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**Commission Opinion on the application from the former Yugoslav Republic of
Macedonia for membership of the European Union**

A. INTRODUCTION

a) Preface

The former Yugoslav Republic of Macedonia presented its application for membership of the European Union on 22 March 2004 and the Council of Ministers requested the Commission to submit its Opinion on this application on 17 May 2004, in line with the procedure laid down in Article 49 of the Treaty on the European Union, which states: “Any European State which respects the principles set out in Article 6(1) may apply to become a member of the Union. It shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the assent of the European Parliament, which shall act by an absolute majority of its component members.”

Article 6(1) states “The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States.”

This is the legal framework within which the Commission submits the present Opinion.

The application from the former Yugoslav Republic of Macedonia for membership is part of an historic process, in which the Western Balkan countries are overcoming the political crisis in their region and orienting themselves to join the area of peace, stability and prosperity created by the Union. In the “Thessaloniki Agenda for the Western Balkans”, adopted by the June 2003 European Council, the EU stressed “*that the pace of further movement of the Western Balkan countries towards the EU lies in their own hands and will depend on each country’s performance in implementing reforms, thus respecting the criteria set by the Copenhagen European Council of 1993 and the Stabilisation and Association Process conditionality*”.

The European Council in Copenhagen in June 1993 concluded that:

“The associated countries in Central and Eastern Europe that so desire shall become members of the Union. Accession will take place as soon as a country is able to assume the obligations of membership by satisfying the economic and political conditions.

Membership requires:

- that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- the existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union;
- the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union.

The Union’s capacity to absorb new members, while maintaining the momentum of European integration, is also an important consideration in the general interest of both the Union and the candidate countries.”

The European Council in Madrid in December 1995 referred to the need “to create the conditions for the gradual, harmonious integration of the application countries, particularly through the development of the market economy, the adjustment of their administrative structure, the creation of a stable economic and monetary environment.”

The Stabilisation and Association Process (SAP) conditionalities were defined by the Council on 29 April 1997 and included co-operation with the International Criminal Tribunal for the Former Yugoslavia (ICTY) and regional co-operation. These conditions are a fundamental element of the SAP and are integrated into the Stabilisation and Association Agreement (SAA) with the former Yugoslav Republic of Macedonia, which entered into force in April 2004.

In its Opinion, the Commission therefore analyses the application from the former Yugoslav Republic of Macedonia on the basis of the country’s capacity to meet the criteria set by the Copenhagen European Council of 1993 and the conditions set for the SAP, notably the conditions defined by the Council in its conclusions of 29 April 1997.

The method followed in preparing this Opinion is the same as used in previous Opinions. The Commission has analysed both the present situation and the medium-term prospects. For the purpose of this Opinion and without prejudging any future date of accession, the medium-term perspective has been defined as a period of five years. In drawing up its recommendation on the opening of accession negotiations, the Commission has paid particular attention to the existing capacity of the former Yugoslav Republic of Macedonia to meet the political criteria.

The report containing the detailed analysis on which this Opinion is based is made public as a separate document (*Analytical Report for the Opinion on the application from the former Yugoslav Republic of Macedonia for EU membership*).

b) Relations between the EU and the former Yugoslav Republic of Macedonia

The former Yugoslav Republic of Macedonia, which was the southernmost part of the former Socialist Federal Republic of Yugoslavia and has a population of 2 million, became independent in November 1991. The country has maintained contractual relations with the European Communities since 1996. In 1997 it signed a Co-operation Agreement as well as Trade and Textile Agreements which entered into force in 1998. A Stabilisation and Association Agreement (SAA) was signed in April 2001 and entered into force on 1 April 2004.

The main challenge for the country’s political stability since it became independent was the 2001 crisis. The Ohrid Framework Agreement, signed on 13 August 2001, and the commitment demonstrated by the governments in office since 2001 to implement it, has achieved a return to stability. The Framework Agreement required the implementation of a broad legislative programme, which was completed in July 2005. The Government is now proceeding with the effective implementation of the new legislative framework, which will further strengthen the climate of confidence and stability in the country and foster an increasingly positive environment for integration with the EU.

The European Union has consistently been supporting this process. The EU commitment to peace and stability in the country was further illustrated by the EU military mission “Concordia”, which took over from the NATO missions, from March to December 2003. After the decision taken in September 2003 at the invitation of the government, in December

2003 the EU deployed a police mission, "EUPOL Proxima". It has a mandate to support the consolidation of law and order and the reform of the police. EUPOL Proxima's current mandate runs until 15 December 2005. The European Union Monitoring Mission has also been present in the country since 2001 under an agreement concluded in August 2001.

The Commission is supporting the former Yugoslav Republic of Macedonia financially in its European integration efforts and will focus on measures to tackle the shortcomings identified in this Opinion. National annual CARDS programmes worth €51 million in 2004 and €39 million in 2005 have been adopted.

B. CRITERIA FOR MEMBERSHIP

1. POLITICAL CRITERIA

The former Yugoslav Republic of Macedonia has stable democratic institutions which function properly, respecting the limits of their competences and co-operating with each other. Despite repeated recommendations made by the OSCE-ODIHR following the 2002 elections, the local elections in 2005 displayed a series of serious irregularities. Timely and appropriate implementation of the recommendations of the OSCE-ODIHR and commitment of the political parties will be decisive to ensure the full integrity of the next parliamentary elections. While the opposition generally plays a normal part in the operation of the institutions, one opposition party has decided to abstain from participating in the Parliament's work since April 2005.

There has been strong commitment to the implementation of the Ohrid Framework Agreement and important progress made since 2001 has been crucial for strengthening the country's stability. To further strengthen the climate of confidence and consolidate achievements, the government should continue effective implementation of the Agreement.

The rule of law is being gradually consolidated. Considerable efforts at reforming the police have been made since the crisis in 2001. However, steps remain to be taken to secure the rule of law all over the territory. This includes pursuing the reform of the police, which is crucial for more effective policing and the prevention of the possible escalation of incidents. Efforts to improve the independence and efficiency of the judiciary, starting with the modification of the Constitution in line with the recommendations of the Council of Europe, need to be sustained. The level of corruption remains high and affects many aspects of the economic, social and political life of the country. The effectiveness of the fight against corruption therefore needs further strengthening.

There are no major problems in the area of respect for fundamental rights. A number of constitutional and legislative changes have been made providing a high level of protection of the rights of minorities. It is important that these legislative provisions continue to be properly implemented.

The country fully cooperates with the International Criminal Tribunal for the former Yugoslavia. It ratified a bilateral immunity agreement with the USA regarding the International Criminal Court, which is not in line with the relevant EU guiding principles. The country is committed to regional co-operation. Sustained efforts are needed in this area, in particular in order to resolve the name issue with Greece in the interest of good neighbourly relations.

2. ECONOMIC CRITERIA

In the former Yugoslav Republic of Macedonia there is a broad political consensus on the essentials of economic policies. The economy has achieved a high degree of macroeconomic stability, with low inflation, balanced public finances and low public indebtedness. Price and trade liberalisation, as well as privatisation, are largely completed. The financial sector appears to be stable. The labour force is equipped with sound basic education and the country's endowment of transport and telecommunication infrastructure is fairly good. Economic integration with the EU is well advanced.

However, the functioning of the market economy is impeded by institutional weaknesses, such as the slow and cumbersome administrative procedures, shortcomings in the judiciary and limited progress in land and property registration. As a result, the business climate is not conducive to stimulating investment, particularly foreign direct investment, and growth. In addition, the functioning of the labour and financial market is deficient, which impedes the reduction of the particularly high unemployment and hinders credit provision to enterprises. Domestic and foreign investment has been insufficient, resulting in low productivity growth and a deterioration in competitiveness. The existence of a considerable informal sector leads to major distortions in the economy. The commodity structure of exports is unbalanced. At this stage, the economy would thus face major difficulties in sustaining competitive pressures in the single market. Addressing the identified weaknesses by proceeding with structural reforms should contribute to enhancing the functioning of the market economy and its competitiveness.

3. ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP

The ability of the former Yugoslav Republic of Macedonia to assume the obligations of membership has been evaluated according to the following indicators:

- The obligations set out in the Stabilisation and Association Agreement;
- Progress with adoption, implementation and enforcement of the *acquis*.

The former Yugoslav Republic of Macedonia has made progress with applying the Stabilisation and Association Agreement, although due attention needs to be paid to respecting the deadlines set out therein.

The country has made significant efforts to align its legislation with the *acquis*, particularly in areas related to the Internal Market and trade. These efforts need to be continued. However, the country faces major challenges in implementing and, especially, effectively enforcing the legislation. Administrative and judicial capacity remains weak in many areas and will need to be significantly strengthened for the *acquis* to be properly applied.

If it continues its efforts, the former Yugoslav Republic of Macedonia should not have major difficulties in applying the *acquis* in the medium term in the following fields:

- Fisheries;
- Economic and monetary policy;
- Statistics;
- Enterprise and industrial policy;
- Trans-European networks;
- Science and research;
- Education and culture;

- External relations;
- Foreign, security and defence policy;
- Financial and budgetary provisions.

The country will have to make further efforts to align its legislation with the *acquis* and to effectively implement and enforce it in the medium term in the following fields:

- Freedom of movement for workers;
- Right of establishment and freedom to provide services;
- Free movement of capital;
- Financial services;
- Consumer and health protection.

The country will have to make considerable and sustained efforts to align its legislation with the *acquis* and to effectively implement and enforce it in the medium term in the following fields:

- Public procurement;
- Company law;
- Information society and media;
- Agriculture and rural development;
- Food safety, veterinary and phytosanitary policy;
- Transport policy;
- Energy;
- Taxation;
- Social policy and employment;
- Regional policy and co-ordination of structural instruments;
- Justice, freedom and security;
- Customs union.

Unless efforts are speeded up considerably, the country might not be able to comply with the requirements of the *acquis* in the medium term in the following fields:

- Free movement of goods;
- Intellectual property law;
- Competition policy;
- Financial control.

On the environment, very significant efforts will be needed, including substantial investment and strengthening of administrative capacity for the enforcement of legislation. Full compliance with the *acquis* could be achieved only in the long term and would necessitate increased levels of investment.

C. CONCLUSION AND RECOMMENDATION

- The former Yugoslav Republic of Macedonia is a functioning democracy, with stable institutions, generally guaranteeing the rule of law and respect of fundamental rights. The country signed a Stabilisation and Association Agreement (SAA) in 2001 and, since then has generally fulfilled the related obligations in a satisfactory manner. The former Yugoslav Republic of Macedonia has successfully implemented the legislative agenda of the Ohrid Framework Agreement which contributed to major political and security improvements in the country. This legislation now needs to be fully enforced. The country remains committed to regional cooperation. The former Yugoslav Republic of Macedonia needs to make additional efforts in particular in the fields of electoral process, police

reform, judiciary reform and the fight against corruption. On the basis of the overall progress of reforms achieved, the Commission considers that the country is well on its way to satisfy the political criteria set by the Copenhagen European Council in 1993 and the Stabilisation and Association Process.

- The former Yugoslav Republic of Macedonia has taken important steps towards establishing a functioning market economy. While it would not be able to cope with competitive pressure and market forces within the Union in the medium term, the country has initiated an economic reform path, which, if vigorously pursued, will allow it to do so in the future.
- The former Yugoslav Republic of Macedonia will be in a position to take on most of the obligations of membership in the medium term, provided that considerable efforts are made to align its legislation with the *acquis*, particularly to ensure implementation and enforcement. Unless efforts are speeded up considerably, the country may not be able to comply with the requirements of the *acquis* in the medium term in the areas of free movement of goods, intellectual property law, competition policy and financial control. Full compliance with the *acquis* in the field of environment could be achieved only in the long term, and would necessitate increased levels of investment.

In the light of these considerations, and taking into account, in particular, the substantial progress made by the country in completing the legislative framework related to the Ohrid Framework Agreement of 2001, and following four years of implementation of the Stabilisation and Association Agreement (including the application of its trade related provisions in the form of an Interim Agreement) the Commission recommends that the Council should grant the status of candidate country to the former Yugoslav Republic of Macedonia. This status is a political recognition of a closer relationship between the EU and the former Yugoslav Republic of Macedonia on its way towards membership.

The Commission considers that negotiations for accession to the European Union should be opened with the former Yugoslav Republic of Macedonia once it has reached a sufficient degree of compliance with the membership criteria.

This Opinion is accompanied by a draft European Partnership for the former Yugoslav Republic of Macedonia which identifies the priorities which the country needs to address in preparing for the opening of negotiations. The EU will continue to monitor progress of the political reforms closely. The Commission will present a Report to the Council no later than the end of 2006 on the progress the former Yugoslav Republic of Macedonia has achieved.