

## Summary

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### Membership in International Organizations — Basic Questions

#### *I.*

1. The contemporary view of international law regarding basic questions of the membership in international organizations is to some extent a result of the actual role of these organizations in modern international life. Modern research in the field of social sciences has demonstrated the necessity and irreversibility of the development of international organizations as being a phenomenon of progressive industrial-technological civilization (Etzioni, Galting, Rittberger etc.).

2. As far as international law is concerned the highly different motives and the varying intensity of international organization-development have to be taken into consideration. Between the temporary, diffused attempts for a "Civitas Maxima" (Schwarzenberger) in the UN-Organizations, the European Communities with their far reaching ambitions and the socialist organizations with their special internal rules, such extreme differences exist that the common basis of any "International Institutional Law" (Schermers) still remains very limited.

3. In spite of the possibility of creating "Entities which possess objective international personality" (ICJ Reports 1949, p. 174 ss. — "Reparations for injuries suffered in the service of the U. N.") the international organizations still remain "Homunculi (artificial creations) of the States" (Mosler). The membership of States in international organizations is principally characterized by an ambivalence between the imperatives to respect the interests of the International Community (Bernhardt) and on the other side the requests of national sovereignty. This becomes obvious upon examining the rise and fall of membership within the international

organizations. The present article concentrates on this subject matter. To some extent emphasis has been laid upon the Federal Republic of Germany and its historical role as a "late-comer" to international organizations.

## II.

4. In today's international system one can, in a certain sense, distinguish between "necessary" and "discretionary" international organizations. The necessity generally results from the need of solving problems which have become transnational in the universal or regional area (e. g. UNO, some of its specialized agencies, EEC, OAS etc.). The necessity of such organization-development is an essential criterion for an accurate determination of the rights arising out of membership.

5. Primary starting point for the *acquisition of membership* in international organizations is the express provision in the statute of the organization. Regarding "necessary" international organizations a "favourable" broad interpretation of the admission-clauses seems to be adequate (ICJ Reports 1947/48, p. 9 ss. — "Admission of a State to the U. N. [Charter, Art. 4]"). This applies to "well-acquired" rights to full membership being derived from the principles of universality, regional representation of "balancing out" as well as to the generous admission to limited membership in such organizations (indirect representation, observer status, association etc.).

6. For the evaluation of the *rights and obligations arising out of membership within an international organization*, the express provision in the organization-statute is again the basic starting point. The reversion to general principles such as "sovereign equality" of all members (Art. 2, sec. 1 UN-Charter) has been reduced to a subsidiary function in light of the numerous modern techniques of differentiation (political/military status, geographical and demographical background, financial capacity, national product, and indigence), applied by the „ambitious" organizations such as the UN or the EEC. On the other hand an approximate equilibrium between rights and obligations of a member State must be taken into account, as well as the appropriate consideration of its

specific status (e. g. system of "desirable ranges" regulating the appointment of UN staff in accordance to GA Res. 153 [II] and 1882 [XVII]). This also applies to the assimilation of a member joining the organization at a later date. The "late-comer" is equally entitled as a matter of principle to the same membership status as the original members (ICJ Reports 1959, p. 127 ss. — "Aerial Incident").

### III.

7. The well known principles concerning the inalienable *right of withdrawal from international organizations* must be reconsidered in so far as the "necessary" international organizations are concerned. Furthermore, the thought provoking theory of the States as "sovereign masters" of their international treaties (compare Art. 54 ss. Vienna Convention on the Law of Treaties) stands sometimes in confrontation with the increasing binding experience of UN or EEC organizational ties which can hardly be loosened again (compare idea of "point of no return"). In these cases the "Peaceful Change" within the Organization has become increasingly more important than the definite withdrawal which may have been initiated by a crisis between the State and the Organization, only later to be followed by a re-arrangement (UN/Indonesia 1965/66, EEC/NATO/France 1965/66, finally also Council of Europe/Greece 1970/74, EEC/Great Britain 1974/75).

8. In spite of provisions such as Art. 6 UN-Charter or Art. 8 Statute of the Council of Europe, the *expulsion from an international organization* becomes very questionable if not senseless where the organization seeks to achieve universal or regional recognition of its principles. The predominant requirements of universality or regional representation of States often enforce benevolent standards in judging the loyalty of particular member States towards the organization (UN/China, UN/South Africa, OAS/Cuba etc.). Partial and temporary diminution of membership status is sometimes the appropriate answer of an organization

where a member is acting contrary to its statute (see Art. 19 UN-Charter; EEC Action of freezing Greece's association from 1967 to 1974).

10. Considering the "necessity" of certain international organizations, the thesis of the principal possibility to *terminate international organizations by common consent of its members* has in some cases become theoretical speculation. The "dissolution" of some organizations would inevitably pose the question of succession to that organization which would be comparable to rules of State succession (League of Nations/UN 1945/46, ICJ Reports 1971, p. 16 ss. — "Continued Presence of South Africa in Namibia").