspapers and media, announced that Greece would lose this case (Makedenes, 2011). In the period prior to the judgment, Greek officials have stated few times that the name dispute is a political issue only and that the court is unauthorized for this case. On the other hand, according to Article 36 (2) of the Statute, the Court can equitably judge (ex aequo et bono) with accordance of the parties, which allows disputes to be solved as political questions (Frckoski, Tupurkovski, Ortakovski, 1995: 308). Few days later, a number of former Greek diplomats and professors discussed the idea of renouncing the Interim Accord (Athensnews, 2011). However the Greek Prime Minister stated that Greece will continue to seek solution for the name dispute, establishing good neighbor relations and also noted that Greece has supported the Euro-Atlantic integration of Macedonia on many occasions. Minister Lucas Papademos also underlined that the continuing provocations did not contribute to establishing good neighbor relations and mutual trust, noting that Greece continues to steadfastly support these positions after the ICJ ruling in the case (Athens News, 2011). The Greek Foreign Minister, in a written statement, noted that the judgment of ICJ could not be related to the decision-making process in NATO (Defence Greece, 2012).

Macedonia welcomed the judgment without euphoria. The Prime Minister welcomed the verdict and informed the public that the court rejected all Greek demands on key point and also underlined the importance of the court's position that Macedonia can

use its constitutional name within international organizations (SET Times, 2011). Despite the strong confidence that Macedonian authorities have that the verdict of ICJ can help Macedonia to join NATO, the majority of the public does not think and believe that the verdict has power to change the situation. In fact, polls show that less than half believe in the decision and the others generally consider that the verdict does not change anything (Nova Makedonija, 2011). At the last meeting of the Macedonian state leadership, before the forthcoming talks on the name issue in UN, it was decided to rely on and use the positive ruling of ICJ in the negotiation process (Balkan Insight, 2012).

The European Union is another very important key actor that has been involved in the name dispute between Macedonia and Greece, since the beginning of the dispute. Greece has been an EU member since 1981, and Macedonia has been a candidate for membership since 2005. Macedonia obtained the recommendation for starting the negotiations for admission in 2009 under one condition: solving the name issue with Greece. This situation is very similar with the NATO at the summit in 2008, which was the main reason of Macedonian application to ICJ. Only 3 days after ICJ announced the judgment, at the EU summit in Brussels (8-9 December) Macedonia was not even mentioned in the conclusions in the part for enlargement (European Council, 2011).

Noting the fact that the case was based on the blockade from Greece to Macedonia on the NATO summit in Bucharest in April 2008, the verdict should have a great influence on the Macedonian admission and relations with NATO. However, the Secretary General of NATO Anders Fogh Rasmusen responded that the ruling does not affect the decision taken by the NATO allies at the Bucharest summit in 2008 and the invitation will be extended to Macedonia as soon as a mutually acceptable solution to the name issue has been reached (Atlantic Council, 2011). Moreover, the statement issued on 7 December 2011 after the NATO council meeting in Brussels, at the level of foreign ministers, made no mention of the ICJ ruling, despite such a request by the Turkish foreign minister (Defence Greece, 2011). The NATO summit in Chicago was the last and the real test for the significance and the impact of ICJ's verdict in the modern day international society. Prior to NATO summit, the political analyst of the Heritage foundation, Sally McNamara mentioning the ICJ ruling and all Macedonian contributions to NATO missions, stated her opinion that ensuring that Macedonia joins NATO this year would be a sign that president Obama genuinely understands America's primary role in creating and maintaining a democratic global order (Fox News, 2012). The Secretary General of NATO has already clearly stated his opinion to the ICJ ruling and despite the enough time and efforts of Macedonian diplomacy for lobbying and persuading the officials of the country members to take the ruling in consideration and made a decision for admission of Macedonia according to Article 11 of the

Interim Accord, the decision from the Bucharest summit was reiterated (Chicago Summit Declaration, 2012).

5. THE SIGNIFICANCE OF THE DECISION IN THE PRESENT INTERNATIONAL RELATIONS SYSTEM

Having reviewed the first reactions regarding ICJ's ruling we could make some predictions about the significance of this very case in the present international relations system. In the period of 40 years, as from its foundation, ICJ has solved 60 disputes, and the main reason of such small number being the inflexibility and the time of conducting the cases (Frckoski, Tupurkovski, Ortakovski, 1995: 314). The Court ruled in favor of smaller countries in cases against international powers, like in the case between Nicaragua and USA (ICJ, 1984), but in the world of anarchy and realism of international relations, these rulings do not have the coercive power to change the actual situations. However, according to UN Charter , Chapter VI: Amicable settlement of disputes, Article 33 (1) judicial settlement is one of the envisaged solutions among the others (UN Charter: Chapter VI), which means that ICJ role in the international relations system will still be virtually important because of the experience that there is no coercive power of enforcement of its rulings.

Having the foregoing into consideration, we can conclude that, so far, the ruling of ICJ in the case Macedonia vs. Greece is important only for the Macedonian internal political debate, but not for the international relations with Greece, NATO and EU, not it is significant for the broader international relations system of the world. Despite all integration processes, modern nation-states still have the sovereignty as a power of free action in the relations with other countries and organizations, even inside the organizations where they are members. We can freely say that this ruling of ICJ may not have any influence to the international relations system in closer future, but definitely it may have significance and impact in the scientific debates and global civil society. Considering the fact that Macedonia wants to join the same organizations and unions where Greece is already a member, this ruling should have impact therein, but it could not cause conflicts or destabilization of the international relations in the triangle Macedonia-Greece-EU and NATO.

CONCLUSION

The conclusions drawn in this short research about the judgment of the International Court of Justice on the case Macedonia vs. Greece in the world of anarchy in the international relations is based on three main arguments. All the arguments are taken from the substantial number of facts presented in the previous text.

Firstly, even though it is illogical that Macedonia with its constitutional name represents security threat for Greece, which is five times bigger in territory and population, Greece as a sovereign nation-state in the world of anarchical society, can freely tailor its policy based on that argument.

Secondly, even though Macedonia is trying to access the same union and organizations where Greece is already a member, which would be in favor of Greece if Macedonia is really a security threat, in the state of anarchy, blockade or creating additional not prescribed conditions for joining, seems to be a legitimate instrument Greece is using, although there are no legal grounds for that.

Thirdly, the violation of the Interim accord and the judgment of the International Court of Justice are completely meaningless in the anarchical international relations system. This results from the fact that there is no central authority of coercive enforcement, nor the bigger powers show interest to order Greece to exercise its obligations arising from the Interim Accord and the ruling of the International Court of Justice.

Having all these arguments into consideration, we can freely conclude that the modern world and international society still live in a state of anarchy. No matter how many international institutions or integration processes are established, the international relations would run in a state of anarchy as long as there is no central authority established or a system of nation-states is changed, which is hardly possible to expect. On the other hand, establishing a central authority for the whole world is not a real option due to the enormous difference of interests of the countries, cultures and civilizations in the world. All this leads us to the conclusion that the anarchy is still the essential characteristic, method and state in the international relations and society. The state of anarchy sometimes can be dangerous because it brings a security dilemma and uncertainty, but experience shows that countries are more willing to cooperate than to make wars. Living in a state of anarchy means that there is no justice for the smaller countries, but the state of anarchy on the other hand gives them opportunity to react in order to protect their national interests. Finally, we can conclude that one thing is clear: in a state of anarchy in the international relations nothing and anything is possible for everyone at the same time.

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