

## CHAPTER 5

### INTERNATIONAL ORGANIZATIONS AS ACTORS OF INTERNATIONAL COOPERATION

#### 5.1. HISTORY OF THE EMERGENCE OF INTERNATIONAL ORGANIZATIONS

States are the oldest actors in international law and relations, however, in the second half of the 1800s a new actor, the intergovernmental international organization emerged. Significant industrial, economic, technical and scientific developments were achieved during the industrial revolution. New inventions were created that required international cooperation. One of the best examples is the history of the telegraph machine. In the 1830s, Samuel Morse developed the first line telegraph for the main purpose of allowing long-distance data transmission. Morse developed a simple coding system (the Morse code alphabet) and a machine with an a structure that was easy to assemble and could be produced at a low cost. In the 1840s, telegraph lines were laid down and the construction of the telegraph network began both in the USA and in European countries. This revolutionized messaging, its fastest way being the use of horse riders as couriers for centuries. As a consequence, in 1850 the first telegraph cable was laid down on the seabed between England and France in the English Channel (in French: La Manche). In 1858, the first transatlantic cable was established between North America and Europe. However, problems were encountered in international application, since the transmission of the messages had to be stopped at each state border and it was necessary to translate them into the system of the next state. In order to simplify this problem in 1865, representatives of twenty countries met in Paris forming the International Telegraph Union. This was the **first international governmental organization**. The organization had its headquarters in Bern, Switzerland, and initially had only three employees. The first task of the organization was to standardize the international telegraph network, but it was soon associated with new communications inventions, such as the establishment of international regulations on telephone in 1885 or on radio broadcasting from the 1890s. The name of the organization was changed to International Telecommunication Union (ITU) in 1934. At present, it is responsible for issues that concern information and communication technologies, such as satellite systems, radio frequencies, internet, GPS, 3G and even more.<sup>1</sup>

Along the lines of what was done with the International Telegraph Union at the end of the 19<sup>th</sup> century and beginning of the 20<sup>th</sup> century, a dozen **international organizations of management and administration** were established by the states, such as for instance: the Universal Postal Union (1870), International Bureau of Weights and Measures (1870), International Meteorological Organization (1870), International Statistical Institute (1885), International Sanitary Bureau (1903) and International Institute of Agriculture (1905). In these organizations, government officials and experts worked together on international standardization and standards, which are crucial in improving the daily lives of people, such as the system of SI units, Greenwich Mean Time (GMT) as the time calculation, global cross-border mail and postal codes.

The establishment of these organizations was not particularly difficult, since it was relatively easy to identify the common interests of the states and it did not affect any issues of power and national security. However, in the 1800s, more people suggested the establishment of international

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<sup>1</sup> ITU website: [www.itu.int](http://www.itu.int)

organizations that would have had more general functions other than these specialized and specific tasks. *Simón Bolívar* already presented the idea of the League of American Republics in 1826, which, as he imagined, would have dealt with mutual defence, military assistance and economic cooperation. All these plans came to nothing at the time, however, in 1890, the first regional cooperation with general competence was established, the International Union of American Republics. This organization represents the predecessor of one of the largest still operational regional international organizations, the Organization of American States (OAS).

Eventually, WWI brought about a change in the states' attitudes, and the League of Nations (1919-1940) was founded, where the goal was to unite all states in the world. Although the League of Nations never had universal membership, it was indeed an attempt of historical importance. Learning from the mistakes of the organization, the United Nations, formed after WWII, became capable of operating on a lasting basis with a universal membership.

After 1945, a **rapid spread** of international organizations could be observed. On the one hand, organizations with universal membership but special powers had been established (such as the World Health Organization, the WHO or the United Nations Educational, Scientific and Cultural Organization, UNESCO) and regionally-accredited organizations with general powers have been formed as well (such as the OAS, the Arab League, the Organization of African Unity – now called African Union, or the European Union). Altogether, they are about fifty, however, thousands of intergovernmental international organizations operate in addition to these, with memberships covering only a few states and performing only special tasks. Known examples of this category include NATO, which is a military cooperation between North American and European states, or OPEC, the Organization of the Petroleum Exporting Countries, while a little-known example is the International Cocoa Organization, which is a cooperation of approximately 40 states on the regulation of production and trade of cocoa.

## 5.2. THE DEFINITION OF THE INTERNATIONAL ORGANIZATIONS

In conceptualizing the **definition of international organization** in Hungarian literature, the notion of Árpád Prandler is generally accepted: “*International organizations are forms of interstate cooperation that are established through an international treaty, between at least two or three states, with a permanent structure, generally consisting of at least one but usually more permanent organs and, under their founding treaty, they have international legal personality.*”<sup>2</sup>

### *Elements of the Definition of International Organization:*

- interstate cooperation;
- established through an international treaty;
- permanent structure;
- international legal personality.

Considering the elements of the definition of international organization, the following should be highlighted:

- international organizations are created by states, and they are often referred to as interstate or intergovernmental organizations (IGOs); accordingly, they can be distinguished from non-governmental international organizations (NGOs);

<sup>2</sup> BLAHÓ–PRANDLER 2005, 60.

- states establish the organization with an international treaty, with its deed of foundation being a multilateral international treaty (founding treaty), in accordance with the rules of international law, typical names of which are treaty, statute, agreement and constitution;
- international organizations have a permanent institutional structure, therefore, it has one or more organs that are constantly operating
- international organizations receive, through the treaties based on which they are created, international legal personality (derived international legal personality), which only covers the areas to which they are empowered by the founding states (limited legal personality), and such legal personality would only apply against such international actors that acknowledge it (subjective legal personality).

### 5.3. THE CLASSIFICATION OF INTERNATIONAL ORGANIZATIONS

International organizations can be classified in a number of different ways, three of which appear to be essential: membership, power and the possibility of accession.

For the purpose of **membership**, it is a fundamental question whether the aim is the membership of only a few states or all states of the world. If the purpose of the organization is global membership, it is called universal. This is true even where the organization has not yet reached universal membership but declared this objective in its founding treaty and makes progress towards this. Such organization is the World Trade Organization (WTO) with 164 members (by summer 2018). At present, there are 193 generally recognized states in the world, that is the also the number of United Nations' members. However, there are also states that are not generally recognized, such as Kosovo or Palestine. Kosovo is not member of the UN, but member of some UN specialized agencies, such as the International Monetary Fund and the World Bank, which therefore have a larger number of memberships than the United Nations.

However, the vast majority of the organizations are not created for the purpose of universal membership, but with the aim of bringing together certain groups of states. These organizations are called particular organizations. A well-known example of this category is the OECD, the Organization for Economic Cooperation and Development, which now includes 36 members from all over the world. If the membership of a particular organization requires that each MS should belong to a geographical area, then it is called a regional organization, such as the Council of Europe and the European Union. Only European States can be parties thereto. The African Union includes countries only from the African continent.

On the basis of its **competence**, there are also two main subgroups. International organizations of general competence cover all aspects of life in their activities, therefore they have a political, economic, social and military functions and competence. Such organization is the United Nations and the large regional cooperation such as the EU, the AU and the OAS.

If an international organization does not deal with these possible four potential competences, it is called international organization with special competence. The NATO, for example, has only political and military powers, the OECD is limited to political, economic and social functions, the WHO has only political and social functions, and the IMF only has political and economic competence.

As for the distinction based on the **possibilities for accession**, we examine the conditions under which a state can be member of the organization. If the organization does not impose any requirements, we are talking about an open organization. In this case, there are enough grounds for the state to apply.

Such an organization is the UN, whose Charter says that only 'peace-loving' states shall be members; however, any applicant states are admitted to membership. However, if the organization lays down certain membership requirements, it is called half-open or half-closed organization. The entry into each organization is possible if the new states comply with the requirements. These may include objective factors such as the geographical location of the state (e.g. in the Council of Europe) or the level of economic development (e.g. in the OECD), however, there may be some subjective factors such as a common enemy (in the case of NATO at the time of its establishment), or cultural affiliation (e.g. in the case of Council of Europe). Closed organizations are those that cannot be joined by any states other than those founding it.

#### 5.4. CHARACTERISTICS OF THE INTERNAL OPERATION OF INTERNATIONAL ORGANIZATIONS

International organizations are established by the states in their own interests, however, it may also be useful for other states besides the MS to observe the work of the organization or participate therein, having a consultative status. Thus, many organizations have not only permanent members, but they also provide access to observer **status**. The founding states of the international organizations and its members initially could only be states, but for some organizations it has recently been accepted that, besides the states, another international organizations may also be full members (e.g. the EU in the International Sugar Organization) or observer member (e.g. the EU in the Organization of American States).

As an element of the definition of international organization, we have mentioned that the organizations have at least one but typically more **bodies**. The international organization should be able to have its own permanently operating bodies to achieve its objectives and carry out its activities. This is one of the main differences between the international organization and international groups, since the international organization has a permanent structure in one or more specified locations. In contrast, the different groups such as the Visegrad Group or the G8 nations do not have a permanent seat and institutional system.

Although there are substantial differences in the institutional structures of international organizations, there are some common characteristics. In most organizations, three main bodies can be identified:

- the plenary decision-making body to which all MS are members,
- the executive body, which is constantly operating with a smaller number of staff, therefore, it is not plenary,
- the secretariat, which administers and often represents the organization.

These bodies are often accompanied by advisory bodies (either plenary or with limited members), non-plenary decision-making bodies, courts or even banks.

Each member is represented in the **plenary decision-making body**, and typically each member has one vote. This is how the UN General Assembly operates, in which all 193 members have equal voting rights, regardless of their size, population or economic strength. The typical name of this body is the general assembly, conference or council. The plenary decision-making body is responsible for defining the organization's tasks and budget, decides on the admission or exclusion of members and it can deal with anything that it has been authorised to do under the founding treaty. Although this is the main decision-making body in which each MS is represented, its decisions are generally only recommendations and not mandatory for the MS.<sup>3</sup> Generally, decisions need to be made by simple or

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<sup>3</sup> See: HARS 2018a

qualified majority in these bodies, however, there may also be a requirement for unanimity, especially in the case of smaller organizations or important issues.

The **executive body** is responsible for managing the day-to-day operations of the organization. The plenary decision-making body usually has a much higher level of state representation and is slower in its operation, and it does not even hold meetings regularly. It needs to be complemented with a body that can carry out routine administration and make decisions quickly. The function of these bodies usually consists of a mixture of implementation and management tasks. The typical name may be the board, committee and board of governors. Within the UN such body is the Security Council, or within the European Union the Commission may be considered as such.

The **secretariat** is responsible for the management and administration of the organization. In general, the secretariats prepare the meetings of the other bodies and carry out the administrative tasks related to the work of the other bodies. They often perform not only administrative work but background documentation, collect materials and conduct analyses to assist the work of other bodies. The head of the secretariat, usually called secretary-general, represents the organization. The current head of the UN is, e.g. the Portuguese Secretary-General, *António Guterres*.

In addition to the typical three main bodies, practically any other body may be established by the founding states. Several organizations have their own judicial forum, such as the International Court of Justice in the United Nations, or the European Court of Human Rights in the Council of Europe. Financial institutions may also be found in several places, such as the European Central Bank and the European Court of Auditors in the EU. We can often meet with a parliamentary advisory body in which the parliaments of the Member States can delegate members. One example is the Parliamentary Assembly of the Council of Europe or the Pan-African Parliament of the African Union.

International organizations need to have headquarters (seat) necessary for the effective furtherance of their operations. For this purpose, the organization will conclude a contract with the state in which its headquarters will be located (**headquarters agreement**). The host state does not necessarily have to be member of the given organization, the key issue is that in the headquarters agreement it agrees to ensure diplomatic privileges and immunities to the organization (like what would be provided for an embassy). For example, Switzerland was not the member of the UN until 2002, while some UN bodies have been operating in Geneva since 1946. Austria is also not the member of OPEC, but its headquarters are still in Vienna.

The organization and its officials are beneficiaries of **privileges and immunities** similar to diplomatic immunity, and officials are often called international public servants. These rights include, among others, exemption from the criminal, civil or administrative procedures of the host state, exemption from duties and taxes, inviolability of documents, buildings and vehicles.<sup>4</sup>

## 5.5. THE IMPORTANCE OF INTERNATIONAL ORGANIZATIONS IN INTERNATIONAL RELATIONS

As we have seen regarding the history of the emergence of international organizations, the formation of the first international organizations was induced by the development of science and technology. This, however, does not explain why dozens of collaborations were later formed for economic, military, political or other purposes.

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<sup>4</sup> The issue of privileges and immunities is not only interesting in relation to the officials of the organization, but e.g. with regards to the soldiers, peacekeepers acting in the name of the organization. See e.g. HÅRS 2018b, 71-90.; HÅRS 2017, 533-541.

Based on the literature on the theory of international relations, *Karen Mingst* distinguishes three theories of the creation of international organizations.

- 1) **Federalism** originates in the ideological background of the Enlightenment, e.g., in *Kant's* Perpetual Peace. The essence of the theory is that wars are caused by sovereign states and each of them have military potential, so if states abandoned a part of their sovereignty and it would be exercised in lieu by a superior body, that would ultimately lead to peace.
- 2) Followers of **functionalism** consider economic vulnerability and deprivation to be the main reason for war, however, states are not the appropriate ones to find a solution to this problem. Non-governmental experts should find answers to these problems, so that the interest of the entire community would be kept constantly in mind. This theory had major impact on the founders of the predecessors of the European Union, such as *Jean Monnet* in the early 1950s.
- 3) According to the **theory of common good**, the rational decision of an individual often leads to the fact that while the individual is better off in the short term, it is likely to have an adverse effect on the community. Discriminatory results to the community may eventually influence the individual who will in the long run also be much worse off by the deterioration of the situation of the community or common good. The most important example is the continuation of environmentally damaging production, which would lead to short-term economic gains, but in the long run, the environmental damage also affects the decision-maker. Thus international cooperation is necessary for the responsible handling of common goods.

In any case what lies behind the establishment of international organizations is that states recognize that it may be easier, faster and more efficient to achieve certain goals together. Idealist trends, such as liberalism deem international organizations necessary in the international system, while in accordance with the principle of realism, the role of international organizations is only marginal in international relations. According to recent theories, however, we live in such a complex world and face global challenges that make cooperation between the states necessary.

The importance of international organizations is that they create space and a legal framework for cooperation among states, enhance their willingness to cooperate and enable a more efficient and wider dissemination of information. Organizations help to resolve disputes and provide expertise on issues for which some states do not have the capacity. International organizations often initiate and unify international legislation, and, to a certain extent, they monitor compliance with it. The possibility of such monitoring depends heavily on the power conferred on the organization. For example, the United Nations Security Council enjoys broad rights of sanctioning, while other UN bodies may only submit recommendations and suggestions and make condemning statements of political significance that are not legally binding.

## QUESTIONS FOR SELF-CHECK

1. What is the definition of international organization?
2. List the characteristics of the legal personality of an international organization!
3. Name the three typical organs of international organizations!
4. What does the headquarters agreement regulate?
5. What does it mean that an international organization is half-open or half-closed?
6. What is the significance of international organizations in international relations?

## RECOMMENDED LITERATURE

- MINGST, Karen A. – ARREGUÍN-TOFT, Ivan M.: *The Essentials of International Relations*. 7th ed., W. W. Norton & Company, 2016.
- KARNS, Margaret P. – MINGST, Karen A.: *International Organizations: The Politics and Processes of Global Governance*. 2nd ed, Lynne Rienner Publishers, 2009.

